

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of “intelligence community” and “congressional intelligence committees” as used in this section, see section 7002 of Pub. L. 118-31, set out as a note under section 3003 of this title.

SUBCHAPTER III—A—PUBLIC INTEREST
DECLASSIFICATIONS**§ 3355. Findings**

Congress makes the following findings:

(1) It is in the national interest to establish an effective, coordinated, and cost-effective means by which records on specific subjects of extraordinary public interest that do not undermine the national security interests of the United States may be collected, retained, reviewed, and disseminated to Congress, policy-makers in the executive branch, and the public.

(2) Ensuring, through such measures, public access to information that does not require continued protection to maintain the national security interests of the United States is a key to striking the balance between secrecy essential to national security and the openness that is central to the proper functioning of the political institutions of the United States.

(Pub. L. 106-567, title VII, § 702, Dec. 27, 2000, 114 Stat. 2856.)

Editorial Notes

CODIFICATION

Section was formerly set out in a note under section 3161 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 106-567, title VII, § 710, Dec. 27, 2000, 114 Stat. 2864, as amended by Pub. L. 108-458, title I, § 1102(f), Dec. 17, 2004, 118 Stat. 3700; Pub. L. 110-53, title VI, § 602(4), Aug. 3, 2007, 121 Stat. 336; Pub. L. 112-235, § 2(c), Dec. 28, 2012, 126 Stat. 1626; Pub. L. 113-126, title III, § 311, July 7, 2014, 128 Stat. 1399; Pub. L. 116-92, div. E, title LXVII, § 6741(b), Dec. 20, 2019, 133 Stat. 2239, provided that: “This title [enacting this subchapter] shall take effect on the date that is 120 days after the date of the enactment of this Act [Dec. 27, 2000].”

SHORT TITLE

For short title of title VII of Pub. L. 106-567, which enacted this subchapter, as the “Public Interest Declassification Act of 2000”, see section 701 of Pub. L. 106-567, set out as a note under section 3301 of this title.

STATUS OF BOARD

Pub. L. 116-92, div. E, title LXVII, § 6741(c), Dec. 20, 2019, 133 Stat. 2239, provided that: “Notwithstanding section 710(b) of the Public Interest Declassification Act of 2000 (Public Law 106-567; 50 U.S.C. 3161 note) as in effect on the day before the date of the enactment of this Act [Dec. 20, 2019]—

“(1) the Public Interest Declassification Board shall be deemed to not have terminated for purposes of the appointment of members to the Board;

“(2) section 703(h) of such Act [50 U.S.C. 3355a(h)] shall not apply with respect to the period beginning on December 31, 2018, and ending on the day before the date of the enactment of this Act; and

“(3) the length of the terms of the members serving on the Board as of December 30, 2018, shall be cal-

culated by not counting the period specified in paragraph (2).”

[Prior to being struck out by Pub. L. 116-92, div. E, title LXVII, § 6741(b)(1), Dec. 20, 2019, 133 Stat. 2239, section 710(b) of the Public Interest Declassification Act of 2000 (Pub. L. 106-567, title VII), referred to in the introductory provisions of section 6741(c) of Pub. L. 116-92, set out above, provided that: “The provisions of this title shall expire on December 31, 2018.” Section 710 of the Act was formerly set out in a note under section 3161 of this title, and was editorially transferred and is now set out as an Effective Date note above.]

§ 3355a. Public Interest Declassification Board**(a) Establishment**

(1) There is established within the executive branch of the United States a board to be known as the “Public Interest Declassification Board” (in this subchapter referred to as the “Board”).

(2) The Board shall report directly to the President or, upon designation by the President, the Vice President, the Attorney General, or other designee of the President. The other designee of the President under this paragraph may not be an agency head or official authorized to classify information under Executive Order 13526, or any successor order.

(b) Purposes

The purposes of the Board are as follows:

(1) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on the systematic, thorough, coordinated, and comprehensive identification, collection, review for declassification, and release to Congress, interested agencies, and the public of declassified records and materials (including donated historical materials) that are of archival value, including records and materials of extraordinary public interest.

