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S. 2435

To ensure that each covered alien receives a thorough background investigation before such alien is admitted to the United States as a refugee, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2015

Mr. KIRK (for himself, Mrs. CAPITO, Mr. ISAKSON, Mr. TILLIS, Mr. WICKER, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To ensure that each covered alien receives a thorough background investigation before such alien is admitted to the United States as a refugee, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Defend America Act
5 of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Armed Services of
5 the Senate;

6 (B) the Select Committee on Intelligence
7 of the Senate;

8 (C) the Committee on the Judiciary of the
9 Senate;

10 (D) the Committee on Homeland Security
11 and Governmental Affairs of the Senate;

12 (E) the Committee on Foreign Relations of
13 the Senate;

14 (F) the Committee on Appropriations of
15 the Senate;

16 (G) the Committee on Armed Services of
17 the House of Representatives;

18 (H) the Permanent Select Committee on
19 Intelligence of the House of Representatives;

20 (I) the Committee on the Judiciary of the
21 House of Representatives;

22 (J) the Committee on Homeland Security
23 of the House of Representatives;

24 (K) the Committee on Foreign Affairs of
25 the House of Representatives; and

1 (L) the Committee on Appropriations of
2 the House of Representatives.

3 (2) COVERED ALIEN.—The term “covered
4 alien” means any alien who—

5 (A)(i) is applying for admission to the
6 United States as a refugee; and

7 (ii) is a national or resident of Iraq or
8 Syria;

9 (iii) has no known nationality and whose
10 last habitual residence was in Iraq or in Syria;
11 or

12 (iv) has been present in Iraq or in Syria at
13 any time on or after March 1, 2011.

14 (B) is not a citizen of Iraq who—

15 (i) is or was employed by or on behalf
16 of the United States Government in Iraq
17 on or after March 20, 2003, for not less
18 than 1 year; and

19 (ii) provided faithful and valuable
20 service to the United States Government,
21 which is documented in a positive rec-
22 ommendation or evaluation described in
23 subsection (c), from the employer’s senior
24 supervisor in the United States Govern-
25 ment or from a more senior person if the

1 employee’s senior supervisor cannot be lo-
2 cated;

3 (C) is not the spouse or child of an alien
4 described in subparagraph (B); and

5 (D) is not an infant child without living
6 parents who is younger than 4 years of age, as
7 certified under procedures promulgated by the
8 Secretary of State under subsection (b).

9 (3) FOREIGN TERRORIST ORGANIZATION.—The
10 term “foreign terrorist organization” is a foreign or-
11 ganization that is designated as a foreign terrorist
12 organization by the Secretary of State in accordance
13 with section 219(a) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1189(a)).

15 (b) CERTIFICATION.—

16 (1) IN GENERAL.—The Secretary of State shall
17 promulgate regulations establishing procedures for
18 certifying that an alien is an alien child without liv-
19 ing parents who is younger than 4 years of age.

20 (2) SUBMISSION.—Not later than 60 days after
21 the date of the enactment of this Act, the Secretary
22 of State shall submit the regulations promulgated
23 under paragraph (1) to the appropriate congress-
24 sional committees.

1 (3) IMPLEMENTATION.—Not earlier than 90
2 days after the submission of regulations under para-
3 graph (2), the Secretary of State shall implement
4 such regulations.

5 (c) APPROVAL BY CHIEF OF MISSION REQUIRED.—
6 Each recommendation or evaluation required under sub-
7 paragraph (B)(ii) shall be accompanied by approval from
8 the appropriate Chief of Mission, or the designee of the
9 appropriate Chief of Mission, who shall conduct a risk as-
10 sessment of the alien and an independent review of records
11 maintained by the United States Government or hiring or-
12 ganization or entity to confirm the alien’s employment and
13 faithful and valuable service to the United States Govern-
14 ment before the alien is exempted from definition of cov-
15 ered alien under subsection (a)(2)(B).

16 **SEC. 3. ENHANCED SCREENING MEASURES FOR COVERED**
17 **ALIENS.**

18 (a) TEMPORARY SUSPENSION OF ADMISSIONS.—

19 (1) IN GENERAL.—Notwithstanding any other
20 provision of law—

21 (A) a covered alien may not be admitted to
22 the United States as a refugee under section
23 207 of the Immigration and Nationality Act (8
24 U.S.C. 1157) or under any other provision of
25 law;

1 (B) no Federal funds may be expended to
2 process applications for covered aliens to be ad-
3 mitted as refugees; and

4 (C) no Federal funds may be expended by
5 the Secretary of State or the Secretary of
6 Health and Human Services to resettle covered
7 aliens in the United States.

8 (2) EFFECTIVE PERIOD.—Paragraph (1) shall
9 be in effect until the date that is 30 days after the
10 date on which the President submits, to the appro-
11 priate congressional committees, a certification that
12 the provisions under subsections (b) through (g)
13 have been carried out.

