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2D SESSION

S. 3733

To establish the Executive Agent for Declassification to promote programs, processes, and systems and for directing resources relating to declassification in the Federal Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2020

Mr. WYDEN (for himself and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish the Executive Agent for Declassification to promote programs, processes, and systems and for directing resources relating to declassification in the Federal Government, 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 “Declassification Re-
5 form Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) In his August 16, 2019, letter to the Presi-
2 dent, the director of the Information Security Over-
3 sight Office (ISOO) wrote the following: “Today, the
4 Government creates electronic petabytes of classified
5 and controlled unclassified data each month, a del-
6 uge that we expect will continue to grow unabated”.

7 (2) The director of the Office has identified
8 problems in the declassification system for years,
9 writing in his August 16, 2019, letter, “In my last
10 annual report to you, I emphasized that users of this
11 system inside and outside the Government rightly
12 observe that its current framework is unsustainable
13 and desperately requires modernization. The invest-
14 ment, adoption, and use of advanced technologies lie
15 at the core of this transformation, but we also need
16 new policies and practices that reflect and support
17 the way the Government actually operates in the
18 21st century”.

19 (3) The director of the Office wrote in his Au-
20 gust 16, 2019, letter the following: “The Govern-
21 ment has not invested in the technologies needed to
22 support electronic information management and in-
23 formation security”.

24 (4) In its June 2016 report, the Public Interest
25 Declassification Board (PIDB) wrote the following:

1 “[n]early all users of the security classification sys-
2 tem agree that it is no longer able to handle the cur-
3 rent volume and forms of information, especially
4 given the exponential growth of digital information”.

5 (5) In its June 2016 report, the Board wrote
6 the following: “[a]s the PIDB has previously noted
7 in all of our reports, we reaffirm that our most im-
8 portant recommendation for developing and ensuring
9 such a system is the adoption of a government-wide
10 technology investment strategy for the management
11 of classified information.”.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) CLASSIFICATION.—The term “classifica-
15 tion” means the act or process by which information
16 is determined to be classified information.

17 (2) CLASSIFIED NATIONAL SECURITY INFORMA-
18 TION OR CLASSIFIED INFORMATION.—The term
19 “classified national security information” or “classi-
20 fied information” means information that has been
21 determined pursuant to Executive Order 13526 (50
22 U.S.C. 3161 note; relating to classified national se-
23 curity information), or any predecessor or successor
24 order, to require protection against unauthorized

1 disclosure and is marked to indicate its classified
2 status when in documentary form.

3 (3) DECLASSIFICATION.—The term “declas-
4 sification” means the authorized change in the sta-
5 tus of information from classified information to un-
6 classified information.

7 (4) EXECUTIVE AGENCY.—The term “Executive
8 agency” has the meaning given such term in section
9 105 of title 5, United States Code.

10 **SEC. 4. EXECUTIVE AGENT FOR DECLASSIFICATION.**

11 (a) ESTABLISHMENT.—There is in the executive
12 branch of the Federal Government an Executive Agent for
13 Declassification who shall be responsible for promoting
14 programs, processes, and systems relating to declassifica-
15 tion, including developing technical solutions for auto-
16 mating declassification review, and directing resources for
17 such purposes in the Federal Government.

18 (b) DESIGNATION.—The Director of National Intel-
19 ligence shall serve as the Executive Agent for Declassifica-
20 tion.

21 (c) DUTIES.—The duties of the Executive Agent for
22 Declassification are as follows:

23 (1) To promote programs, processes, and sys-
24 tems with the goal of ensuring that declassification
25 activities keep pace with classification activities and

1 that classified information is declassified at such
2 time as it no longer meets the standard for classi-
3 fication.

4 (2) To promote the establishment of a federated
5 declassification system to streamline, modernize, and
6 oversee declassification across Executive agencies.

7 (3) To direct resources to develop, coordinate,
8 and implement a federated declassification system
9 that includes technologies that automate declas-
10 sification review and promote consistency in declas-
11 sification determinations across the executive branch
12 of the Federal Government.

13 (4) To work with the Director of the Office of
14 Management and Budget in developing a line item
15 for declassification in each budget of the President
16 that is submitted for a fiscal year under section
17 1105(a) of title 31, United States Code.

18 (5) To identify and support the development
19 of—

20 (A) best practices for declassification
21 among Executive agencies; and

22 (B) goal oriented declassification pilot pro-
23 grams.

24 (6) To promote and implement technological
25 and automated solutions relating to declassification,

1 with human input as necessary for key policy deci-
2 sions.

3 (7) To promote feasible, sustainable, and inter-
4 operable programs, processes, and systems to facili-
5 tate a federate declassification system.

6 (8) To direct the implementation across Execu-
7 tive agencies of the most effective programs and ap-
8 proaches relating to declassification.

9 (9) To establish, oversee, and enforce acquisi-
10 tion and contracting policies relating to declassifica-
11 tion programs.

12 (10) In coordination with the Information Secu-
13 rity Oversight Office in the National Archives and
14 Records Administration—

15 (A) to issue policies and directives to the
16 heads of Executive agencies relating to direct-
17 ing resources and making technological invest-
18 ments in declassification that include support
19 for a federated declassification system;

20 (B) to ensure implementation of the poli-
21 cies and directives issued under subparagraph
22 (A);

23 (C) to collect information on declassifica-
24 tion practices and policies across Executive
25 agencies, including challenges to effective de-

1 classification, training, accounting, and costs
2 associated with classification and declassifica-
3 tion;

4 (D) to develop policies for ensuring the ac-
5 curacy of information obtained from Federal
6 agencies; and

7 (E) to develop accurate and relevant
8 metrics for judging the success of declassifica-
9 tion policies and directives.

