

115TH CONGRESS
1ST SESSION

S. _____

To amend the Foreign Intelligence Surveillance Act of 1978 to clarify and improve the procedures and accountability for authorizing certain acquisitions of foreign intelligence, to extend title VII of such Act, to ensure that the barriers to sharing critical foreign intelligence among the intelligence community that existed before September 11, 2001, are not reimposed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. LEE (for himself and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to clarify and improve the procedures and accountability for authorizing certain acquisitions of foreign intelligence, to extend title VII of such Act, to ensure that the barriers to sharing critical foreign intelligence among the intelligence community that existed before September 11, 2001, are not reimposed, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Uniting and Strengthening American Liberty Act of
 4 2017” or the “USA Liberty Act of 2017”.

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE AND
 ACCOUNTABILITY

- Sec. 101. Court orders and protection of incidentally collected United States person communications.
- Sec. 102. Attorney General approval and additional protection of incidentally collected United States person communications.
- Sec. 103. Limitation on collection and improvements to targeting procedures and minimization procedures.
- Sec. 104. Publication of minimization procedures under section 702.
- Sec. 105. Appointment of amicus curiae for annual certifications.
- Sec. 106. Increased accountability on incidentally collected communications.
- Sec. 107. Semiannual reports on certain queries by Federal Bureau of Investigation.
- Sec. 108. Additional reporting requirements.
- Sec. 109. Application of certain amendments.
- Sec. 110. Sense of Congress on purpose of section 702 and respecting foreign nationals.

TITLE II—SAFEGUARDS AND OVERSIGHT OF PRIVACY AND CIVIL
 LIBERTIES

- Sec. 201. Limitation on retention of certain data.
- Sec. 202. Improvements to Privacy and Civil Liberties Oversight Board.
- Sec. 203. Privacy and civil liberties officers.
- Sec. 204. Whistleblower protections for contractors of the intelligence community.

TITLE III—EXTENSION OF AUTHORITIES, INCREASED
 PENALTIES, REPORTS, AND OTHER MATTERS

- Sec. 301. Extension of title VII of FISA; effective dates.
- Sec. 302. Increased penalty for unauthorized removal and retention of classified documents or material.
- Sec. 303. Rule of construction regarding criminal penalties for unauthorized use of information acquired under section 702 and unauthorized disclosure of United States person information.
- Sec. 304. Comptroller General study on unauthorized disclosures and the classification system.
- Sec. 305. Sense of Congress on information sharing among intelligence community to protect national security.

Sec. 306. Sense of Congress on combating terrorism.

Sec. 307. Technical amendments and amendments to improve procedures of the Foreign Intelligence Surveillance Court of Review.

Sec. 308. Severability.

Sec. 309. Rule of construction.

1 **SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE**
 2 **SURVEILLANCE ACT OF 1978.**

3 Except as otherwise expressly provided, whenever in
 4 this Act an amendment or repeal is expressed in terms
 5 of an amendment to, or a repeal of, a section or other
 6 provision, the reference shall be considered to be made to
 7 a section or other provision of the Foreign Intelligence
 8 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

9 **TITLE I—FOREIGN INTEL-**
 10 **LIGENCE SURVEILLANCE AND**
 11 **ACCOUNTABILITY**

12 **SEC. 101. COURT ORDERS AND PROTECTION OF INCIDENT-**
 13 **TALLY COLLECTED UNITED STATES PERSON**
 14 **COMMUNICATIONS.**

15 (a) IN GENERAL.—Section 702 (50 U.S.C. 1881a)
 16 is amended—

17 (1) by redesignating subsections (j), (k), and (l)
 18 as subsections (k), (l), and (m), respectively; and

19 (2) by inserting after subsection (i) the fol-
 20 lowing:

21 “(j) REQUIREMENTS FOR ACCESS AND DISSEMINA-
 22 TION OF COLLECTIONS OF COMMUNICATIONS.—

23 “(1) COURT ORDERS.—

1 “(A) IN GENERAL.—Except as provided
2 under paragraph (3), in response to a query re-
3 lating to a United States person or a person
4 reasonably believed to be located in the United
5 States, the contents of queried communications
6 acquired under subsection (a) may be accessed
7 or disseminated only if—

8 “(i) the Attorney General submits to
9 the Foreign Intelligence Surveillance Court
10 an application that demonstrates that—

11 “(I) there is probable cause to
12 believe that—

13 “(aa) such contents provide
14 evidence of a crime specified in
15 section 2516 of title 18, United
16 States Code; or

17 “(bb) the individual is an
18 agent of a foreign power; and

19 “(II) any use of such commu-
20 nications pursuant to section 706 will
21 be carried out in accordance with such
22 section; and

23 “(ii) a judge of the Foreign Intel-
24 ligence Surveillance Court reviews and ap-

1 proves such application under subpara-
2 graph (B).

3 “(B) ORDER.—

4 “(i) APPROVAL.—Upon an application
5 made under subparagraph (A), the Foreign
6 Intelligence Surveillance Court shall enter
7 an order as requested or as modified by
8 the Court approving the access or dissemi-
9 nation of contents of communications cov-
10 ered by the application if the Court deter-
11 mines that, based on an independent re-
12 view—

13 “(I) the application contains all
14 information required under subpara-
15 graph (A);

16 “(II) on the basis of the facts in
17 the application, there is probable
18 cause to believe that—

19 “(aa) such contents provide
20 evidence of a crime specified in
21 section 2516 of title 18, United
22 States Code; or

23 “(bb) the person identified
24 by the queried term is an agent
25 of a foreign power; and

1 “(B) the Attorney General—

2 “(i) reasonably determines that an
3 emergency situation requires the accessing
4 or dissemination of the communications be-
5 fore an order pursuant to paragraph (1)
6 authorizing such access or dissemination
7 can with due diligence be obtained;

8 “(ii) reasonably believes that the fac-
9 tual basis for the issuance of such an order
10 exists; and

11 “(iii) with respect to the access or dis-
12 semination of the contents of such commu-
13 nications—

14 “(I) informs the Court at the
15 time the Attorney General requires
16 the emergency access or dissemination
17 that the decision has been made to
18 employ the authority under this para-
19 graph; and

20 “(II) may not use the contents of
21 such communications pursuant to sec-
22 tion 706 if the Court finds that the
23 determination by the Attorney Gen-
24 eral with respect to the emergency sit-
25 uation was not appropriate; or

1 “(C) there is consent provided in accord-
2 ance with paragraph (12).”.