14 (b) BACKGROUND INVESTIGATION.—

15 (1) IN GENERAL.—In addition to any
16 screenings conducted by the Department of State or
17 the Department of Homeland Security, the Director
18 of the Federal Bureau of Investigation shall take all
19 actions necessary to ensure that each covered alien
20 receives a thorough background investigation before
21 such alien is admitted to the United States as a ref-
22 ugee.

23 (2) FBI CERTIFICATION.—A covered alien may
24 not be admitted to the United States as a refugee
25 until after the Director of the Federal Bureau of In-

1 investigation certifies to the Secretary of Homeland
2 Security and the Director of National Intelligence
3 that such alien has received a background investiga-
4 tion that is sufficient to determine whether such
5 alien—

6 (A) is a threat to the security of the
7 United States; and

8 (B) has provided support to any foreign
9 terrorist organization, which may include pub-
10 lishing or otherwise engaging in social media to
11 promote or otherwise support a foreign terrorist
12 organization.

13 (c) CERTIFICATION BY UNANIMOUS CONCUR-
14 RENCE.—A covered alien may only be admitted to the
15 United States after the Secretary of Homeland Security,
16 with the unanimous concurrence of the Director of the
17 Federal Bureau of Investigation and the Director of Na-
18 tional Intelligence, certifies to the appropriate congres-
19 sional committees that the covered alien—

20 (1) is not a threat to the security of the United
21 States; and

22 (2) has not provided support to any foreign ter-
23 rorist organization, including by publishing or other-
24 wise engaging in social media to promote or other-
25 wise support a foreign terrorist organization.

1 (d) INSPECTOR GENERAL REVIEW OF CERTIFI-
2 CATIONS.—The Inspector General of the Department of
3 Homeland Security shall—

4 (1) conduct a risk-based review of all certifi-
5 cations made under subsection (c) during each fiscal
6 year; and

7 (2) not later than October 30 of each year, sub-
8 mit a report, in unclassified form with classified an-
9 nexes, to the appropriate congressional committees
10 that—

11 (A) describes the findings of the review
12 conducted under paragraph (1);

13 (B) includes an assessment of the data
14 sets and vetting procedures used by the Depart-
15 ment of Homeland Security; and

16 (C) includes an assessment of the Depart-
17 ment of Homeland Security's access to informa-
18 tion and data sets controlled, administered, or
19 maintained by other agencies or departments
20 that are necessary to conduct a thorough
21 screening of covered aliens.

22 (e) QUARTERLY REPORT.—The Secretary of Home-
23 land Security shall submit a quarterly report to the appro-
24 priate congressional committees that includes, for the
25 quarter immediately preceding the date of the report—

1 (1) the total number of applications for admis-
2 sion with regard to which a certification under sub-
3 section (c) was made;

4 (2) the number of covered aliens with regard to
5 whom such a certification was not made; and

6 (3) for each covered alien with regard to whom
7 a certification under subsection (c) was not made,
8 the justification for the nonconcurrence of each de-
9 partment or agency.

10 (f) ANNUAL COMPTROLLER GENERAL EVALUA-
11 TION.—The Comptroller General of the United States
12 shall—

13 (1) annually evaluate all the certifications made
14 under subsections (b) and (c); and

15 (2) not later than October 30 of each year, sub-
16 mit to the appropriate congressional committees a
17 report, in unclassified form with classified annexes,
18 that includes—

19 (A) the findings of the evaluations under
20 paragraph (1);

21 (B) an assessment of the data sets and
22 vetting procedures used by the Federal Bureau
23 of Investigation and the Department of Home-
24 land Security;

1 (C) an assessment of the Federal Govern-
2 ment's access to the information and data sets
3 necessary to conduct a thorough screening of
4 covered aliens; and

5 (D) a detailed list of covered aliens who—
6 (i) were admitted pursuant to this
7 Act; and

8 (ii) during the previous fiscal year—
9 (I) were indicted for criminal
10 misconduct and are awaiting trial,
11 with a description of the pending
12 charges;

13 (II) had pending criminal charges
14 against them dismissed, with a de-
15 scription of the charges;

16 (III) were acquitted of criminal
17 misconduct at trial, with a description
18 of the charges;

19 (IV) were convicted of, or pled
20 guilty to, criminal misconduct, with a
21 list of the charges and the sentence;

22 (V) were listed on the Terrorist
23 Screening Center's Terrorist Screen-
24 ing Database (TSDB); or

1 (VI) were listed on the National
2 Counterterrorism Center's Terrorist
3 Identities Datamart Environment
4 (TIDE).

