

Calendar No. 1113

110TH CONGRESS
2D SESSION**H. R. 3232**

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Received

OCTOBER 2 (legislative day, SEPTEMBER 17), 2008

Read twice and placed on the calendar

AN ACT

To establish a non-profit corporation to communicate United States entry policies and otherwise promote tourist, business, and scholarly travel to the United States.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Travel Promotion Act of 2008”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. The Corporation for Travel Promotion.
- Sec. 3. Accountability measures.
- Sec. 4. Matching public and private funding.

Sec. 5. Travel Promotion Fund fees.
Sec. 6. Investment of Funds.
Sec. 7. Prohibition on use of funds.
Sec. 8. Amendments to the International Travel Act of 1961.
Sec. 9. Definitions.
Sec. 10. G.A.O. study

1 **SEC. 2. THE CORPORATION FOR TRAVEL PROMOTION.**

2 (a) ESTABLISHMENT.—The Corporation for Travel
3 Promotion is established as a nonprofit corporation. The
4 Corporation shall not be an agency or establishment of
5 the United States Government. The Corporation shall be
6 subject to the provisions of the District of Columbia Non-
7 profit Corporation Act (sec. 29–301.01 et seq., D.C. Offi-
8 cial Code), to the extent that such provisions are con-
9 sistent with this section, and shall have the powers con-
10 ferred upon a nonprofit corporation by that Act to carry
11 out its purposes and activities.

12 (b) BOARD OF DIRECTORS.—

13 (1) IN GENERAL.—The Corporation shall have
14 a board of directors of 15 members, appointed by
15 the Secretary of Commerce, but not before consulta-
16 tion with the Secretaries of Homeland Security,
17 State, and Education, as appropriate, each of whom
18 is a United States citizen, and of whom—

19 (A) one shall have appropriate expertise
20 and experience in the hotel accommodations
21 sector;

1 (B) one shall have appropriate expertise
2 and experience in the restaurant sector;

3 (C) one shall have appropriate expertise
4 and experience in the retail sector, or in asso-
5 ciations representing that sector;

6 (D) one shall have appropriate expertise
7 and experience in the small business sector, or
8 in associations representing that sector;

9 (E) one shall have appropriate expertise
10 and experience in the advertising sector;

11 (F) one shall have appropriate expertise
12 and experience in the attractions sector;

13 (G) one shall have appropriate expertise
14 and experience in the recreation sector;

15 (H) one shall have appropriate expertise
16 and experience in the research, development, or
17 manufacturing sector;

18 (I) one shall have appropriate expertise
19 and experience in the financial services sector;

20 (J) one shall have appropriate expertise
21 and experience in the passenger air sector;

22 (K) one shall have appropriate expertise
23 and experience in the car rental sector;

24 (L) one shall have appropriate expertise
25 and experience as an official at the state and

1 municipal level, or in associations of such offi-
2 cials;

3 (M) one shall have appropriate expertise
4 and experience in the higher education sector
5 and in coordinating international scholarly con-
6 ferences in the United States;

7 (N) one shall have appropriate expertise
8 and experience in immigration law and policy,
9 including visa requirements and United States
10 entry procedures; and

11 (O) one shall have appropriate expertise in
12 matters relating to homeland security policy, in-
13 cluding border and travel security and facilita-
14 tion programs.

15 (2) INCORPORATION.—The members of the ini-
16 tial board of directors shall serve as incorporators
17 and shall take whatever actions are necessary to es-
18 tablish the Corporation under the District of Colum-
19 bia Nonprofit Corporation Act (sec. 29–301.01 et
20 seq.).

21 (3) TERM OF OFFICE.—The term of office of
22 each member of the board appointed by the Sec-
23 retary shall be 3 years, except that, of the members
24 first appointed—

1 (A) 3 shall be appointed for terms of 1
2 year;

3 (B) 4 shall be appointed for terms of 2
4 years; and

5 (C) 4 shall be appointed for terms of 3
6 years.