3 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
4 Section 404(b)(4) of the Foreign Intelligence Surveillance
5 Act of 1978 Amendments Act of 2008 (50 U.S.C. 1801
6 note) is amended by striking “702(l)” each place it ap-
7 pears and inserting “702(m)”.

8 **SEC. 102. ATTORNEY GENERAL APPROVAL AND ADDI-**
9 **TIONAL PROTECTION OF INCIDENTALY COL-**
10 **LECTED UNITED STATES PERSON COMMU-**
11 **NICATIONS.**

12 Subsection (j) of section 702 (50 U.S.C. 1881a), as
13 added by section 101, is amended by inserting after para-
14 graph (3) the following:

15 “(4) **RELEVANCE AND APPROVAL TO ACCESS**
16 **NONCONTENTS INFORMATION.**—Except as provided
17 under paragraph (5), in response to a query relating
18 to a United States person or a person reasonably be-
19 lieved to be located in the United States, the infor-
20 mation of communications acquired under subsection
21 (a) relating to dialing, routing, addressing, or sig-
22 naling information that is not content and could oth-
23 erwise be lawfully obtained under title IV of this Act
24 may be accessed or disseminated only—

1 “(A) with the approval of the Attorney
2 General;

3 “(B) if such information is relevant to an
4 authorized investigation or assessment and is
5 not sought solely on the basis of activities pro-
6 tected by the First Amendment to the Constitu-
7 tion of the United States;

8 “(C) if an order based on probable cause
9 would not be required by law to obtain such in-
10 formation if requested as part of an investiga-
11 tion of a Federal crime; and

12 “(D) if any use of such communications
13 pursuant to section 706 will be carried out in
14 accordance with such section.

15 “(5) EXCEPTIONS.—The requirement for ap-
16 proval of the Attorney General under paragraph
17 (4)(A) shall not apply to accessing or disseminating
18 information of communications acquired under sub-
19 section (a) relating to dialing, routing, addressing,
20 or signaling information that is not content and
21 could otherwise be lawfully obtained under title IV
22 of this Act if—

23 “(A) the Attorney General determines that
24 the person identified by the queried term is the
25 subject of an order based upon a finding of

1 probable cause, or emergency authorization,
2 that authorizes electronic surveillance or phys-
3 ical search under this Act or title 18, United
4 States Code (other than such emergency au-
5 thorizations under title IV of this Act or section
6 3125 of title 18, United States Code);

7 “(B) a supervisory determination is ob-
8 tained that—

9 “(i) reasonably determines that an
10 emergency situation requires the accessing
11 or dissemination of the information of
12 communications before the approval of the
13 Attorney General under paragraph (4)(A)
14 can with due diligence be obtained;

15 “(ii) reasonably believes that the fac-
16 tual basis for the approval of the Attorney
17 General under paragraph (4)(A) exists;
18 and

19 “(iii) with respect to the access or dis-
20 semination of such information of commu-
21 nications—

22 “(I) informs the Attorney Gen-
23 eral at the time the supervisor re-
24 quires the emergency access or dis-
25 semination that the decision has been

1 made to employ the authority under
2 this subparagraph; and

3 “(II) may not use such informa-
4 tion of communications pursuant to
5 section 706 if the Attorney General
6 finds that the determination by the
7 supervisor with respect to the emer-
8 gency situation was not appropriate;
9 or

10 “(C) there is consent provided in accord-
11 ance with paragraph (12).

12 “(6) DUE DILIGENCE.—A determination of
13 whether the person identified by the queried term is
14 a United States person or a person reasonably be-
15 lieved to be located in the United States under para-
16 graph (1) or (4) shall be made based on the totality
17 of the circumstances, including by, to the extent
18 practicable, ensuring that any conflicting informa-
19 tion regarding whether the person is a United States
20 person or is reasonably believed to be located outside
21 the United States is resolved before making such de-
22 termination. If there is insufficient information
23 available to make a determination, the person identi-
24 fied by the queried term shall be considered a
25 United States person or person reasonably believed

1 to be located in the United States for purposes of
2 paragraphs (1) and (4).

3 “(7) LIMITATION ON ELECTRONIC SURVEIL-
4 LANCE OF UNITED STATES PERSONS.—If the Attor-
5 ney General determines that it is necessary to con-
6 duct electronic surveillance on a known United
7 States person whose communications have been ac-
8 quired under subsection (a), the Attorney General
9 may only conduct such electronic surveillance using
10 authority provided under other provisions of law.

11 “(8) SIMULTANEOUS QUERY OF FBI DATA-
12 BASES.—Except as otherwise provided by law or ap-
13 plicable minimization procedures, the Director of the
14 Federal Bureau of Investigation shall ensure that all
15 available investigative or intelligence databases of
16 the Federal Bureau of Investigation are simulta-
17 neously queried when the Federal Bureau of Inves-
18 tigation properly uses an information system of the
19 Federal Bureau of Investigation to determine wheth-
20 er information exists in such a database.

21 “(9) DELEGATION.—The Attorney General
22 shall delegate the authority under this subsection to
23 the fewest number of officials that the Attorney
24 General determines practicable.

25 “(10) RETENTION OF AUDITABLE RECORDS.—

1 “(A) RECORDS.—The Attorney General
2 shall retain records of queries of a collection of
3 communications acquired under subsection (a).
4 The heads of elements of the intelligence com-
5 munity that are not components of the Depart-
6 ment of Justice shall retain records of queries
7 of a collection of communications acquired
8 under subsection (a) that use a term identifying
9 a United States person or a person located in
10 the United States.

11 “(B) REQUIREMENTS.—Records retained
12 under subparagraph (A) shall—

13 “(i) include queries for not less than
14 5 years after the date on which the query
15 is made; and

16 “(ii) be maintained in a manner that
17 is auditable and available for congressional
18 oversight.

19 “(11) COMPLIANCE AND MAINTENANCE.—The
20 requirements of this subsection do not apply with re-
21 spect to queries made for the purpose of—

22 “(A) submitting to Congress information
23 required by this Act or otherwise ensuring com-
24 pliance with the requirements of this section; or

1 “(B) performing maintenance or testing of
2 information systems.

