

118TH CONGRESS
1ST SESSION

S. 3495

To improve the classification and declassification of national security information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2023

Mr. CORNYN (for himself, Mr. WARNER, Ms. COLLINS, Mr. LANKFORD, Mr. MORAN, and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To improve the classification and declassification of national security information, 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 “Amended Sensible
5 Classification Act of 2023”.

6 **SEC. 2. PROMOTING EFFICIENT DECLASSIFICATION RE-**
7 **VIEW.**

8 (a) IN GENERAL.—Whenever an agency is processing
9 a request pursuant to section 552 of title 5, United States

1 Code (commonly known as the “Freedom of Information
2 Act”) or the mandatory declassification review provisions
3 of Executive Order 13526 (50 U.S.C. 3161 note; relating
4 to classified national security information), or successor
5 order, and identifies responsive classified records that are
6 more than 25 years of age as of December 31 of the year
7 in which the request is received, the head of the agency
8 shall, in accordance with existing processes to protect na-
9 tional security under the Freedom of Information Act and
10 the mandatory review provisions of Executive Order
11 13526, review the record and process the record for de-
12 classification and release by the National Declassification
13 Center of the National Archives and Records Administra-
14 tion, unless the head of agency—

15 (1) makes a certification to Congress, including
16 the congressional intelligence committees, the Com-
17 mittee on Armed Services, the Committee on Home-
18 land Security and Governmental Affairs, the Com-
19 mittee on Foreign Relations, the Committee on the
20 Judiciary of the Senate, and the Committee on
21 Armed Services, the Committee on Oversight and
22 Accountability, the Committee on Foreign Affairs,
23 and the Committee on the Judiciary of the House of
24 Representatives, that the declassification of certain
25 components within the record would be harmful to

1 the protection of sources and methods or national
2 security, pursuant to existing processes; and

3 (2) provides an explanation to Congress, includ-
4 ing the congressional intelligence committees, the
5 Committee on Armed Services, the Committee on
6 Homeland Security and Governmental Affairs, the
7 Committee on Foreign Relations, the Committee on
8 the Judiciary of the Senate, and the Committee on
9 Armed Services, the Committee on Oversight and
10 Accountability, the Committee on Foreign Affairs,
11 and the Committee on the Judiciary of the House of
12 Representatives, for such certification.

13 (b) APPLICATION.—Subsection (a) shall apply re-
14 gardless of whether or not the record described in such
15 subsection is in the legal custody of the National Archives
16 and Records Administration.

17 **SEC. 3. TRAINING TO PROMOTE SENSIBLE CLASSIFICA-**
18 **TION.**

19 (a) DEFINITIONS.—In this section:

20 (1) OVER-CLASSIFICATION.—The term “over-
21 classification” means classification at a level that ex-
22 ceeds the minimum level of classification that is suf-
23 ficient to protect the national security of the United
24 States.

1 (2) SENSIBLE CLASSIFICATION.—The term
 2 “sensible classification” means classification at a
 3 level that is the minimum level of classification that
 4 is sufficient to protect the national security of the
 5 United States.

6 (b) TRAINING REQUIRED.—Each head of an agency
 7 with classification authority shall conduct training for em-
 8 ployees of the agency with classification authority to hold
 9 employees accountable for over-classification and to pro-
 10 mote sensible classification.

11 **SEC. 4. IMPROVEMENTS TO PUBLIC INTEREST DECLAS-**
 12 **SIFICATION BOARD.**

13 Section 703 of the Public Interest Declassification
 14 Act of 2000 (50 U.S.C. 3355a) is amended—

15 (1) in subsection (c), by adding at the end the
 16 following:

17 “(5) A member of the Board whose term has expired
 18 may continue to serve until the earlier of—

19 “(A) the date that a successor is appointed and
 20 sworn in; and

21 “(B) the date that is 1 year after the date of
 22 the expiration of the term.