7 (4) VACANCIES.—Any vacancy in the board
8 shall not affect its power, but shall be filled in the
9 manner required by this section. Any member whose
10 term has expired may serve until the member's suc-
11 cessor has taken office, or until the end of the cal-
12 endar year in which the member's term has expired,
13 whichever is earlier. Any member appointed to fill a
14 vacancy occurring prior to the expiration of the term
15 for which that member's predecessor was appointed
16 shall be appointed for the remainder of the prede-
17 cessor's term. No member of the board shall be eligi-
18 ble to serve more than 2 consecutive full terms.

19 (5) ELECTION OF CHAIRMAN AND VICE CHAIR-
20 MAN.—Members of the board shall annually elect
21 one of their members to be chairman and elect 1 or
22 more of their members as a vice chairman or vice
23 chairmen.

24 (6) STATUS AS FEDERAL EMPLOYEES.—Not-
25 withstanding any provision of law to the contrary,

1 no member of the board may be considered to be a
2 Federal employee of the United States by virtue of
3 his or her service as a member of the board.

4 (7) COMPENSATION; EXPENSES.—No member
5 of the board shall receive any compensation from the
6 Federal Government or the Corporation by virtue of
7 his or her service as a member of the board. Each
8 member of the board shall be paid actual travel ex-
9 penses and per diem in lieu of subsistence expenses
10 when away from his or her usual place of residence,
11 in accordance with section 5703 of title 5, United
12 States Code.

13 (c) OFFICERS AND EMPLOYEES.—

14 (1) IN GENERAL.—The Corporation shall have
15 a President, and such other officers as may be
16 named and appointed by the board for terms and at
17 rates of compensation fixed by the board. No indi-
18 vidual other than a citizen of the United States may
19 be an officer of the Corporation. The corporation
20 may hire and fix the compensation of such employ-
21 ees as may be necessary to carry out its purposes.
22 No officer or employee of the Corporation may re-
23 ceive any salary or other compensation (except for
24 compensation for services on boards of directors of
25 other organizations that do not receive funds from

1 the Corporation, on committees of such boards, and
2 in similar activities for such organizations) from any
3 sources other than the Corporation for services ren-
4 dered during the period of his or her employment by
5 the Corporation. Service by any officer on boards of
6 directors of other organizations, on committees of
7 such boards, and in similar activities for such orga-
8 nizations shall be subject to annual advance ap-
9 proval by the board and subject to the provisions of
10 the Corporation's Statement of Ethical Conduct. All
11 officers and employees shall serve at the pleasure of
12 the board.

13 (2) NONPOLITICAL NATURE OF APPOINT-
14 MENT.—No political test or qualification shall be
15 used in selecting, appointing, promoting, or taking
16 other personnel actions with respect to officers,
17 agents, or employees of the Corporation.

18 (d) NONPROFIT AND NONPOLITICAL NATURE OF
19 CORPORATION.—

20 (1) STOCK.—The Corporation shall have no
21 power to issue any shares of stock, or to declare or
22 pay any dividends.

23 (2) PROFIT.—No part of the income or assets
24 of the Corporation shall inure to the benefit of any
25 director, officer, employee, or any other individual

1 except as salary or reasonable compensation for
2 services.

3 (3) POLITICS.—The Corporation may not con-
4 tribute to or otherwise support any political party or
5 candidate for elective public office.

6 (4) SENSE OF CONGRESS REGARDING LOBBYING
7 ACTIVITIES.—It is the sense of Congress that the
8 Corporation established under this Act should not
9 engage in any lobbying activities with any employee
10 or branch of the Federal Government in favor of or
11 in opposition to any political issue.

12 (e) DUTIES AND POWERS.—

13 (1) IN GENERAL.—The Corporation shall de-
14 velop and execute a plan to—

15 (A) provide useful information to foreign
16 tourists, business people, students, scholars, sci-
17 entists and others interested in traveling to the
18 United States, including the distribution of ma-
19 terial provided by the Federal Government con-
20 cerning entry requirements, required docu-
21 mentation, fees, and processes, to prospective
22 travelers, travel agents, tour operators, meeting
23 planners, foreign governments, travel media and
24 other international stakeholders;

1 (B) identify and address perceptions in
2 other countries regarding United States entry
3 policies that tend to limit attempts to travel to
4 the United States;

5 (C) maximize the economic and diplomatic
6 benefits of travel to the United States by pro-
7 moting the United States of America to world
8 travelers through the use of, but not limited to,
9 all forms of advertising, outreach to trade
10 shows, and other appropriate promotional ac-
11 tivities; and

12 (D) identify opportunities and strategies to
13 promote tourism to rural and urban areas
14 equally.