5 (g) REPORT ON ADDITIONAL ENHANCED MEAS-
6 URES.—Not later than 180 days after the date of the en-
7 actment of this Act, the Secretary of Homeland Security,
8 in consultation with the Director of the Federal Bureau
9 of Investigation, the Director of National Intelligence, and
10 the Secretary of State, shall submit a report to the appro-
11 priate congressional committees that—

12 (1) identifies plans for additional enhanced
13 measures for the purposes of improving the screen-
14 ing conducted by the United States Government on
15 any covered alien seeking to be admitted as a ref-
16 ugee to the United States, including any enhanced
17 screening to determine whether such alien—

18 (A) has any links to terrorism-related so-
19 cial media; or

20 (B) has provided support to any foreign
21 terrorist organization;

22 (2) describes the changes made to the refugee
23 program by the Department of Homeland Security
24 in response to the infiltration of 2 Al-Qaeda in Iraq-
25 linked terrorists into the United States and their re-

1 settlement in Bowling Green, Kentucky, through the
2 Iraqi refugee program in 2009; and

3 (3) indicates if the Secretary of Homeland Se-
4 curity is aware of any former or current known ter-
5 rorists who have been admitted to the United States
6 as refugees.

7 **SEC. 4. STATE NOTIFICATION.**

8 Section 412(b) of the Immigration and Nationality
9 Act (8 U.S.C. 1522(b)) is amended by adding at the end
10 the following:

11 “(9) Before a refugee is resettled in a State, the Sec-
12 retary of State shall provide the Governor of such State,
13 or the Governor’s designee, with respect to the refugee—

14 (A) the full, legal name;

15 (B) a physical description, including biometric
16 information;

17 (C) relevant biographical information;

18 (D) the country of origin; and

19 (E) any prior citizenship.”.

20 **SEC. 5. INADMISSIBILITY FOR USE OF SOCIAL MEDIA TO**
21 **PROMOTE TERRORISM.**

22 (a) IN GENERAL.—Section 212(a)(3)(B)(i)(VII) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1182(a)(3)(B)(i)(VII)) is amended by inserting “, includ-

1 ing through the use of social media” before the semicolon
2 at the end.

3 (b) RULEMAKING.—Not later than 90 days after the
4 date of the enactment of this Act, the Secretary of Home-
5 land Security, in consultation with the Secretary of State,
6 shall issue regulations, in accordance with section 553 of
7 title 5, United States Code, to ensure that no alien apply-
8 ing for an immigrant visa under section 203 of the Immi-
9 gration and Nationality Act (8 U.S.C. 1153) or for adjust-
10 ment of status under section 245 of such Act (8 U.S.C.
11 1155) is admitted if the alien has violated section
12 212(a)(3)(B)(i)(VII) of such Act (8 U.S.C.
13 1182(a)(3)(B)(i)(VII)), as amended by subsection (a).

14 (c) EFFECTIVE DATE.—The regulations issued under
15 subsection (b) shall take effect on the date that is 30 days
16 after the date on which such regulations are published in
17 the Federal Register.

18 **SEC. 6. VISA WAIVER PROGRAM SECURITY.**

19 (a) RESTRICTION ON USE OF VISA WAIVER PRO-
20 GRAM FOR ALIENS WHO TRAVEL TO CERTAIN COUN-
21 TRIES.—Section 217(a) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1187(a)) is amended by adding at the
23 end the following:

24 “(12) NOT PRESENT IN IRAQ, SYRIA, OR ANY
25 OTHER COUNTRY OR AREA OF CONCERN.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraphs (B) and (C)—

3 “(i) the alien has not been present, at
4 any time on or after March 1, 2011—

5 “(I) in Iraq or Syria;

6 “(II) in a country that is des-
7 ignated by the Secretary of State
8 under section 6(j) of the Export Ad-
9 ministration Act of 1979 (50 U.S.C.
10 2405) (as continued in effect under
11 the International Emergency Eco-
12 nomic Powers Act (50 U.S.C. 1701 et
13 seq.)), section 40 of the Arms Export
14 Control Act (22 U.S.C. 2780), section
15 620A of the Foreign Assistance Act of
16 1961 (22 U.S.C. 2371), or any other
17 provision of law, as a country, the
18 government of which has repeatedly
19 provided support of acts of inter-
20 national terrorism; or

21 “(III) in any other country or
22 area of concern designated by the Sec-
23 retary of Homeland Security under
24 subparagraph (D); and

1 “(ii) regardless of whether the alien is
2 a national of a program country, the alien
3 is not a national of—

4 “(I) Iraq or Syria;

5 “(II) a country that is des-
6 igned, at the time the alien applies
7 for admission, by the Secretary of
8 State under section 6(j) of the Export
9 Administration Act of 1979 (50
10 U.S.C. 2405) (as continued in effect
11 under the International Emergency
12 Economic Powers Act (50 U.S.C.
13 1701 et seq.)), section 40 of the Arms
14 Export Control Act (22 U.S.C. 2780),
15 section 620A of the Foreign Assist-
16 ance Act of 1961 (22 U.S.C. 2371),
17 or any other provision of law, as a
18 country, the government of which has
19 repeatedly provided support of acts of
20 international terrorism; or

21 “(III) any other country that is
22 designated, at the time the alien ap-
23 plies for admission, by the Secretary
24 of Homeland Security under subpara-
25 graph (D).