23 “(6) Not later than 30 days after the date on which
 24 the term of a member of the Board ends, the appointing

1 authority of the member shall submit to Congress a plan
 2 to appoint a successor.”; and

3 (2) in subsection (f)—

4 (A) by inserting “(1)” before “Any em-
 5 ployee”; and

6 (B) by adding at the end the following:

7 “(2) In addition to any employees detailed to the
 8 Board under paragraph (1), the Board may, subject to
 9 the availability of funds, hire not more than 12 staff mem-
 10 bers.”.

11 **SEC. 5. IMPLEMENTATION OF TECHNOLOGY FOR CLASSI-**
 12 **FICATION AND DECLASSIFICATION.**

13 (a) IN GENERAL.—Not later than 1 year after the
 14 date of the enactment of this Act, the Administrator of
 15 the Office of Electronic Government (in this section re-
 16 ferred to as the “Administrator”) shall, in consultation
 17 with the Secretary of Defense, the Director of the Central
 18 Intelligence Agency, the Director of National Intelligence,
 19 the Public Interest Declassification Board, the Director of
 20 the Information Security Oversight Office, and the head
 21 of the National Declassification Center of the National Ar-
 22 chives and Records Administration—

23 (1) research a technology-based solutions—

24 (A) to support efficient and effective sys-
 25 tems for classification and declassification; and

1 (B) to be implemented on an interoperable
2 and federated basis across the Federal Govern-
3 ment; and

4 (2) submit to the President and Congress, in-
5 cluding the congressional intelligence committees,
6 the Committee on Armed Services, the Committee
7 on Homeland Security and Governmental Affairs,
8 the Committee on Foreign Relations, the Committee
9 on the Judiciary of the Senate, and the Committee
10 on Armed Services, the Committee on Oversight and
11 Accountability, the Committee on Foreign Affairs,
12 and the Committee on the Judiciary of the House of
13 Representatives, recommendations regarding a tech-
14 nology-based solutions described in paragraph (1).

15 (b) REPORT.—Not later than 540 days after the date
16 of the enactment of this Act, the President shall submit
17 to Congress a classified report describing actions taken to
18 implement the recommendations under subsection (a)(2).

19 **SEC. 6. STUDIES AND RECOMMENDATIONS ON NECESSITY**
20 **OF SECURITY CLEARANCES.**

21 (a) AGENCY STUDIES ON NECESSITY OF SECURITY
22 CLEARANCES.—

23 (1) STUDIES REQUIRED.—The head of each
24 agency that grants security clearances to personnel

1 of such agency shall conduct a study on the neces-
2 sity of such clearances.

3 (2) REPORTS REQUIRED.—

4 (A) IN GENERAL.—Not later than 1 year
5 after the date of the enactment of this Act,
6 each head of an agency that conducts a study
7 under paragraph (1) shall submit to Congress,
8 including the congressional intelligence commit-
9 tees, the Committee on Armed Services, the
10 Committee on Homeland Security and Govern-
11 mental Affairs, the Committee on Foreign Rela-
12 tions, the Committee on the Judiciary of the
13 Senate, and the Committee on Armed Services,
14 the Committee on Oversight and Accountability,
15 the Committee on Foreign Affairs, and the
16 Committee on the Judiciary of the House of
17 Representatives, a report on the findings of the
18 agency head with respect to such study, which
19 the agency head may classify as appropriate.

20 (B) REQUIRED ELEMENTS.—Each report
21 submitted by the head of an agency under sub-
22 paragraph (A) shall include, for such agency,
23 the following:

1 (i) The number of personnel eligible
2 for access to information up to the “Top
3 Secret” level.

4 (ii) The number of personnel eligible
5 for access to information up to the “Se-
6 cret” level.

7 (iii) Information on any reduction in
8 the number of personnel eligible for access
9 to classified information based on the
10 study conducted under paragraph (1).