15 (2) SPECIFIC POWERS.—In order to carry out
16 the purposes of this section, the Corporation may—

17 (A) obtain grants from and make contracts
18 with individuals and private companies, State,
19 and Federal agencies, organizations, and insti-
20 tutions;

21 (B) hire or accept the voluntary services of
22 consultants, experts, advisory boards, and pan-
23 els to aid the Corporation in carrying out its
24 purposes; and

1 (C) take such other actions as may be nec-
2 essary to accomplish the purposes set forth in
3 this section.

4 (f) OPEN MEETINGS.—Meetings of the board of di-
5 rectors of the Corporation, including any committee of the
6 board, shall be open to the public. The board may, by ma-
7 jority vote, close any such meeting only for the time nec-
8 essary to preserve the confidentiality of commercial or fi-
9 nancial information that is privileged or confidential, to
10 discuss personnel matters, or to discuss legal matters af-
11 fecting the Corporation, including pending or potential liti-
12 gation.

13 (g) MAJOR CAMPAIGNS.—The board may not author-
14 ize the Corporation to obligate or expend more than
15 \$25,000,000 on any advertising campaign, promotion, or
16 related effort unless—

17 (1) the obligation or expenditure is approved by
18 an affirmative vote of at least $\frac{2}{3}$ of the members of
19 the board present at the meeting;

20 (2) at least 8 members of the board are present
21 at the meeting at which it is approved; and

22 (3) each member of the board has been given
23 at least 3 days advance notice of the meeting at
24 which the vote is to be taken and the matters to be
25 voted upon at that meeting.

1 (h) FISCAL ACCOUNTABILITY.—

2 (1) FISCAL YEAR.—The Corporation shall es-
3 tablish as its fiscal year the 12-month period begin-
4 ning on October 1.

5 (2) BUDGET.—The Corporation shall adopt a
6 budget for each fiscal year.

7 (3) ANNUAL AUDITS.—The Corporation shall
8 engage an independent accounting firm to conduct
9 an annual financial audit of the Corporation’s oper-
10 ations and shall publish the results of the audit.

11 **SEC. 3. ACCOUNTABILITY MEASURES.**

12 (a) OBJECTIVES.—The Board shall establish annual
13 objectives for the Corporation for each fiscal year subject
14 to approval by the Secretary, in consultation with the Sec-
15 retary of Homeland Security and the Secretary of State.
16 The Corporation shall establish a marketing plan for each
17 fiscal year not less than 60 days before the beginning of
18 that year and provide a copy of the plan, and any revisions
19 thereof, to the Secretary.

20 (b) BUDGET.—The board shall transmit a copy of the
21 Corporation’s budget for the forthcoming fiscal year to the
22 Secretary not less than 60 days before the beginning of
23 each fiscal year, together with an explanation of any ex-
24 penditure provided for by the budget in excess of
25 \$5,000,000 for the fiscal year. The Corporation shall

1 make a copy of the budget and the explanation available
2 to the public and shall provide public access to the budget
3 and explanation on the Corporation's website.

4 (c) ANNUAL REPORT TO CONGRESS.—The Corpora-
5 tion shall submit an annual report for the preceding fiscal
6 year to the Secretary of Commerce and the Secretary of
7 Homeland Security for transmittal to Congress on or be-
8 fore the 15th day of May of each year. The report shall
9 include—

10 (1) a comprehensive and detailed report of the
11 Corporation's operations, activities, financial condi-
12 tion, and accomplishments under this Act;

13 (2) a comprehensive and detailed inventory of
14 amounts obligated or expended by the Corporation
15 during the preceding fiscal year;