1 “(B) CERTAIN MILITARY PERSONNEL AND
2 GOVERNMENT EMPLOYEES.—Subparagraph
3 (A)(i) shall not apply to an alien if the Sec-
4 retary of Homeland Security determines that
5 the alien was present—

6 “(i) in order to perform military serv-
7 ice in the armed forces of a program coun-
8 try; or

9 “(ii) in order to carry out official du-
10 ties as a full-time employee of the govern-
11 ment of a program country.

12 “(C) WAIVER.—The Secretary of Home-
13 land Security may waive the application of sub-
14 paragraph (A) with respect to an alien if the
15 Secretary determines that such a waiver is in
16 the law enforcement or national security inter-
17 ests of the United States.

18 “(D) COUNTRIES OR AREAS OF CON-
19 CERN.—

20 “(i) IN GENERAL.—Not later than 60
21 days after the date of the enactment of
22 this paragraph, the Secretary of Homeland
23 Security, in consultation with the Sec-
24 retary of State and the Director of Na-
25 tional Intelligence, shall determine whether

1 the requirement under subparagraph (A)
2 shall apply to any other country or area.

3 “(ii) CRITERIA.—In making a deter-
4 mination under clause (i), the Secretary
5 shall consider—

6 “(I) whether the presence of an
7 alien in the country or area increases
8 the likelihood that the alien is a cred-
9 ible threat to the national security of
10 the United States;

11 “(II) whether a foreign terrorist
12 organization has a significant pres-
13 ence in the country or area; and

14 “(III) whether the country or
15 area is a safe haven for terrorists.

16 “(iii) ANNUAL REVIEW.—The Sec-
17 retary shall conduct an annual review of
18 any determination made under clause (i).

19 “(E) REPORT.—Beginning not later than
20 1 year after the date of the enactment of this
21 paragraph, and annually thereafter, the Sec-
22 retary of Homeland Security shall submit a re-
23 port to the Committee on Homeland Security of
24 the House of Representatives, the Committee
25 on Foreign Affairs of the House of Representa-

1 tives, the Committee on the Judiciary of the
2 House of Representatives, the Permanent Select
3 Committee on Intelligence of the House of Rep-
4 resentatives, the Committee on Homeland Secu-
5 rity and Governmental Affairs of the Senate,
6 the Committee on Foreign Relations of the Sen-
7 ate, the Select Committee on Intelligence of the
8 Senate, and the Committee on the Judiciary of
9 the Senate that describes each instance in
10 which the Secretary exercised the waiver au-
11 thority under subparagraph (C) during the pre-
12 vious year.”.

13 (b) REQUIREMENTS FOR COUNTRIES.—

14 (1) TRAVELER SCREENING AND VETTING.—

15 Section 217(c)(2) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1187(c)(2)) is amended—

17 (A) by redesignating subparagraphs (D),
18 (E), and (F) as subparagraphs (E), (F), and
19 (G), respectively; and

20 (B) by inserting after subparagraph (C)
21 the following:

22 “(D) INFORMATION SHARING AGREE-
23 MENT.—The government of the country, for
24 travel requiring a passport or other govern-
25 ment-issued travel document, screens travelers

1 crossing the country’s borders as early in the
2 vetting process as possible using INTERPOL’s
3 Stolen and Lost Travel Documents databases
4 or other means designated by the Secretary of
5 Homeland Security to determine if travelers
6 crossing the country’s borders are using stolen
7 or lost travel documents.”.

8 (2) REPORTING LOST AND STOLEN PASS-
9 PORTS.—Section 217(c)(2)(E) of such Act, as reded-
10 igned by paragraph (1)(A), is amended by striking
11 “within a strict time limit” and inserting “not later
12 than 24 hours after becoming aware of the theft or
13 loss”.

14 (3) IMPLEMENTATION OF PASSENGER INFOR-
15 MATION EXCHANGE AGREEMENT.—Section
16 217(c)(2)(G) of such Act, as redesignated by para-
17 graph (1)(A), is amended by inserting before the pe-
18 riod at the end the following: “, and fully imple-
19 ments such agreement”.