(2) To promote the fullest possible public access to a thorough, accurate, and reliable documentary record of significant United States national security decisions and significant United States national security activities in order to—

(A) support the oversight and legislative functions of Congress;

(B) support the policymaking role of the executive branch;

(C) respond to the interest of the public in national security matters; and

(D) promote reliable historical analysis and new avenues of historical study in national security matters.

(3) To provide recommendations to the President for the identification, collection, and review for declassification of information of extraordinary public interest that does not undermine the national security of the United States, to be undertaken in accordance with a declassification program that has been established or may be established by the President by Executive order.

(4) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on

policies deriving from the issuance by the President of Executive orders regarding the classification and declassification of national security information.

(5) To review and make recommendations to the President in a timely manner with respect to any congressional request, made by the committee of jurisdiction or by a member of the committee of jurisdiction, to declassify certain records, to evaluate the proper classification of certain records, or to reconsider a declination to declassify specific records.

(c) Membership

(1) The Board shall be composed of nine individuals appointed from among citizens of the United States who are preeminent in the fields of history, national security, foreign policy, intelligence policy, social science, law, or archives, including individuals who have served in Congress or otherwise in the Federal Government or have otherwise engaged in research, scholarship, or publication in such fields on matters relating to the national security of the United States, of whom—

(A) five shall be appointed by the President;

(B) one shall be appointed by the Speaker of the House of Representatives;

(C) one shall be appointed by the majority leader of the Senate;

(D) one shall be appointed by the minority leader of the Senate; and

(E) one shall be appointed by the minority leader of the House of Representatives.

(2)(A) Of the members initially appointed to the Board by the President—

(i) three shall be appointed for a term of 4 years;

(ii) one shall be appointed for a term of 3 years; and

(iii) one shall be appointed for a term of 2 years.

(B) The members initially appointed to the Board by the Speaker of the House of Representatives or by the majority leader of the Senate shall be appointed for a term of 3 years.

(C) The members initially appointed to the Board by the minority leader of the House of Representatives or the Senate shall be appointed for a term of 2 years.

(D) Any subsequent appointment to the Board shall be for a term of 3 years from the date of the appointment.

(3) A vacancy in the Board shall be filled in the same manner as the original appointment.

(4) A member of the Board may be appointed to a new term on the Board upon the expiration of the member's term on the Board, except that no member may serve more than three full terms on the Board.

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

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

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

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

submit to Congress a plan to appoint a successor.

(d) Chairperson; Executive Secretary

(1)(A) The President shall designate one of the members of the Board as the Chairperson of the Board.

(B) The term of service as Chairperson of the Board shall be 2 years.

(C) A member serving as Chairperson of the Board may be redesignated as Chairperson of the Board upon the expiration of the member's term as Chairperson of the Board, except that no member shall serve as Chairperson of the Board for more than 6 years.

(2) The Director of the Information Security Oversight Office shall serve as the Executive Secretary of the Board.

(e) Meetings

The Board shall meet as needed to accomplish its mission, consistent with the availability of funds, but shall meet in person not less frequently than on a quarterly basis. A majority of the members of the Board shall constitute a quorum.

(f) Staff

(1) Any employee of the Federal Government may be detailed to the Board, with the agreement of and without reimbursement to the detailing agency, and such detail shall be without interruption or loss of civil, military, or foreign service status or privilege.

(2) In addition to any employees detailed to the Board under paragraph (1), the Board may, subject to the availability of funds, hire not more than 12 staff members.

(g) Security

(1) The members and staff of the Board shall, as a condition of appointment to or employment with the Board, hold appropriate security clearances for access to the classified records and materials to be reviewed by the Board or its staff, and shall follow the guidance and practices on security under applicable Executive orders and Presidential or agency directives.

(2) The head of an agency shall, as a condition of granting access to a member of the Board, the Executive Secretary of the Board, or a member of the staff of the Board to classified records or materials of the agency under this subchapter, require the member, the Executive Secretary, or the member of the staff, as the case may be, to—

(A) execute an agreement regarding the security of such records or materials that is approved by the head of the agency; and

(B) hold an appropriate security clearance granted or recognized under the standard procedures and eligibility criteria of the agency, including any special access approval required for access to such records or materials.

(3) The members of the Board, the Executive Secretary of the Board, and the members of the staff of the Board may not use any information acquired in the course of their official activities on the Board for nonofficial purposes.

