

114TH CONGRESS
1ST SESSION

S. 2121

To facilitate and enhance the declassification of information, including in the Legislative Branch, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2015

Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To facilitate and enhance the declassification of information, including in the Legislative Branch, 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 “Preserving American
5 Access to Information Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The 1994 Joint Security Commission, con-
9 vened at the request of the Secretary of Defense and
10 the Director of the Central Intelligence Agency stat-

1 ed that “[t]he classification system, largely un-
2 changed since the Eisenhower administration has
3 grown out of control. More information is being clas-
4 sified and for extended periods of time. Security
5 rules proliferate, becoming more complex yet remain-
6 ing unrelated to the threat. . . . Indeed, the classi-
7 fication system is not trusted on the inside any more
8 than it is on the outside. Insiders do not trust it to
9 protect information that needs protection. Outsiders
10 do not trust it to release information that does not
11 need protection”.

12 (2) The Public Interest Declassification Board,
13 notes in its 2012 report that “[a]gencies are cur-
14 rently creating petabytes of classified information
15 annually, which quickly outpaces the amount of in-
16 formation the Government has declassified in total
17 in the previous seventeen years since Executive
18 Order 12958 established the policy of automatic de-
19 classification for 25 year old records. Without dra-
20 matic improvement in the declassification process,
21 the rate at which classified records are being created
22 will drive an exponential growth in the archival
23 backlog of classified records awaiting declassifica-
24 tion, and public access to the nation’s history will
25 deteriorate further”.

1 **SEC. 3. ENHANCEMENT OF THE NATIONAL DECLASSIFICA-**
2 **TION CENTER.**

3 (a) **IN GENERAL.**—The President shall take appro-
4 priate actions to enhance the authority and capacity of
5 the National Declassification Center under Executive
6 Order No. 13526, or any successor Executive order, in
7 order to facilitate, enhance, and advance a government-
8 wide strategy for the declassification of information.

9 (b) **REQUIRED ACTIONS.**—The actions taken under
10 subsection (a) shall include the following:

11 (1) A requirement that Federal agencies com-
12 plete the review of Presidential and Federal records
13 proposed for declassification, in accordance with pri-
14 orities established by the National Declassification
15 Center, within eighteen months of the start of the
16 declassification process, except that agencies may
17 complete such review within two years of the start
18 of the declassification process upon the written ap-
19 proval of the Director of the National Declassifica-
20 tion Center.

21 (2) A requirement that Federal agencies with
22 authority to classify information share their declas-
23 sification guidance with other such Federal agencies
24 and with the National Declassification Center.

1 **SEC. 4. PUBLIC CONSULTATION WITH ADVISORY PANEL TO**
2 **THE NATIONAL DECLASSIFICATION CENTER.**

3 (a) IN GENERAL.—The Director of the National De-
4 classification Center shall provide for consultation between
5 the advisory panel to the National Declassification Center
6 and the public.

7 (b) FREQUENCY.—Consultations under subsection
8 (a) shall occur not less frequently than the frequency of
9 the regular meetings of the advisory panel to the National
10 Declassification Center and, to the extent practicable,
11 shall occur concurrently with the meetings of the advisory
12 panel.

13 **SEC. 5. PRESERVATION AND ACCESS TO HISTORICALLY**
14 **VALUABLE RECORDS.**

15 Federal agencies shall make every effort to identify
16 and designate historically valuable records during the ini-
17 tial classification process in order to ensure preservation
18 and timely access to such documents and records following
19 eventual declassification.

20 **SEC. 6. REPORTS ON PILOT PROGRAMS ON IMPROVEMENTS**
21 **TO THE DECLASSIFICATION PROCESSES.**

22 (a) REPORTS.—The Public Interest Declassification
23 Board shall, in consultation with the heads of Federal
24 agencies that classify and review classified information as
25 well as the Director of the National Declassification Cen-
26 ter, submit to Congress reports setting forth options for

1 various pilot programs to assess the feasibility and advis-
2 ability of mechanisms to improve the current declassifica-
3 tion capabilities of such agencies, including updates of
4 software and procedures relating to declassification of in-
5 formation.

6 (b) MECHANISMS.—In selecting mechanisms to be as-
7 sessed pursuant to the pilot programs for purposes of sub-
8 section (a), an emphasis shall be afforded to the selection
9 of current technologies and practices that could improve
10 current declassification capabilities, including commercial,
11 off the shelf-technologies and current best practices of
12 Federal agencies and the private sector.

13 **SEC. 7. REVIEW OF DECLASSIFICATION PROCEDURES RE-**
14 **GARDING INFORMATION CONTROLLED BY**
15 **CONGRESS.**

16 The Public Interest Declassification Board shall re-
17 view the rules of the Senate and of the House of Rep-
18 resentative regarding the declassification of classified
19 Committee records, including hearings, meetings, and re-
20 ports, and make recommendations to improve the consist-
21 ency and timeliness of declassification efforts.

22 **SEC. 8. REPORTS.**

23 Not later than 1 year after the date of the enactment
24 of this Act, the head of each Federal agency that classifies

1 information shall submit to Congress a report that sets
2 forth the following:

3 (1) An assessment of feasibility and advisability
4 of replacing the current classification system of such
5 agency with a two-tiered system, including an anal-
6 ysis and assessment of restructuring necessary to
7 align the level of protection with the level of harm
8 anticipated in the event of unauthorized release of
9 sensitive information.

10 (2) If such agency possesses records with classi-
11 fied Formerly Restricted Data (FRD), an assess-
12 ment of the feasibility and advisability of declas-
13 sifying such records.

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