20 (4) INTERPOL SCREENING.—Section
21 217(c)(2) of such Act, as amended by paragraphs
22 (1) through (3), is further amended by adding at the
23 end the following:

24 “(H) INTERPOL SCREENING.—Not later
25 than 270 days after the date of the enactment

1 of this subparagraph, except in the case of a
2 country in which there is not an international
3 airport, the government of the country certifies
4 to the Secretary of Homeland Security that, to
5 the maximum extent allowed under the laws of
6 the country, it is screening, for unlawful activ-
7 ity, each person who is not a citizen or national
8 of that country who is admitted to or departs
9 that country, by using relevant databases and
10 notices maintained by INTERPOL, or other
11 means designated by the Secretary of Home-
12 land Security. The requirement under this sub-
13 paragraph shall not apply to travel between
14 countries within the Schengen Zone.”.

15 (c) FAILURE TO IMPLEMENT OR COMPLY WITH IN-
16 FORMATION SHARING REQUIREMENTS.—

17 (1) IN GENERAL.—If the Secretary of Home-
18 land Security, in consultation with the Secretary of
19 State, determines that a Visa Waiver Program coun-
20 try has not complied with a requirement under sub-
21 paragraph (D), (E), (F), or (G) of section 217 of
22 the Immigration and Nationality Act (8 U.S.C.
23 1187), or any additional requirement determined by
24 the Secretary of Homeland Security, the Secretary

1 may terminate the participation of such country in
2 the Visa Waiver Program.

3 (2) REDESIGNATION.—The Secretary of Home-
4 land Security, in consultation with the Secretary of
5 State, may redesignate a terminated country as a
6 Visa Waiver Program country if the Secretary of
7 Homeland Security determines that the government
8 of the country is complying with—

9 (A) all of the requirements set forth in
10 subsection (b), including the amendments made
11 by subsection (b);

12 (B) the information sharing agreement re-
13 quired under section 217 of the Immigration
14 and Nationality Act (8 U.S.C. 1187); and

15 (C) any additional program requirements
16 determined by the Secretary of Homeland Secu-
17 rity.

18 (3) NOTIFICATION.—

19 (A) IN GENERAL.—The Secretary of
20 Homeland Security shall notify Congress—

21 (i) of any former Visa Waiver Pro-
22 gram country that has been terminated
23 from participation in the Visa Waiver Pro-
24 gram and the reasons for such termi-
25 nation; and

1 (ii) whether a country described in
2 subparagraph (A) has been deemed eligible
3 for redesignation as a Visa Waiver Pro-
4 gram country, including the steps taken by
5 the government of such country to qualify
6 for participation in the Visa Waiver Pro-
7 gram.

8 (B) REDESIGNATION.—If Congress has not
9 objected to the redesignation of a country de-
10 scribed in paragraph (2) before the date that is
11 30 days after the notification date under sub-
12 paragraph (A), the Secretary of Homeland Se-
13 curity may redesignate the country as a Visa
14 Waiver Program country.

15 (d) FEDERAL AIR MARSHAL AGREEMENT.—Section
16 217(c) of the Immigration and Nationality Act, as amend-
17 ed by subsection (b), is further amended—

18 (1) in paragraph (2), by adding at the end the
19 following:

20 “(I) FEDERAL AIR MARSHAL AGREE-
21 MENT.—The government of the country enters
22 into, and complies with, an agreement with the
23 United States to assist in the operation of an
24 effective Air Marshal Program.

1 “(J) AVIATION STANDARDS.—The govern-
2 ment of the country complies with United
3 States aviation and airport security standards,
4 as determined by the Secretary of Homeland
5 Security.”; and

6 (2) in paragraph (9)—

7 (A) by striking subparagraph (B); and

8 (B) by redesignating subparagraphs (C)
9 and (D) as subparagraphs (B) and (C), respec-
10 tively.

11 (e) ELECTRONIC PASSPORTS.—

12 (1) COMPLIANCE WITH INTERNATIONAL STAND-
13 ARDS.—Not later than October 1, 2016, the govern-
14 ment of each Visa Waiver Program country shall
15 certify that the country issues to its citizens ma-
16 chine-readable, electronic passports that comply with
17 the biometric and document identifying standards
18 established by the International Civil Aviation Orga-
19 nization.

20 (2) ANNUAL REPORT.—Not later than 90 days
21 after the date of the enactment of this Act, and an-
22 nually thereafter, the Secretary of Homeland Secu-
23 rity shall submit to Congress a list of all the Visa
24 Waiver Program countries whose governments have

1 certified the regular issuance of machine-readable
2 electronic passports to their citizens.

3 (3) POSSESSION OF ELECTRONIC PASSPORTS.—

4 Not later than April 1, 2016, every citizen or na-
5 tional of a Visa Waiver Program country who is
6 cleared to travel to the United States under the
7 Electronic System for Travel Authorization shall
8 possess, at the time of admission, a valid, unexpired,
9 tamper-resistant, machine-readable passport that in-
10 corporates biometric and document authentication
11 identifiers that comply with the standards described
12 in paragraph (1).