16 (3) a detailed description of each in-kind con-
17 tribution, its fair market value, the individual or or-
18 ganization responsible for contributing, its specific
19 use, and a justification for its use within the context
20 of the Corporation's mission;

21 (4) an objective and quantifiable measurement
22 of its progress, on an objective-by-objective basis, in
23 meeting the objectives established by the board;

24 (5) an explanation of the reason for any failure
25 to achieve an objective established by the board, and

1 any revisions or alterations to the Corporation's ob-
2 jectives under subsection (a);

3 (6) a comprehensive and detailed report of the
4 Corporation's operations and activities to promote
5 tourism in rural and urban areas; and

6 (7) such recommendations as the Corporation
7 deems appropriate.

8 **SEC. 4. MATCHING PUBLIC AND PRIVATE FUNDING.**

9 (a) ESTABLISHMENT OF TRAVEL PROMOTION
10 FUND.—There is hereby established in the Treasury a
11 fund which shall be known as the “Travel Promotion
12 Fund”.

13 (b) FUNDING.—

14 (1) FIRST YEAR.—For fiscal year 2009, the
15 Secretary of the Treasury, not earlier than October
16 1, 2008, and not before the Secretary has appointed
17 all members of the Corporation's board of directors,
18 may transfer to the Corporation such sums as may
19 be necessary, but not to exceed \$10,000,000, subject
20 to the availability of appropriations to carry out this
21 section to cover its initial expenses and activities
22 under this Act. At the earliest practicable date, the
23 Corporation shall reimburse the Treasury any such
24 amounts borrowed from the Treasury, with at least
25 50 percent reimbursed before October 1, 2011, and

1 the remainder reimbursed before October 1, 2013.
2 Reimbursement shall include interest at a rate deter-
3 mined by the Treasury taking into consideration
4 current market yields on outstanding Treasury secu-
5 rities of comparable maturities and including any
6 additional charges determined by the Secretary of
7 the Treasury to cover any probable losses and rea-
8 sonable administrative costs. The Secretary of the
9 Treasury shall determine and assess penalties to be
10 applied for late payments of principal or interest and
11 other Federal credit terms designed to minimize
12 Federal exposure to loss, consistent with the Federal
13 Credit Reform Act and other applicable Federal
14 credit policies.

15 (2) SUBSEQUENT YEARS.—For each of fiscal
16 years 2010 through 2013, from amounts deposited
17 in the general fund of the Treasury during the pre-
18 ceding fiscal year from fees under section 5, the Sec-
19 retary of the Treasury shall transfer not more than
20 \$100,000,000 to the Fund, which shall be made
21 available to the Corporation, subject to subsections
22 (c), (d), and (e), to carry out its functions under this
23 Act. Transfers shall be made by the Secretary of the
24 Treasury at least quarterly on the basis of estimates
25 by the Secretary of the Treasury, determined in con-

1 sultation with the Board, of contributions made to
2 the Corporation by non-Federal sources, and proper
3 adjustments shall be made in amounts subsequently
4 transferred to the extent prior estimates were in ex-
5 cess or less than actual contributions from non-Fed-
6 eral sources.

7 (c) MATCHING REQUIREMENT.—

8 (1) IN GENERAL.—The Secretary of the Treas-
9 ury shall make available to the Corporation from
10 amounts available in the Travel Promotion Fund—

11 (A) for fiscal year 2010, twice the amount
12 that will be collected from non-Federal sources
13 by the Corporation pursuant to section 4(b)(2)
14 of this Act and not to exceed \$100,000,000;
15 and

16 (B) for subsequent fiscal years, an amount
17 equal to the amount that will be collected from
18 non-Federal sources by the Corporation pursu-
19 ant to section 4(b)(2) of this Act and not to ex-
20 ceed \$100,000,000.

21 (2) GOODS AND SERVICES.—For the purpose of
22 determining the amount of matching funds, other
23 than money, available to the Corporation—

24 (A) the fair market value, as determined
25 by the Corporation, of goods and services (in-

1 including advertising) contributed to the Corpora-
2 tion for use under this Act may be included in
3 the determination; but

4 (B) the fair market value of such goods
5 and services may not account for more than 65
6 percent of the matching requirement for the
7 Corporation in any fiscal year.