3 “(12) CONSENT.—The requirements of this
4 subsection do not apply with respect to—

5 “(A) queries made using a term identifying
6 a person who is a party to the communications
7 acquired under subsection (a), or a person who
8 otherwise has lawful authority to provide con-
9 sent, and who consents to such queries; or

10 “(B) the accessing or the dissemination of
11 the contents or information of communications
12 acquired under subsection (a) of a person who
13 is a party to the communications, or a person
14 who otherwise has lawful authority to provide
15 consent, and who consents to such access or
16 dissemination.

17 “(13) QUERY PURPOSES.—The contents of
18 communications acquired under subsection (a) and
19 the information relating to the dialing, routing, ad-
20 dressing, or signaling information of such commu-
21 nications may only be queried if the query is reason-
22 ably designed to return foreign intelligence informa-
23 tion or evidence of a crime.”.

1 **SEC. 103. LIMITATION ON COLLECTION AND IMPROVE-**
2 **MENTS TO TARGETING PROCEDURES AND**
3 **MINIMIZATION PROCEDURES.**

4 (a) **TARGETING PROCEDURES; LIMITATION ON COL-**
5 **LECTION.**—Section 702(d) (50 U.S.C. 1881a(d)) is
6 amended—

7 (1) in paragraph (1), by striking “The Attorney
8 General” and inserting “In accordance with para-
9 graphs (3) and (4), the Attorney General”; and

10 (2) by adding at the end the following new
11 paragraphs:

12 “(3) **DUE DILIGENCE.**—The procedures adopted
13 in accordance with paragraph (1) shall require due
14 diligence in determining whether a person targeted
15 is a non-United States person reasonably believed to
16 be located outside the United States by—

17 “(A) making the determination based on
18 the totality of the circumstances, including by,
19 to the extent practicable, ensuring that any con-
20 flicting information regarding whether the per-
21 son is reasonably believed to be located outside
22 the United States or is a United States person
23 is resolved before making such determination;

24 “(B) documenting the processes used for
25 determinations described in subparagraph (A);
26 and

1 “(C) documenting the rationale for why
2 targeting such person will result in the acquisi-
3 tion of foreign intelligence information author-
4 ized by subsection (a).

5 “(4) LIMITATION.—

6 “(A) IN GENERAL.—The procedures adopt-
7 ed in accordance with paragraph (1) shall re-
8 quire that the targeting of a person is limited
9 to communications to or from the targeted per-
10 son.

11 “(B) ANNUAL REPORT.—On an annual
12 basis, the Attorney General shall submit to the
13 congressional intelligence committees and the
14 Committees on the Judiciary of the House of
15 Representatives and the Senate a report on—

16 “(i) any difficulty relating to the limi-
17 tation under subparagraph (A); and

18 “(ii) the technical feasibility of ensur-
19 ing that the handling of communications
20 acquired under subsection (a) with respect
21 to incidentally collected United States per-
22 son information complies with the mini-
23 mization procedures adopted under sub-
24 section (e).”.

1 (b) MINIMIZATION PROCEDURES.—Section 702(e)
2 (50 U.S.C. 1881a(e)) is amended—

3 (1) in paragraph (1), by inserting “, and the re-
4 quirements of this subsection” before the period at
5 the end; and

6 (2) by adding at the end the following new
7 paragraph:

8 “(3) REQUESTS TO UNMASK INFORMATION.—
9 The procedures adopted under paragraph (1) shall
10 include specific procedures adopted by the Attorney
11 General for elements of the intelligence community
12 to submit requests to unmask information in dis-
13 seminated intelligence reports. Such specific proce-
14 dures shall—

15 “(A) require the documentation of the re-
16 questing individual that such request is for le-
17 gitimate reasons authorized pursuant to para-
18 graph (1); and

19 “(B) require the retention of the records of
20 each request, including—

21 “(i) a copy of the request;

22 “(ii) the name and position of the in-
23 dividual who is making the request; and

24 “(iii) if the request is approved, the
25 name and position of the individual who

1 approved the request and the date of the
2 approval.”.

3 (c) UNMASK DEFINED.—Section 701(b) (50 U.S.C.
4 1881(b)) is amended by adding at the end the following
5 new paragraph:

6 “(6) UNMASK.—The term ‘unmask’ means,
7 with respect to a disseminated intelligence report
8 containing a reference to a United States person
9 that does not identify that person (including by
10 name or title), to disseminate the identity of the
11 United States person, including the name or title of
12 the person.”.

13 (d) CONSISTENT REQUIREMENTS TO RETAIN
14 RECORDS ON REQUESTS TO UNMASK INFORMATION.—
15 The Foreign Intelligence Surveillance Act of 1978 (50
16 U.S.C. 1801 et seq.) is amended as follows:

17 (1) In section 101(h) (50 U.S.C. 1801(h))—

18 (A) in paragraph (3), by striking “; and”
19 and inserting a semicolon;

20 (B) in paragraph (4), by striking the pe-
21 riod at the end and inserting “; and”; and

22 (C) by adding at the end the following new
23 paragraph:

24 “(5) specific procedures as described in section
25 702(e)(3).”.

1 (2) In section 301(4) (50 U.S.C. 1821(4))—

2 (A) in subparagraph (C), by striking “;
3 and” and inserting a semicolon;

4 (B) in subparagraph (D), by striking the
5 period at the end and inserting “; and”; and

6 (C) by adding at the end the following new
7 subparagraph:

8 “(E) specific procedures as described in
9 section 702(e)(3).”.

10 (3) In section 402(h) (50 U.S.C. 1842(h))—

11 (A) by redesignating paragraph (2) as
12 paragraph (3); and

13 (B) by inserting after paragraph (1) the
14 following new paragraph (2):

15 “(2) REQUESTS FOR NONPUBLICLY AVAILABLE
16 INFORMATION.—The policies and procedures adopt-
17 ed under paragraph (1) shall include specific proce-
18 dures as described in section 702(e)(3).”.

19 (4) In section 501(g)(2) (50 U.S.C.
20 1861(g)(2))—

21 (A) in subparagraph (B), by striking “;
22 and” and inserting a semicolon;

23 (B) in subparagraph (C), by striking the
24 period at the end and inserting “; and”; and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(D) specific procedures as described in
4 section 702(e)(3).”.