13 (f) CAPACITY TO IDENTIFY DANGEROUS INDIVID-
14 UALS.—Section 217(c) of the Immigration and Nation-
15 ality Act, as amended by this section, is further amend-
16 ed—

17 (1) in paragraph (3), by striking “after the ini-
18 tial period”; and

19 (2) by amending paragraph (4) to read as fol-
20 lows:

21 “(4) REQUIRED SECURITY CONSIDERATIONS
22 FOR PROGRAM DESIGNATION AND CONTINUATION.—

23 In determining whether a country should be des-
24 ignated as a program country or whether a program
25 country should retain its designation as a program

1 country, the Secretary of Homeland Security shall
2 consider whether the government of the country—

3 “(A) collects and analyzes the information
4 described in subsection (a)(10), including ad-
5 vance passenger information and passenger
6 name records, and similar information per-
7 taining to flights not bound for the United
8 States, to identify potentially dangerous individ-
9 uals who may attempt to travel to the United
10 States, and shares such information and the re-
11 sults of such analyses with the Government of
12 the United States;

13 “(B) collects and analyzes biometric and
14 other information about individuals other than
15 United States nationals who are applying for
16 asylum, refugee status, or another form of non-
17 refolement protection in such country, and
18 shares such information and the results of such
19 analyses with the Government of the United
20 States;

21 “(C) shares intelligence about foreign
22 fighters with the United States and with multi-
23 lateral organizations, such as INTERPOL and
24 EUROPOL; and

1 “(D) has consistently cooperated with the
2 Government of the United States on counterter-
3 rorism initiatives, information sharing, pre-
4 venting terrorist travel, and extradition to the
5 United States of individuals (including the
6 country’s own nationals) who commit crimes
7 that violate United States law before the date
8 of its designation as a program country, and
9 whether the Secretary of Homeland Security
10 and the Secretary of State believe that such co-
11 operation is likely to continue.”.

12 (g) REPORTING REQUIREMENTS.—

13 (1) IN GENERAL.—Section 217(c) of the Immi-
14 gration and Nationality Act (8 U.S.C. 1187(c)), as
15 amended by this section, is further amended—

16 (A) in paragraph (2)(C), by amending
17 clause (iii) to read as follows:

18 “(iii) submits a written report to the
19 Committee on the Judiciary of the House
20 of Representatives, the Committee on For-
21 eign Affairs of the House of Representa-
22 tives, the Committee on Homeland Secu-
23 rity of the House of Representatives, the
24 Committee on the Judiciary of the Senate,
25 the Committee on Foreign Relations of the

1 Senate, and the Committee on Homeland
2 Security and Governmental Affairs of the
3 Senate regarding the country’s qualifica-
4 tion for designation that includes an expla-
5 nation of such determination.”; and

6 (B) in paragraph (5)(A)(i)—

7 (i) by amending subclause (III) to
8 read as follows:

9 “(III) shall submit a written re-
10 port to the Committee on the Judici-
11 ary of the House of Representatives,
12 the Committee on Foreign Affairs of
13 the House of Representatives, the
14 Committee on Homeland Security of
15 the House of Representatives, the
16 Permanent Select Committee on Intel-
17 ligence of the House of Representa-
18 tives, the Committee on the Judiciary
19 of the Senate, the Committee on For-
20 eign Relations of the Senate, the
21 Committee on Homeland Security and
22 Governmental Affairs of the Senate,
23 and the Select Committee on Intel-
24 ligence of the Senate regarding the
25 continuation or termination of the

1 country's designation that includes an
2 explanation of such determination and
3 the effects described in subclause
4 (I);”;

5 (ii) in subclause (IV), by striking the
6 period at the end and inserting “; and”;
7 and

8 (iii) by adding at the end the fol-
9 lowing:

10 “(V) shall submit a report to the
11 committees described in subclause
12 (III) that includes an assessment of—

13 “(aa) the threat to the na-
14 tional security of the United
15 States of the designation of each
16 country designated as a program
17 country;

18 “(bb) the compliance of the
19 government of each such country
20 with the requirements under sub-
21 paragraphs (D) and (F) of para-
22 graph (2); and

23 “(cc) each such govern-
24 ment's capacity to comply with
25 such requirements.”.

1 (2) DATE OF SUBMISSION OF FIRST REPORT.—
2 Not later than 90 days after the date of the enact-
3 ment of this Act, the Secretary of Homeland Secu-
4 rity shall submit the first report described in section
5 217(c)(5)(A)(i)(V) of the Immigration and Nation-
6 ality Act, as added by paragraph (1).