8 (3) RIGHT OF REFUSAL.—The Corporation may
9 decline to accept any contribution in kind that it de-
10 termines to be inappropriate, not useful, or commer-
11 cially worthless.

12 (d) GRANT OFFSET.—For a given fiscal year, the
13 Secretary of the Treasury shall reduce the total amount
14 of funding to be transferred to the Corporation from the
15 Travel Promotion Fund by the amount of grants received
16 by the Corporation pursuant to section 2(e)(2)(A) to be
17 used during that fiscal year.

18 (e) LIMITATION.—The Corporation shall not expend
19 funds or obligate to expend funds that will exceed total
20 amounts received by the Corporation for a given fiscal
21 year.

22 **SEC. 5. TRAVEL PROMOTION FUND FEES.**

23 Section 217(h)(3)(B) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1187(h)(3)(B)) is amended—

1 (1) in clause (i), by striking “; and” and insert-
2 ing a semicolon;

3 (2) in clause (ii), by striking the period and in-
4 sserting “; and”; and

5 (3) by adding at the end the following:

6 “(iii) set for an amount that includes
7 an additional amount of not less than \$10
8 above the amount set under clause (i).

9 The additional amount required under clause
10 (iii) shall be transferred to the Treasury for the
11 purpose of offsetting appropriations made to
12 the Corporation for Travel Promotion estab-
13 lished in section 2 of the Travel Promotion Act
14 of 2008, according to the requirements of sec-
15 tion 4 of such Act. Such additional amount may
16 be reduced if the secretary of the Treasury de-
17 termines that the additional amount is not nec-
18 essary to ensure that the Corporation is fully
19 funded.”.

20 **SEC. 6. INVESTMENT OF FUNDS.**

21 Pending disbursement pursuant to a program, plan,
22 or project, the Corporation may invest funds received by
23 the Corporation only in obligations of the United States
24 or any agency thereof, in general obligations of any State
25 or any political subdivision thereof, in any interest-bearing

1 account or certificate of deposit of a bank that is a mem-
2 ber of the Federal Reserve System, or in obligations fully
3 guaranteed as to principal and interest by the United
4 States. The Secretary of the Treasury shall reduce the
5 total amount of funding for a given fiscal year to be trans-
6 ferred from the Travel Promotion Fund to the Corpora-
7 tion by the amount of interest earned by the Corporation
8 as a result of its investments pursuant to this section for
9 the preceding fiscal year.

10 **SEC. 7. PROHIBITION ON USE OF FUNDS.**

11 No funds raised by the Treasury Department's Trav-
12 el Promotion Fund or the Corporation for Travel Pro-
13 motion may be used to directly promote or advertise a spe-
14 cific corporation.

15 **SEC. 8. AMENDMENTS TO THE INTERNATIONAL TRAVEL**
16 **ACT OF 1961.**

17 (a) POWERS AND DUTIES OF SECRETARY OF COM-
18 MERCE.—Section 201 of the International Travel Act of
19 1961 (22 U.S.C. 2122) is amended—

20 (1) in the first sentence of the matter preceding
21 paragraph (1)—

22 (A) by striking “and by the United States
23 National Tourism Organization Act of 1996”;
24 and

1 (B) by striking “United States National
2 Tourism Organization” and inserting “Corpora-
3 tion for Travel Promotion (established by sec-
4 tion 3 of the Travel Promotion Act of 2008)”;

5 (2) in paragraph (4), by striking “United
6 States National Tourism Organization” and insert-
7 ing “Corporation for Travel Promotion”; and

8 (3) by adding at the end the following:

9 “Such plan may not include a comprehensive international
10 advertising campaign relating to critical tourism func-
11 tions.”.

12 (b) TOURISM POLICY COUNCIL.—

13 (1) MEMBERSHIP.—Subsection (b) of section
14 301 of the International Travel Act of 1961 (22
15 U.S.C. 2124) is amended—

16 (A) by striking paragraphs (8) through
17 (10);

18 (B) by redesignating paragraph (11) as
19 paragraph (13);

20 (C) by inserting after paragraph (7) the
21 following new paragraphs:

22 “(8) The Secretary of Homeland Security.