5 (e) REPORT ON UNMASKING.—Not later than 90
6 days after the date of the enactment of this Act, the Direc-
7 tor of National Intelligence shall submit to the Permanent
8 Select Committee on Intelligence of the House of Rep-
9 resentatives, the Select Committee on Intelligence of the
10 Senate, and the Committees on the Judiciary of the House
11 of Representatives and the Senate a report on the progress
12 made by the Director with respect to—

13 (1) ensuring that incidentally collected commu-
14 nications of United States persons (as defined in
15 section 101 of the Foreign Intelligence Surveillance
16 Act of 1978 (50 U.S.C. 1801)) are properly masked
17 if masking is necessary; and

18 (2) implementing procedures for requests to
19 unmask information under section 702(e)(3) of such
20 Act (50 U.S.C. 1881a(e)(3)), as added by subsection
21 (c).

1 **SEC. 104. PUBLICATION OF MINIMIZATION PROCEDURES**
2 **UNDER SECTION 702.**

3 Section 702(e) (50 U.S.C. 1881a(e)), as amended by
4 section 103, is further amended by adding at the end the
5 following:

6 “(4) PUBLICATION.—The Director of National
7 Intelligence, in consultation with the Attorney Gen-
8 eral, shall—

9 “(A) conduct a declassification review of
10 any minimization procedures adopted or amend-
11 ed in accordance with paragraph (1); and

12 “(B) consistent with such review, and not
13 later than 180 days after conducting such re-
14 view, make such minimization procedures pub-
15 licly available to the greatest extent practicable,
16 which may be in redacted form.”.

17 **SEC. 105. APPOINTMENT OF AMICUS CURIAE FOR ANNUAL**
18 **CERTIFICATIONS.**

19 Section 103(i) (50 U.S.C. 1803(i)(2)) is amended—

20 (1) in paragraph (2)—

21 (A) in subparagraph (A), by striking “;
22 and” and inserting a semicolon;

23 (B) by redesignating subparagraph (B) as
24 subparagraph (C); and

25 (C) by inserting after subparagraph (A)
26 the following new subparagraph (B):

1 “(B) shall appoint an individual who has
2 been designated under paragraph (1) to serve
3 as amicus curiae to assist such court in the re-
4 view of a certification under section 702(i), un-
5 less the court issues a finding that such ap-
6 pointment is not necessary; and”;

7 (2) in paragraphs (4) and (5), by striking
8 “paragraph (2)(A)” both places it appears and in-
9 serting “subparagraph (A) or (B) of paragraph (2)”.

10 **SEC. 106. INCREASED ACCOUNTABILITY ON INCIDENTALLY**
11 **COLLECTED COMMUNICATIONS.**

12 Section 707 (50 U.S.C. 1881f) is amended by adding
13 at the end the following new subsection:

14 “(c) INCIDENTALLY COLLECTED COMMUNICATIONS
15 AND OTHER INFORMATION.—Together with the semi-
16 annual report submitted under subsection (a), the Direc-
17 tor of National Intelligence shall submit to the congres-
18 sional committees specified in such subsection a report on
19 incidentally collected communications and other informa-
20 tion regarding United States persons under section 702.
21 Each such report shall include, with respect to the 6-
22 month period covered by the report, the following:

23 “(1) Except as provided by paragraph (2), the
24 number, or a good faith estimate, of communications
25 of United States persons acquired under subsection

1 (a) of such section, including a description of any ef-
2 forts of the intelligence community to ascertain such
3 number or good faith estimate.

4 “(2) If the Director determines that the num-
5 ber, or a good faith estimate, under paragraph (1)
6 is not achievable, a detailed explanation for why
7 such number or good faith estimate is not achiev-
8 able.

9 “(3) The number of—

10 “(A) United States persons whose informa-
11 tion is unmasked pursuant to the procedures
12 adopted under subsection (e)(3) of such section;

13 “(B) requests made by an element of the
14 intelligence community, listed by each such ele-
15 ment, to unmask information pursuant to such
16 subsection; and

17 “(C) requests that resulted in the dissemi-
18 nation of names, titles, or other identifiers po-
19 tentially associated with individuals pursuant to
20 such subsection, including the element of the in-
21 telligence community and position of the indi-
22 vidual making the request.

23 “(4) The number of disseminations of commu-
24 nications acquired under subsection (a) of section

1 702 to the Federal Bureau of Investigation for cases
2 unrelated to foreign intelligence.

3 “(5) The number of instances in which evidence
4 of a crime unrelated to foreign intelligence that was
5 identified in communications acquired under sub-
6 section (a) of section 702 was disseminated from the
7 national security branch of the Bureau to the crimi-
8 nal investigative division of the Bureau (or from
9 such successor branch to such successor division).

10 “(6) The number of individuals to whom the
11 Attorney General has delegated authority pursuant
12 to subsection (j)(2)(G) of section 702.”.

13 **SEC. 107. SEMIANNUAL REPORTS ON CERTAIN QUERIES BY**
14 **FEDERAL BUREAU OF INVESTIGATION.**

15 Section 707 (50 U.S.C. 1881f), as amended by sec-
16 tion 106, is further amended by adding at the end the
17 following new subsection:

18 “(d) SEMIANNUAL FBI REPORTS.—Together with
19 the semiannual report submitted under subsection (a), the
20 Director of the Federal Bureau of Investigation shall sub-
21 mit to the congressional committees specified in such sub-
22 section, and make publicly available, a report containing,
23 with respect to the period covered by the report—

1 “(1) the number of applications made by the
2 Federal Bureau of Investigation described in sub-
3 section (j)(1)(A) of section 702;

4 “(2) the number of such applications that were
5 approved and resulted in the contents of communica-
6 tions being accessed or disseminated pursuant to
7 such subsection; and

8 “(3) the number of Attorney General approvals
9 made pursuant to subsection (j)(4)(A) of such sec-
10 tion.”.

11 **SEC. 108. ADDITIONAL REPORTING REQUIREMENTS.**

12 (a) ELECTRONIC SURVEILLANCE.—Section 107 (50
13 U.S.C. 1807) is amended to read as follows:

14 **“SEC. 107. REPORT OF ELECTRONIC SURVEILLANCE.**

15 “(a) ANNUAL REPORT.—In April of each year, the
16 Attorney General shall transmit to the Administrative Of-
17 fice of the United States Courts and to Congress a report
18 setting forth with respect to the preceding calendar year—

19 “(1) the total number of applications made for
20 orders and extensions of orders approving electronic
21 surveillance under this title;

22 “(2) the total number of such orders and exten-
23 sions either granted, modified, or denied; and

24 “(3) the total number of persons who were sub-
25 ject to electronic surveillance conducted under an

1 order or emergency authorization under this title,
2 rounded to the nearest 500, including the number of
3 such individuals who are United States persons, re-
4 ported to the nearest band of 500, starting with 0-
5 499.

