

113TH CONGRESS
1ST SESSION

S. 1464

To facilitate and enhance the declassification of information that merits declassification, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2013

Mrs. SHAHEEN (for herself and Mr. RISCH) 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 that merits declassification, 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. DECLASSIFICATION OF INFORMATION WITH SHORT-**
2 **TERM CLASSIFICATION SENSITIVITY.**

3 (a) FINDINGS.—Congress makes the following find-
4 ings:

5 (1) Certain information, typically at the
6 predecisional, tactical, or operational level, is classi-
7 fied based on its sensitivity with respect to a perti-
8 nent event. Following the event, the vast majority of
9 the associated details are no longer sensitive and no
10 longer need be classified.

11 (2) This type of time-specific classified informa-
12 tion should be identified and marked at the time of
13 classification for automatic declassification without
14 further review.

15 (b) SPECIFICATION OF INFORMATION TO BE DE-
16 CLASSIFIED AUTOMATICALLY.—

17 (1) IN GENERAL.—The heads of Federal agen-
18 cies with authority to classify information shall, in
19 consultation with the Information Security Oversight
20 Office, specify the types of information with short-
21 lived sensitivity that could be automatically declas-
22 sified without further review.

23 (2) EXCLUSION FROM SPECIFICATION.—The
24 types of information specified pursuant to paragraph
25 (1) shall exclude the following:

1 (A) Information on the sources, methods,
2 tactics, tradecraft, and procedures of members
3 of the Armed Forces, personnel of the intel-
4 ligence community, or other personnel per-
5 forming associated or similar security functions
6 or activities for the United States Government.

7 (B) Any other information that could en-
8 danger the military, intelligence, diplomatic, or
9 law enforcement personnel, operations, or capa-
10 bilities of the United States.

11 (3) REPORT.—The heads of Federal agencies
12 described in paragraph (1) shall submit to Congress
13 a report setting forth the following:

14 (A) The types of information specified
15 under paragraph (1).

16 (B) An assessment of the feasibility of im-
17 plementing a new classification category for the
18 types of information specified in that para-
19 graph.

20 (C) Recommendations, if appropriate, for
21 legislative action to implement the automatic
22 declassification of information as described in
23 that paragraph.

1 **SEC. 4. 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 one year of the start of the declas-
16 sification process, except that agencies may complete
17 such review within two years of the start of the de-
18 classification process upon the written approval of
19 the Director of the National Declassification Center.

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

1 **SEC. 5. 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. 6. EXTENSION OF PUBLIC INTEREST DECLASSIFICA-**
14 **TION BOARD.**

15 Section 710(b) of the Public Interest Declassification
16 Act of 2000 (50 U.S.C. 3161 note) is amended by striking
17 “2014” and inserting “2018”.

18 **SEC. 7. PRESERVATION AND ACCESS TO HISTORICALLY**
19 **VALUABLE RECORDS.**

20 Federal agencies shall take appropriate actions to
21 identify and designate historically valuable records as soon
22 as possible after their creation in order to ensure the pres-
23 ervation and future accessibility of such documents and
24 records.

1 **SEC. 8. REPORTS ON PILOT PROGRAMS ON IMPROVEMENTS**
2 **TO THE DECLASSIFICATION PROCESSES.**

3 (a) **REPORTS.**—The heads of Federal agencies that
4 classify information shall, in consultation with the Direc-
5 tor of the National Declassification Center, submit to Con-
6 gress reports setting forth options for various pilot pro-
7 grams to assess the feasibility and advisability of mecha-
8 nisms to improve the current declassification capabilities
9 of such agencies, including updates of software and proce-
10 dures relating to declassification of information.

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

18 **SEC. 9. REPORTS.**

19 Not later than one year after the date of the enact-
20 ment of this Act, the head of each Federal agency that
21 classifies information shall submit to Congress a report
22 that sets forth the following:

23 (1) An assessment of feasibility and advisability
24 of replacing the current classification system of such
25 agency with a two-tiered system, including an anal-
26 ysis and assessment of restructuring necessary to

1 align the level of protection with the level of harm
2 anticipated in the event of unauthorized release of
3 sensitive information.

4 (2) If such agency possesses records with classi-
5 fied Formerly Restricted Data (FRD), an assess-
6 ment of the feasibility and advisability of declas-
7 sifying such records that have no national security
8 value.

○