10 (d) CONSULTATION WITH EXECUTIVE COMMITTEE
11 ON DECLASSIFICATION PROGRAMS AND TECHNOLOGY.—
12 In making decisions under this section, the Executive
13 Agent for Declassification shall consult with the Executive
14 Committee on Declassification Programs and Technology
15 established under section 5(a).

16 (e) COORDINATION WITH THE NATIONAL DECLAS-
17 SIFICATION CENTER.—In implementing a federated de-
18 classification system, the Executive Agent for Declassifica-
19 tion shall act in coordination with the National Declas-
20 sification Center established by section 3.7(a) of Executive
21 Order 13526 (50 U.S.C. 3161 note; relating to classified
22 national security information).

1 **SEC. 5. EXECUTIVE COMMITTEE ON DECLASSIFICATION**
2 **PROGRAMS AND TECHNOLOGY.**

3 (a) **ESTABLISHMENT.**—There is established a com-
4 mittee to provide advice and guidance to the Executive
5 Agent for Declassification on matters relating to declas-
6 sification programs and technology.

7 (b) **DESIGNATION.**—The committee established by
8 subsection (a) shall be known as the “Executive Com-
9 mittee on Declassification Programs and Technology” (in
10 this section referred to as the “Committee”).

11 (c) **MEMBERSHIP.**—

12 (1) **COMPOSITION.**—The Committee shall be
13 composed of the following:

14 (A) The Director of National Intelligence.

15 (B) The Under Secretary of Defense for
16 Intelligence.

17 (C) The Secretary of Energy.

18 (D) The Secretary of State.

19 (E) The Director of the National Declas-
20 sification Center.

21 (F) The Director of the Information Secu-
22 rity Oversight Board.

23 (G) The Director of the Office of Manage-
24 ment and Budget.

1 (H) Such other members as the Executive
2 Agent for Declassification considers appro-
3 priate.

4 (2) CHAIRPERSON.—The chairperson of the
5 Committee shall be the Director of National Intel-
6 ligence.

7 **SEC. 6. ADVISORY BODIES FOR EXECUTIVE AGENT FOR DE-**
8 **CLASSIFICATION.**

9 (a) DESIGNATION OF ADVISORY BODIES.—The fol-
10 lowing are hereby advisory bodies for the Executive Agent
11 for Declassification:

12 (1) The Public Interest Declassification Board
13 established by section 703(a) of the Public Interest
14 Declassification Act of 2000 (Public Law 106–567).

15 (2) The Office of the Historian of the Depart-
16 ment of State.

17 (3) The Historical Office of the Secretary of
18 Defense.

19 (4) The office of the chief historian of the Cen-
20 tral Intelligence Agency.

21 (b) MATTERS PERTAINING TO THE PUBLIC INTER-
22 EST DECLASSIFICATION BOARD.—

23 (1) CONTINUITY OF MEMBERSHIP.—Subsection
24 (c)(2) of section 703 of the Public Interest Declassi-
25 fication Act of 2000 (Public Law 106–567; 50

1 U.S.C. 3161 note) is amended by adding at the end
2 the following:

3 “(E) Notwithstanding the other provisions
4 of this paragraph, a member whose term has
5 expired may continue to serve until a successor
6 is appointed.”.

7 (2) MEETINGS.—Subsection (e) of such section
8 is amended, in the second sentence, by inserting
9 “appointed” before “members”.

10 **SEC. 7. REPORTING.**

11 (a) ANNUAL REPORT.—Not later than the end of the
12 first full fiscal year beginning after the date of the enact-
13 ment of this Act and not less frequently than once each
14 fiscal year, the Executive Agent for Declassification shall
15 submit to Congress and make available to the public a re-
16 port on the implementation of declassification programs
17 and processes in the most recently completed fiscal year.

18 (b) COORDINATION.—The report shall be coordinated
19 with the Annual Report of the Information Security Over-
20 sight Office in the National Archives and Records Admin-
21 istration pursuant to Section 5.2(b)(8) of Executive Order
22 13526.

23 (c) CONTENTS.—Each report submitted and made
24 available under subsection (a) shall include, for the period
25 covered by the report, the following:

1 (1) The costs incurred by the Federal Govern-
2 ment for classification and declassification.

3 (2) A description of information systems of the
4 Federal Government and technology programs, proc-
5 esses, and systems of Executive agencies related to
6 declassification.

7 (3) A description of the policies and directives
8 issued by the Executive Agent for Declassification
9 and other activities of the Executive Agent for De-
10 classification.

11 (4) A description of the challenges posed to Ex-
12 ecutive agencies in implementing the policies and di-
13 rectives of the Executive Agent for Declassification
14 relating to declassification as well as the policies of
15 the Executive agencies.

16 (5) A description of pilot programs and new in-
17 vestments in programs, processes, and systems relat-
18 ing to declassification and metrics of effectiveness
19 for such programs, processes, and systems.

20 (6) A description of progress and challenges in
21 achieving the goal described in section 4(c)(1).

22 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

23 There is authorized to be appropriated to carry out
24 this Act \$5,000,000 for fiscal year 2021.

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