6 “(b) FORM.—Each report under subsection (a) shall
7 be submitted in unclassified form. Not later than 7 days
8 after the date on which the Attorney General submits each
9 such report, the Attorney General shall make the report
10 publicly available.”.

11 (b) PEN REGISTERS AND TRAP AND TRACE DE-
12 VICES.—Section 406 (50 U.S.C. 1846) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (4), by striking “; and”
15 and inserting a semicolon;

16 (B) in paragraph (5), by striking the pe-
17 riod at the end and inserting “; and”; and

18 (C) by adding at the end the following new
19 paragraph:

20 “(6) a good faith estimate of the total number
21 of subjects who were targeted by the installation and
22 use of a pen register or trap and trace device under
23 an order or emergency authorization issued under
24 this title, rounded to the nearest 500, including—

1 “(A) the number of such subjects who are
2 United States persons, reported to the nearest
3 band of 500, starting with 0–499; and

4 “(B) of the number of United States per-
5 sons described in subparagraph (A), the num-
6 ber of persons whose information acquired pur-
7 suant to such order was reviewed or accessed by
8 a Federal officer, employee, or agent, reported
9 to the nearest band of 500, starting with 0–
10 499.”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(c) Each report under subsection (b) shall be sub-
14 mitted in unclassified form. Not later than 7 days after
15 the date on which the Attorney General submits such a
16 report, the Attorney General shall make such report pub-
17 licly available.”.

18 **SEC. 109. APPLICATION OF CERTAIN AMENDMENTS.**

19 The amendments made by sections 101, 102, and 103
20 of this Act shall apply with respect to applications, certifi-
21 cations, and procedures submitted to the Foreign Intel-
22 ligence Surveillance Court on or after the date that is 120
23 days after the date of the enactment of this Act.

1 **SEC. 110. SENSE OF CONGRESS ON PURPOSE OF SECTION**
2 **702 AND RESPECTING FOREIGN NATIONALS.**

3 It is the sense of Congress that—

4 (1) the acquisition of communications by the
5 National Security Agency under section 702 of the
6 Foreign Intelligence Surveillance Act (50 U.S.C.
7 1881a) should be conducted within the bounds of
8 treaties and agreements to which the United States
9 is a party, and there should be no targeting of non-
10 United States persons for any unfounded discrimina-
11 tory purpose or for the purpose of affording a com-
12 mercial competitive advantage to companies and
13 business sectors of the United States; and

14 (2) the authority to collect intelligence under
15 such section 702 is meant to shield the United
16 States, and by extension, the allies of the United
17 States, from security threats.

18 **TITLE II—SAFEGUARDS AND**
19 **OVERSIGHT OF PRIVACY AND**
20 **CIVIL LIBERTIES**

21 **SEC. 201. LIMITATION ON RETENTION OF CERTAIN DATA.**

22 Subsection (m) of section 702 (50 U.S.C. 1881a), as
23 redesignated by section 101, is amended—

24 (1) by redesignating paragraphs (2) and (3) as
25 paragraphs (3) and (4); and

1 (2) by inserting after paragraph (1) the fol-
2 lowing new paragraph (2):

3 “(2) AFFIDAVIT ON DELETION INCLUDED IN
4 SEMIANNUAL ASSESSMENT TO FISC AND CON-
5 GRESS.—Each semiannual assessment under para-
6 graph (1) shall include, with respect to the 6-month
7 period covered by the assessment, an affidavit by the
8 Director of the National Security Agency, without
9 delegation, that communications acquired under sub-
10 section (a) determined not to contain foreign intel-
11 ligence information, if any, were deleted.”.

12 **SEC. 202. IMPROVEMENTS TO PRIVACY AND CIVIL LIB-**
13 **ERTIES OVERSIGHT BOARD.**

14 (a) APPOINTMENT OF STAFF.—Subsection (j) of sec-
15 tion 1061 of the Intelligence Reform and Terrorism Pre-
16 vention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

17 (1) by redesignating paragraphs (2) and (3) as
18 paragraphs (3) and (4), respectively; and

19 (2) by inserting after paragraph (1) the fol-
20 lowing new paragraph:

21 “(2) APPOINTMENT IN ABSENCE OF CHAIR-
22 MAN.—If the position of chairman of the Board is
23 vacant, during the period of the vacancy, the Board,
24 at the direction of the unanimous vote of the serving

1 members of the Board, may exercise the authority of
2 the chairman under paragraph (1).”.

3 (b) MEETINGS.—Subsection (f) of such section (42
4 U.S.C. 2000ee(f)) is amended—

5 (1) by striking “The Board shall” and inserting
6 “The Board”;

7 (2) in paragraph (1) by striking “make its” and
8 inserting “shall make its”; and

9 (3) in paragraph (2)—

10 (A) by striking “hold public” and inserting
11 “shall hold public”; and

12 (B) by inserting before the period at the
13 end the following: “, but may, notwithstanding
14 section 552b of title 5, United States Code,
15 meet or otherwise communicate in any number
16 to confer or deliberate in a manner that is
17 closed to the public”.

18 (c) REPORT ON SECTION 702 AND TERRORISM.—Not
19 later than 1 year after the date on which the Privacy and
20 Civil Liberties Oversight Board first achieves a quorum
21 following the date of the enactment of this Act, the Board
22 shall submit to the Committee on the Judiciary and the
23 Permanent Select Committee on Intelligence of the House
24 of Representatives and the Committee on the Judiciary

1 and the Select Committee on Intelligence of the Senate
2 a report assessing—

3 (1) how communications acquired under section
4 702 of the Foreign Intelligence Surveillance Act of
5 1978 (50 U.S.C. 1881a) are used by the United
6 States to prevent or defend against terrorism;

7 (2) whether technological challenges and
8 changes in technology affect the prevention of and
9 defense against terrorism, and how effectively the
10 foreign intelligence elements of the intelligence com-
11 munity (as defined in section 3(4) of the National
12 Security Act of 1947 (50 U.S.C. 3003(4))) have re-
13 sponded to those challenges; and

14 (3) how privacy and civil liberties are affected
15 by the actions identified under paragraph (1) and
16 the changes in technology identified under para-
17 graph (2), and whether race, religion, political affili-
18 ation, or activities protected by the First Amend-
19 ment to the Constitution of the United States are
20 determinative in the targeting or querying decisions
21 made pursuant to such section 702.