7 (h) HIGH RISK PROGRAM COUNTRIES.—Section
8 217(c) of the Immigration and Nationality Act (8 U.S.C.
9 1187(c)), as amended by this section, is further amended
10 by adding at the end the following:

11 “(12) DESIGNATION OF HIGH RISK PROGRAM
12 COUNTRIES.—

13 “(A) IN GENERAL.—The Secretary of
14 Homeland Security, in consultation with the Di-
15 rector of National Intelligence and the Sec-
16 retary of State, shall annually—

17 “(i) evaluate program countries based
18 on the criteria described in subparagraph
19 (B); and

20 “(ii) identify any program country
21 from which the admission of nationals
22 under the program would, in the Sec-
23 retary’s determination, present a high risk
24 to the national security of the United
25 States.

1 “(B) CRITERIA.—The evaluation of each
2 program country under subparagraph (A)(i)
3 shall include the consideration of—

4 “(i) the number of nationals of the
5 country determined to be ineligible to trav-
6 el to the United States under the program
7 during the previous year;

8 “(ii) the number of nationals of the
9 country who were identified in United
10 States Government databases related to
11 the identities of known or suspected terror-
12 ists during the previous year;

13 “(iii) the estimated number of nation-
14 als of the country who have traveled to
15 Iraq or Syria at any time on or after
16 March 1, 2011, to engage in terrorism;

17 “(iv) the capacity of the country to
18 combat passport fraud;

19 “(v) the level of cooperation of the
20 country with the counter-terrorism efforts
21 of the United States;

22 “(vi) the adequacy of the border and
23 immigration control of the country; and

1 “(vii) any other criteria that the Sec-
2 retary of Homeland Security determines to
3 be appropriate.

4 “(C) SUSPENSION OF DESIGNATION.—The
5 Secretary of Homeland Security, in consultation
6 with the Secretary of State, may suspend the
7 designation of a program country based on a
8 determination under subparagraph (A)(ii) that
9 the country presents a high risk to the national
10 security of the United States until the Sec-
11 retary determines that the country no longer
12 presents such a risk.

13 “(D) REPORT.—Not later than 60 days
14 after the date of the enactment of this para-
15 graph, and annually thereafter, the Secretary of
16 Homeland Security, in consultation with the Di-
17 rector of National Intelligence and the Sec-
18 retary of State, shall submit a report to the
19 Committee on the Judiciary of the House of
20 Representatives, the Committee on Foreign Af-
21 fairs of the House of Representatives, the Com-
22 mittee on Homeland Security of the House of
23 Representatives, the Permanent Select Com-
24 mittee on Intelligence of the House of Rep-
25 resentatives, the Committee on the Judiciary of

1 the Senate, the Committee on Foreign Rela-
2 tions of the Senate, the Committee on Home-
3 land Security and Governmental Affairs of the
4 Senate, and the Select Committee on Intel-
5 ligence of the Senate that includes an evalua-
6 tion and threat assessment of each country de-
7 termined to present a high risk to the national
8 security of the United States under subpara-
9 graph (A).”.

10 (i) ENHANCEMENTS TO THE ELECTRONIC SYSTEM
11 FOR TRAVEL AUTHORIZATION.—

12 (1) IN GENERAL.—Section 217(h)(3) of the Im-
13 migration and Nationality Act (8 U.S.C.
14 1187(h)(3)) is amended—

15 (A) in subparagraph (C)(i), by inserting
16 “or shorten the period of eligibility under any
17 such determination” after “any such determina-
18 tion”; and

19 (B) by striking subparagraph (D) and in-
20 serting the following:

21 “(D) FRAUD DETECTION.—The Secretary
22 of Homeland Security shall research opportuni-
23 ties to incorporate into the System technology
24 that will detect and prevent fraud and deception
25 in the System.

1 “(E) ADDITIONAL AND PREVIOUS COUN-
2 TRIES OF CITIZENSHIP.—The Secretary of
3 Homeland Security shall—

4 “(i) collect from each applicant for
5 admission under this section information
6 on any additional or previous countries of
7 citizenship of such applicant; and

8 “(ii) take any information collected
9 under clause (i) into account when making
10 determinations regarding the eligibility of
11 the alien for admission under this section.