23 “(9) The Commissioner of U.S. Customs and
24 Border Protection of the Department of Homeland
25 Security.

1 “(10) The Assistant Secretary of U.S. Customs
2 and Immigration Enforcement of the Department of
3 Homeland Security.

4 “(11) The Secretary of Education.”; and

5 (D) in paragraph (13) (as redesignated by
6 subparagraph (B) of this paragraph), by insert-
7 ing “, in consultation with other members of
8 the Council” at the end before the period.

9 (2) MEETINGS.—Subsection (d) of such section
10 is amended to read as follows:

11 “(d) The Council shall meet not less than 2 times
12 a year. For the purposes of conducting business, each
13 member of the Council may appoint a designee to rep-
14 resent such member during one or more meetings of the
15 Council.”.

16 (3) INVOLVEMENT OF FEDERAL AGENCIES AND
17 DEPARTMENTS.—Subsection (e) of such section is
18 amended by adding at the end the following new
19 paragraph:

20 “(4) Members of the Council shall provide the Cor-
21 poration for Travel Promotion with timely information re-
22 garding documentation and procedures required for ad-
23 mission to the United States and regarding strategies
24 planned by any Federal department or agency to promote
25 travel to the United States for tourism, business, study,

1 scholarship, scientific exchange, or other purposes, so that
2 the Corporation for Travel Promotion may better conduct
3 its communications and promotion activities.”.

4 (4) ANNUAL REPORT.—Subsection (g)(3) of
5 such section is amended by striking “United States
6 National Tourism Organization” and inserting “Cor-
7 poration for Travel Promotion”.

8 (5) APPLICABILITY OF FEDERAL ADVISORY
9 COMMITTEE ACT.—Subsection (h) of such section is
10 amended by striking “President of the United States
11 National Tourism Organization” and inserting
12 “President of the Corporation for Travel Pro-
13 motion”.

14 (c) REPEAL OF AUTHORITIES RELATING TO THE
15 UNITED STATES TRAVEL AND TOURISM PROMOTION AD-
16 VISORY BOARD.—Section 210 of the Department of Com-
17 merce and Related Agencies Appropriations Act, 2003
18 (contained in title II of division B of Public Law 108–
19 7; 117 Stat. 78–79; 22 U.S.C. 2122 note) is amended—

20 (1) by striking subsections (b) through (d); and

21 (2) by redesignating subsection (e) as sub-
22 section (b).

23 **SEC. 9. DEFINITIONS.**

24 In this Act, the following definitions apply:

1 (1) BOARD.—The term “Board” means the
2 board of directors of the Corporation.

3 (2) CORPORATION.—The term “Corporation”
4 means the Corporation for Travel Promotion estab-
5 lished by section 2.

6 (3) FUND.—The term “Fund” means the Trav-
7 el Promotion Fund established by section 4.

8 (4) SECRETARY.—Except as otherwise expressly
9 provided, the term “Secretary” means the Secretary
10 of Commerce.

11 **SEC. 10. G.A.O. STUDY.**

12 (a) IN GENERAL.—Not later than 90 days after the
13 date of enactment of this Act, the Government Account-
14 ability Office shall initiate a study to assess barriers to
15 entry into the United States by foreign travelers. The
16 GAO shall consult with the Department of Homeland Se-
17 curity, including U.S. Immigration and Customs Enforce-
18 ment and Customs and Border Protection, the Depart-
19 ment of Commerce, and the Department of the Treasury,
20 as necessary.

21 (b) REPORT.—Not later than 1 year after the date
22 of enactment of this Act, the GAO shall report the find-
23 ings to the appropriate Congressional committees. The re-
24 port shall include—

Calendar No. 1113

110TH CONGRESS
2^D SESSION

H. R. 3232

AN ACT

To establish a non-profit corporation to communicate United States entry policies and otherwise promote tourist, business, and scholarly travel to the United States.

OCTOBER 2 (legislative day, SEPTEMBER 17), 2008

Read twice and placed on the calendar