22 **SEC. 203. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

23 (a) CODIFICATION OF CERTAIN OFFICERS.—Section
24 1062(a) of the Intelligence Reform and Terrorism Preven-
25 tion Act of 2004 (42 U.S.C. 2000ee–1(a)) is amended in

1 the matter preceding paragraph (1) by inserting “, the
2 Director of the National Security Agency, the Director of
3 the Federal Bureau of Investigation” after “the Director
4 of the Central Intelligence Agency”.

5 (b) ANNUAL REPORTS ON INCIDENTAL COMMUNICA-
6 TIONS OF UNITED STATES PERSONS.—Paragraph (4)(A)
7 of subsection (m) of section 702 (50 U.S.C. 1881a), as
8 redesignated by sections 101 and 201, is amended—

9 (1) in clause (iii), by striking “; and” and in-
10 serting a semicolon;

11 (2) in clause (iv), by striking the period at the
12 end and inserting “; and”; and

13 (3) by adding at the end the following new
14 clause:

15 “(v) a review by the privacy and civil
16 liberties officer of the element of inciden-
17 tally collected communications of United
18 States persons to assess compliance with
19 the minimization procedures adopted under
20 subsection (e) and the effect of this section
21 on the privacy of United States persons.”.

1 **SEC. 204. WHISTLEBLOWER PROTECTIONS FOR CONTRAC-**
2 **TORS OF THE INTELLIGENCE COMMUNITY.**

3 (a) PROHIBITED PERSONNEL PRACTICES IN THE IN-
4 TELLIGENCE COMMUNITY.—Section 1104 of the National
5 Security Act of 1947 (50 U.S.C. 3234) is amended—

6 (1) in subsection (a)—

7 (A) by redesignating paragraphs (2) and
8 (3) as paragraphs (3) and (4), respectively;

9 (B) by inserting after paragraph (1) the
10 following:

11 “(2) CONTRACTOR EMPLOYEE.—The term ‘con-
12 tractor employee’ means an employee of a con-
13 tractor, subcontractor, grantee, subgrantee, or per-
14 sonal services contractor of a covered intelligence
15 community element.”; and

16 (C) in paragraph (4), as so redesignated,
17 in the matter preceding subparagraph (A) by
18 inserting “or a contractor employee of a covered
19 intelligence community element” after “char-
20 acter)”;

21 (2) by redesignating subsections (c) and (d) as
22 subsections (d) and (e), respectively;

23 (3) by inserting after subsection (b) the fol-
24 lowing new subsection (c):

25 “(c) CONTRACTOR EMPLOYEES.—(1) A contractor
26 employee or employee of a covered intelligence community

1 element who has authority to take, direct others to take,
2 recommend, or approve any personnel action, shall not,
3 with respect to such authority, take or fail to take a per-
4 sonnel action with respect to any contractor employee as
5 a reprisal for a lawful disclosure of information by the con-
6 tractor employee to the Director of National Intelligence
7 (or an employee designated by the Director of National
8 Intelligence for such purpose), the Inspector General of
9 the Intelligence Community, the head of the contracting
10 agency (or an employee designated by the head of that
11 agency for such purpose), the appropriate inspector gen-
12 eral of the contracting agency, a congressional intelligence
13 committee, or a member of a congressional intelligence
14 committee, which the contractor employee reasonably be-
15 lieves evidences—

16 “(A) a violation of any Federal law, rule, or
17 regulation (including with respect to evidence of an-
18 other employee or contractor employee accessing or
19 sharing classified information without authoriza-
20 tion); or

21 “(B) mismanagement, a gross waste of funds,
22 an abuse of authority, or a substantial and specific
23 danger to public health or safety.

24 “(2) A personnel action under paragraph (1) is pro-
25 hibited even if the action is undertaken at the request of

1 an officer or employee of the applicable covered intel-
2 ligence community element, unless the request takes the
3 form of a nondiscretionary directive and is within the au-
4 thority of the officer or employee making the request.

5 “(3) A contractor employee may raise a violation of
6 paragraph (1) in any proceeding to implement or challenge
7 a personnel action described in such paragraph.”;

8 (4) in subsection (b), by striking the heading
9 and inserting “AGENCY EMPLOYEES.—”; and

10 (5) in subsection (e)(1), as redesignated by
11 paragraph (2), by inserting “contractor employee,”
12 after “any employee,”.

13 (b) FEDERAL BUREAU OF INVESTIGATION.—

14 (1) IN GENERAL.—Any contractor employee or
15 employee of the Federal Bureau of Investigation who
16 has authority to take, direct others to take, rec-
17 ommend, or approve any personnel action, shall not,
18 with respect to such authority, take or fail to take
19 a personnel action with respect to a contractor em-
20 ployee as a reprisal for a disclosure of information—

21 (A) made—

22 (i) to a supervisor in the direct chain
23 of command of the contractor employee, up
24 to and including the Director of the Fed-
25 eral Bureau of Investigation;

1 (ii) to the Inspector General of the
2 Department of Justice;

3 (iii) to the Office of Professional Re-
4 sponsibility of the Department of Justice;

5 (iv) to the Office of Professional Re-
6 sponsibility of the Federal Bureau of In-
7 vestigation;

8 (v) to the Inspection Division of the
9 Federal Bureau of Investigation;

10 (vi) as described in section 7211 of
11 title 5, United States Code;

12 (vii) to the Office of Special Counsel;
13 or

14 (viii) to an employee designated by
15 any officer, employee, office, or division de-
16 scribed in clauses (i) through (vii) for the
17 purpose of receiving such disclosures; and

18 (B) which the contractor employee reason-
19 ably believes evidences—

20 (i) any violation of any law, rule, or
21 regulation (including with respect to evi-
22 dence of another employee or contractor
23 employee accessing or sharing classified in-
24 formation without authorization); or

1 (ii) gross mismanagement, a gross
2 waste of funds, an abuse of authority, or
3 a substantial and specific danger to public
4 health or safety.