11 (iv) A description of how the agency
12 head will ensure that the number of secu-
13 rity clearances granted by such agency will
14 be kept to the minimum required for the
15 conduct of agency functions, commensurate
16 with the size, needs, and mission of the
17 agency.

18 (3) INDUSTRY.—This subsection shall apply to
19 the Secretary of Defense in the Secretary’s capacity
20 as the Executive Agent for the National Industrial
21 Security Program, and the Secretary shall treat con-
22 tractors, licensees, and grantees as personnel of the
23 Department of Defense for purposes of the studies
24 and reports required by this subsection.

1 (b) DIRECTOR OF NATIONAL INTELLIGENCE REVIEW
2 OF SENSITIVE COMPARTMENTED INFORMATION.—Not
3 later than 1 year after the date of the enactment of this
4 Act, the Director of National Intelligence shall—

5 (1) review the number of personnel eligible for
6 access to sensitive compartmented information; and

7 (2) submit to Congress, including the congres-
8 sional intelligence committees, the Committee on
9 Armed Services, the Committee on Homeland Secu-
10 rity and Governmental Affairs, the Committee on
11 Foreign Relations, the Committee on the Judiciary
12 of the Senate, and the Committee on Armed Serv-
13 ices, the Committee on Oversight and Account-
14 ability, the Committee on Foreign Affairs, and the
15 Committee on the Judiciary of the House of Rep-
16 resentatives, a report on how the Director will en-
17 sure that the number of such personnel is limited to
18 the minimum required.

19 (c) AGENCY REVIEW OF SPECIAL ACCESS PRO-
20 GRAMS.—Not later than 1 year after the date of the enact-
21 ment of this Act, each head of an agency who is authorized
22 to establish a special access program by Executive Order
23 13526 (50 U.S.C. 3161 note; relating to classified na-
24 tional security information), or successor order, shall—

1 (1) review the number of personnel of the agen-
2 cy eligible for access to such special access pro-
3 grams; and

4 (2) submit to Congress, including the congres-
5 sional intelligence committees, the Committee on
6 Armed Services, the Committee on Homeland Secu-
7 rity and Governmental Affairs, the Committee on
8 Foreign Relations, the Committee on the Judiciary
9 of the Senate, and the Committee on Armed Serv-
10 ices, the Committee on Oversight and Account-
11 ability, the Committee on Foreign Affairs, and the
12 Committee on the Judiciary of the House of Rep-
13 resentatives, a report on how the agency head will
14 ensure that the number of such personnel is limited
15 to the minimum required.

16 (d) SECRETARY OF ENERGY REVIEW OF Q AND L
17 CLEARANCES.—Not later than 1 year after the date of
18 enactment of this Act, the Secretary of Energy shall—

19 (1) review the number of personnel of the De-
20 partment of Energy granted Q and L access; and

21 (2) submit to Congress, including the congres-
22 sional intelligence committees, the Committee on
23 Armed Services, the Committee on Homeland Secu-
24 rity and Governmental Affairs, the Committee on
25 Foreign Relations, the Committee on the Judiciary

1 of the Senate, and the Committee on Armed Serv-
2 ices, the Committee on Oversight and Account-
3 ability, the Committee on Foreign Affairs, and the
4 Committee on the Judiciary of the House of Rep-
5 resentatives, a report on how the Secretary will en-
6 sure that the number of such personnel is limited to
7 the minimum required

8 (e) INDEPENDENT REVIEWS.—Not later than 180
9 days after the date on which a study is completed under
10 subsection (a) or a review is completed under subsections
11 (b) through (d), the Director of the Office of Management
12 and Budget shall each review the study or review, as the
13 case may be.

14 **SEC. 7. DEFINITION OF CONGRESSIONAL INTELLIGENCE**
15 **COMMITTEES.**

16 In this Act, the term “congressional intelligence com-
17 mittees” has the meaning given such term in section 3
18 of the National Security Act of 1947 (50 U.S.C. 3003).

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