12 “(F) REPORT ON CERTAIN LIMITATIONS
13 ON TRAVEL.—Not later than 30 days after the
14 date of the enactment of this subparagraph and
15 annually thereafter, the Secretary of Homeland
16 Security, in consultation with the Secretary of
17 State, shall submit a report to the Committee
18 on the Judiciary of the House of Representa-
19 tives, the Committee on Foreign Affairs of the
20 House of Representatives, the Committee on
21 Homeland Security of the House of Representa-
22 tives, the Committee on the Judiciary of the
23 Senate, the Committee on Foreign Relations of
24 the Senate, and the Committee on Homeland

1 Security and Governmental Affairs of the Sen-
2 ate that describes, for the reporting period—

3 “(i) the number of individuals who
4 were denied eligibility to travel under the
5 program;

6 “(ii) the number of individuals whose
7 eligibility for travel under the program;

8 “(iii) the number of individuals de-
9 scribed in clause (i) or (ii) who were deter-
10 mined, under subsection (a)(6), to rep-
11 resent a threat to the national security of
12 the United States; and

13 “(iv) the country or countries of citi-
14 zenship of each such individual described
15 in clause (iii).”.

16 (2) REPORT.—Not later than 30 days after the
17 date of the enactment of this Act, the Secretary of
18 Homeland Security, in consultation with the Sec-
19 retary of State, shall submit a report that describes
20 steps to strengthen the electronic system for travel
21 authorization authorized under section 217(h)(3) of
22 the Immigration and Nationality Act (8 U.S.C.
23 1187(h)(3)) in order—

24 (A) to better secure the international bor-
25 ders of the United States; and

1 (B) to prevent terrorists and instruments
2 of terrorism from entering the United States.

3 (j) PROVISION OF ASSISTANCE TO NONPROGRAM
4 COUNTRIES.—The Secretary of Homeland Security, in
5 consultation with the Secretary of State, shall provide
6 risk-based assistance to each country that does not partici-
7 pate in the visa waiver program to assist each such coun-
8 try with—

9 (1) submitting information to INTERPOL
10 about the theft or loss of passports of citizens or na-
11 tionals of such country; and

12 (2) issuing, and validating at the ports of entry
13 of such country, electronic passports that—

14 (A) are fraud-resistant;

15 (B) contain relevant biographic and bio-
16 metric information (as determined by the Sec-
17 retary of Homeland Security); and

18 (C) otherwise satisfy internationally ac-
19 cepted standards for electronic passports.

20 (k) CLERICAL AMENDMENTS.—

21 (1) SECRETARY OF HOMELAND SECURITY.—
22 Section 217 of the Immigration and Nationality Act
23 (8 U.S.C. 1187), as amended by this section, is fur-
24 ther amended by striking “Attorney General” each
25 place such term appears (except in subsection

1 (c)(11)(B)) and inserting “Secretary of Homeland
2 Security”.

3 (2) ELECTRONIC SYSTEM FOR TRAVEL AUTHOR-
4 IZATION.—Section 217 of the Immigration and Na-
5 tionality Act (8 U.S.C. 1187), as amended this sec-
6 tion, is further amended—

7 (A) in subsection (a)(11), by striking
8 “ELECTRONIC TRAVEL AUTHORIZATION SYS-
9 TEM” from the paragraph heading and insert-
10 ing “ELECTRONIC SYSTEM FOR TRAVEL AU-
11 THORIZATION”;

12 (B) in subsection (h)(3)—

13 (i) by striking “ELECTRONIC TRAVEL
14 AUTHORIZATION SYSTEM” from the para-
15 graph heading and inserting “ELECTRONIC
16 SYSTEM FOR TRAVEL AUTHORIZATION”;
17 and

18 (ii) by striking “the alien” and insert-
19 ing “an alien”; and

20 (C) by striking “electronic travel author-
21 ization system” each place such term appears
22 and inserting “electronic system for travel au-
23 thorization”;

24 (l) SENSE OF CONGRESS.—It is the sense of Congress
25 that—

1 (1) the International Civil Aviation Organiza-
2 tion, which is the specialized agency of the United
3 Nations responsible for establishing international
4 standards, specifications, and best practices relating
5 to the administration and governance of border con-
6 trols and inspection formalities, should—

7 (A) establish standards for the introduc-
8 tion of electronic passports (referred to in this
9 subsection as “e-passports”); and

10 (B) obligate member countries to utilize e-
11 passports as soon as possible; and

12 (2) e-passports should be a combined paper and
13 electronic passport that contains biographic and bio-
14 metric information that can be used to authenticate
15 the identity of travelers through an embedded chip.

16 **SEC. 7. PRIORITIZING SPECIAL IMMIGRANT VISAS FOR**
17 **IRAQI AND AFGHAN TRANSLATORS.**

18 In allocating the resources of the Department of
19 State, the Secretary of State shall prioritize the issuance
20 of special immigrant visas authorized under—

21 (1) section 1059 of the National Defense Au-
22 thorization Act for Fiscal Year 2006 (Public Law
23 109–163; 8 U.S.C. 1101 note);

24 (2) section 1244 of the Refugee Crisis in Iraq
25 Act of 2007 (8 U.S.C. 1157 note); and

1 (3) section 602 of the Afghan Allies Protection
2 Act of 2009 (8 U.S.C. 1101 note).

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