5 (2) ACTIONS BY REQUEST.—A personnel action
6 under paragraph (1) is prohibited even if the action
7 is undertaken at the request of an officer or em-
8 ployee of the Federal Bureau of Investigation, unless
9 the request takes the form of a nondiscretionary di-
10 rective and is within the authority of the officer or
11 employee making the request.

12 (3) VIOLATION.—A contractor employee may
13 raise a violation of paragraph (1) in any proceeding
14 to implement or challenge a personnel action de-
15 scribed in such paragraph.

16 (4) REGULATIONS.—The Attorney General shall
17 prescribe regulations to ensure that a personnel ac-
18 tion described in paragraph (1) shall not be taken
19 against a contractor employee of the Bureau as a re-
20 prisal for any disclosure of information described in
21 such paragraph.

22 (5) ENFORCEMENT.—The President shall pro-
23 vide for the enforcement of this subsection in a man-
24 ner consistent with applicable provisions of sections
25 1214 and 1221 of title 5, United States Code.

1 (6) DEFINITIONS.—In this subsection:

2 (A) The term “contractor employee”
3 means an employee of a contractor, subcon-
4 tractor, grantee, subgrantee, or personal serv-
5 ices contractor, of the Federal Bureau of Inves-
6 tigation.

7 (B) The term “personnel action” means
8 any action described in clauses (i) through (x)
9 of section 2302(a)(2)(A) of title 5, United
10 States Code, with respect to a contractor em-
11 ployee.

12 (c) RETALIATORY REVOCATION OF SECURITY
13 CLEARANCES AND ACCESS DETERMINATIONS.—Section
14 3001(j) of the Intelligence Reform and Terrorism Preven-
15 tion Act of 2004 (50 U.S.C. 3341(j)) is amended by add-
16 ing at the end the following new paragraph:

17 “(8) INCLUSION OF CONTRACTOR EMPLOY-
18 EES.—In this subsection, the term ‘employee’ in-
19 cludes an employee of a contractor, subcontractor,
20 grantee, subgrantee, or personal services contractor,
21 of an agency. With respect to such employees, the
22 term ‘employing agency’ shall be deemed to be the
23 contracting agency.”.

1 **TITLE III—EXTENSION OF AU-**
2 **THORITIES, INCREASED PEN-**
3 **ALTIES, REPORTS, AND**
4 **OTHER MATTERS**

5 **SEC. 301. EXTENSION OF TITLE VII OF FISA; EFFECTIVE**
6 **DATES.**

7 (a) **EXTENSION.**—Section 403(b) of the FISA
8 Amendments Act of 2008 (Public Law 110–261; 122 Stat.
9 2474) is amended—

10 (1) in paragraph (1)—

11 (A) by striking “December 31, 2017” and
12 inserting “September 30, 2023”; and

13 (B) by inserting “and by the USA Liberty
14 Act of 2017” after “section 101(a)”; and

15 (2) in paragraph (2) in the matter preceding
16 subparagraph (A), by striking “December 31, 2017”
17 and inserting “September 30, 2023”.

18 (b) **CONFORMING AMENDMENTS.**—Section 404(b) of
19 the FISA Amendments Act of 2008 (Public Law 110–261;
20 122 Stat. 2476) is amended—

21 (1) in paragraph (1)—

22 (A) in the heading, by striking “DECEM-

23 BER 31, 2017” and inserting “SEPTEMBER 30,

24 2023”; and

1 (B) by inserting “and by the USA Liberty
2 Act of 2017” after “section 101(a)”;

3 (2) in paragraph (2), by inserting “and by the
4 USA Liberty Act of 2017” after “section 101(a)”;
5 and

6 (3) in paragraph (4)—

7 (A) by inserting “and amended by the
8 USA Liberty Act of 2017” after “as added by
9 section 101(a)” both places it appears; and

10 (B) by inserting “and by the USA Liberty
11 Act of 2017” after “as amended by section
12 101(a)” both places it appears.

13 (c) EFFECTIVE DATE OF AMENDMENTS TO FAA.—
14 The amendments made to the FISA Amendments Act of
15 2008 (Public Law 110–261) by this section shall take ef-
16 fect on the earlier of the date of the enactment of this
17 Act or December 31, 2017.

18 **SEC. 302. INCREASED PENALTY FOR UNAUTHORIZED RE-**
19 **MOVAL AND RETENTION OF CLASSIFIED DOC-**
20 **UMENTS OR MATERIAL.**

21 Section 1924(a) of title 18, United States Code, is
22 amended by striking “one year” and inserting “5 years”.

1 **SEC. 303. RULE OF CONSTRUCTION REGARDING CRIMINAL**
2 **PENALTIES FOR UNAUTHORIZED USE OF IN-**
3 **FORMATION ACQUIRED UNDER SECTION 702**
4 **AND UNAUTHORIZED DISCLOSURE OF**
5 **UNITED STATES PERSON INFORMATION.**

6 Nothing in this Act or the amendments made by this
7 Act may be construed to limit the application or effect of
8 criminal penalties under section 552a(i) of title 5, United
9 States Code, sections 1001, 1030, and 1924 of title 18,
10 United States Code, or any other relevant provision of law,
11 with respect to offenses relating to the unauthorized ac-
12 cess or use of information acquired under section 702 of
13 the Foreign Intelligence Surveillance Act (50 U.S.C.
14 1881a) or the unauthorized disclosure of United States
15 person information acquired under such section.

16 **SEC. 304. COMPTROLLER GENERAL STUDY ON UNAUTHOR-**
17 **IZED DISCLOSURES AND THE CLASSIFICA-**
18 **TION SYSTEM.**

19 (a) **STUDY.**—The Comptroller General of the United
20 States shall conduct a study of the unauthorized disclosure
21 of classified information and the classification system of
22 the United States.

23 (b) **MATTERS INCLUDED.**—The study under sub-
24 section (a) shall address the following:

25 (1) Insider threat risks to the unauthorized dis-
26 closure of classified information.

1 (2) The effect of modern technology on the un-
2 authorized disclosure of classified information, in-
3 cluding with respect to—

4 (A) using cloud storage for classified infor-
5 mation; and

6 (B) any technological means to prevent or
7 detect such unauthorized disclosure.

8 (3) The effect of overclassification on the unau-
9 thorized disclosure of classified information.

10 (4) Any ways to improve the classification sys-
11 tem of the United States, including with respect to
12 changing the levels of classification used in such sys-
13 tem and to reduce overclassification.

14 (5) How to improve the authorized sharing of
15 classified information, including with respect to sen-
16 sitive compartmented information.

17 (6) The value of polygraph tests in determining
18 who is authorized to access classified information.

19 (7) Whether each element of the intelligence
20 community (as defined in section 3(4) of the Na-
21 tional Security Act of 1947 (50 U.S.C. 3003(4)))—

22 (A) applies uniform standards in deter-
23 mining who is authorized to access classified in-
24 formation; and

1 (B) provides proper training with respect
2 to the handling of classified information and
3 the avoidance of overclassification.

4 (c) COOPERATION.—The heads of the intelligence
5 community shall provide to the Comptroller General infor-
6 mation the Comptroller General determines necessary to
7 carry out the study under subsection (a).

8 (d) REPORT.—Not later than 180 days after the date
9 of the enactment of this Act, the Comptroller General shall
10 submit to the Committee on the Judiciary and the Perma-
11 nent Select Committee on Intelligence of the House of
12 Representatives and the Committee on the Judiciary and
13 the Select Committee on Intelligence of the Senate a re-
14 port containing the study under subsection (a).

15 (e) FORM.—The report under subsection (d) shall be
16 submitted in unclassified form, but may include a classi-
17 fied annex.

18 **SEC. 305. SENSE OF CONGRESS ON INFORMATION SHARING**
19 **AMONG INTELLIGENCE COMMUNITY TO PRO-**
20 **TECT NATIONAL SECURITY.**

21 It is the sense of Congress that, in carrying out sec-
22 tion 702 of the Foreign Intelligence Surveillance Act of
23 1978 (50 U.S.C. 1881a), as amended by this Act, the
24 United States Government should ensure that the bar-
25 riers, whether real or perceived, to sharing critical foreign

1 intelligence among the intelligence community that existed
2 before September 11, 2001, are not reimposed by sharing
3 information vital to national security among the intel-
4 ligence community in a manner that is consistent with
5 such section, applicable provisions of law, and the Con-
6 stitution of the United States.

7 **SEC. 306. SENSE OF CONGRESS ON COMBATING TER-**
8 **RORISM.**

9 It is the sense of Congress that, consistent with the
10 protection of sources and methods, when lawful and ap-
11 propriate, the President should share information learned
12 by acquiring communications under section 702 of the
13 Foreign Intelligence Surveillance Act (50 U.S.C. 1881a)
14 with allies of the United States to prevent and defend
15 against terrorism.

16 **SEC. 307. TECHNICAL AMENDMENTS AND AMENDMENTS TO**
17 **IMPROVE PROCEDURES OF THE FOREIGN IN-**
18 **TELLIGENCE SURVEILLANCE COURT OF RE-**
19 **VIEW.**

20 (a) TECHNICAL AMENDMENTS.—The Foreign Intel-
21 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
22 is amended as follows:

23 (1) In section 103(b) (50 U.S.C. 1803(b)), by
24 striking “designate as the” and inserting “des-
25 ignated as the”.

1 (2) In section 302(a)(1)(A)(iii) (50 U.S.C.
2 1822(a)(1)(A)(iii)), by striking “paragraphs (1)
3 through (4)” and inserting “subparagraphs (A)
4 through (D)”.

5 (3) In section 406(b) (50 U.S.C. 1846(b)), by
6 striking “and to the Committees on the Judiciary of
7 the House of Representatives and the Senate”.

8 (4) In section 604(a) (50 U.S.C. 1874(a))—

9 (A) in paragraph (1)(D), by striking “con-
10 tents” and inserting “contents,”; and

11 (B) in paragraph (3), by striking “comply
12 in the into” and inserting “comply into”.

13 (5) In section 701 (50 U.S.C. 1881)—

14 (A) in subsection (a), by striking “The
15 terms” and inserting “In this title, the terms”;
16 and

17 (B) in subsection (b)—

18 (i) by inserting “In this title:” after
19 the subsection heading; and

20 (ii) in paragraph (5), by striking “(50
21 U.S.C. 401a(4))” and inserting “(50
22 U.S.C. 3003(4))”.

23 (6) In section 702(g)(2)(A)(i) (50 U.S.C.
24 1881a(g)(2)(A)(i)), by inserting “targeting” before
25 “procedures in place”.

1 (7) In section 801(7) (50 U.S.C. 1885(7)), by
2 striking “(50 U.S.C. 401a(4))” and inserting “(50
3 U.S.C. 3003(4))”.

4 (b) COURT-RELATED AMENDMENTS.—The Foreign
5 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
6 seq.) is further amended as follows:

7 (1) In section 103 (50 U.S.C. 1803)—

8 (A) in subsection (b), by striking “imme-
9 diately”; and

10 (B) in subsection (h), by striking “the
11 court established under subsection (a)” and in-
12 serting “a court established under this section”.

13 (2) In section 105(d) (50 U.S.C. 1805(d)), by
14 adding at the end the following new paragraph:

15 “(4) A denial of the application made under section
16 104 may be reviewed as provided in section 103.”.

17 (3) In section 302(d) (50 U.S.C. 1822(d)), by
18 striking “immediately”.

19 (4) In section 402(d) (50 U.S.C. 1842(d)), by
20 adding at the end the following new paragraph:

21 “(3) A denial of the application made under this sub-
22 section may be reviewed as provided in section 103.”.

23 (5) In section 403(c) (50 U.S.C. 1843(c)), by
24 adding at the end the following new paragraph:

1 “(3) A denial of the application made under sub-
2 section (a)(2) may be reviewed as provided in section
3 103.”.

4 (6) In section 501(c) (50 U.S.C. 1861(c)), by
5 adding at the end the following new paragraph:

6 “(4) A denial of the application made under
7 this subsection may be reviewed as provided in sec-
8 tion 103.”.

9 **SEC. 308. SEVERABILITY.**

10 If any provision of this Act, any amendment made
11 by this Act, or the application thereof to any person or
12 circumstances is held invalid, the validity of the remainder
13 of the Act, of any such amendments, and of the applica-
14 tion of such provisions to other persons and circumstances
15 shall not be affected thereby.

16 **SEC. 309. RULE OF CONSTRUCTION.**

17 Nothing in this Act or the amendments made by this
18 Act shall be construed to authorize the acquisition,
19 querying, retention, dissemination, or use of information
20 not previously authorized under the FISA Amendments
21 Act 2008 or the amendments made by that Act.