(4) For purposes of any law or regulation governing access to classified information that pertains to the national security of the United States, and subject to any limitations on access

arising under section 3355d(b) of this title, and to facilitate the advisory functions of the Board under this subchapter, a member of the Board seeking access to a record or material under this subchapter shall be deemed for purposes of this subsection to have a need to know the contents of the record or material.

(h) Compensation

(1) Each member of the Board shall receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for positions at ES-1 of the Senior Executive Service under section 5382 of title 5 for each day such member is engaged in the actual performance of duties of the Board.

(2) Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of the duties of the Board.

(i) Guidance; annual budget

(1) On behalf of the President, the Assistant to the President for National Security Affairs shall provide guidance on policy to the Board.

(2) The Executive Secretary of the Board, under the direction of the Chairperson of the Board and the Board, and acting in consultation with the Archivist of the United States, the Assistant to the President for National Security Affairs, and the Director of the Office of Management and Budget, shall prepare the annual budget of the Board.

(j) Support

The Information Security Oversight Office may support the activities of the Board under this subchapter. Such support shall be provided on a reimbursable basis.

(k) Public availability of records and reports

(1) The Board shall make available for public inspection records of its proceedings and reports prepared in the course of its activities under this subchapter to the extent such records and reports are not classified and would not be exempt from release under the provisions of section 552 of title 5.

(2) In making records and reports available under paragraph (1), the Board shall coordinate the release of such records and reports with appropriate officials from agencies with expertise in classified information in order to ensure that such records and reports do not inadvertently contain classified information.

(l) Applicability of certain administrative laws

The provisions of chapter 10 of title 5 shall not apply to the activities of the Board under this subchapter. However, the records of the Board shall be governed by the provisions of the Federal Records Act of 1950.

(Pub. L. 106-567, title VII, § 703, Dec. 27, 2000, 114 Stat. 2856; Pub. L. 108-458, title I, § 1102(a), (b), Dec. 17, 2004, 118 Stat. 3699; Pub. L. 111-259, title III, § 365, Oct. 7, 2010, 124 Stat. 2702; Pub. L. 112-235, § 2(a), (b), Dec. 28, 2012, 126 Stat. 1626; Pub. L. 116-92, div. E, title LXVII, § 6741(a), Dec. 20, 2019, 133 Stat. 2239; Pub. L. 117-263, div. F,

title LXVIII, § 6824(d)(1), Dec. 23, 2022, 136 Stat. 3615; Pub. L. 117-286, § 4(a)(318), Dec. 27, 2022, 136 Stat. 4341; Pub. L. 118-31, div. G, title VI, § 7604, Dec. 22, 2023, 137 Stat. 1097.)

Editorial Notes

REFERENCES IN TEXT

Executive Order 13526, referred to in subsec. (a)(2), is set out as a note under section 3161 of this title.

The Federal Records Act of 1950, referred to in subsec. (l), was title V of act June 30, 1949, ch. 288, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, which was classified generally to sections 392 to 396 and 397 to 401 of former Title 44, Public Printing and Documents. Section 6(d) of act Sept. 5, 1950, was repealed by Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1238, the first section of which enacted Title 44, Public Printing and Documents. For disposition of sections of former Title 44, see Table at the beginning of Title 44. Title V of act June 30, 1949, was repealed by Pub. L. 107-217, § 4, Aug. 21, 2002, 116 Stat. 1303.

CODIFICATION

Section was formerly set out in a note under section 3161 of this title.

AMENDMENTS

2023—Subsec. (c)(5), (6). Pub. L. 118-31, § 7604(1), added pars. (5) and (6).

Subsec. (f). Pub. L. 118-31, § 7604(2), designated existing provisions as par. (1) and added par. (2).

2022—Subsec. (a)(2). Pub. L. 117-263 substituted “Executive Order 13526” for “Executive Order 12958”.

Subsec. (l). Pub. L. 117-286 substituted “chapter 10 of title 5” for “the Federal Advisory Committee Act (5 U.S.C. App.)”.

2019—Subsec. (e). Pub. L. 116-92 substituted “funds, but shall meet in person not less frequently than on a quarterly basis.” for “funds.”

2012—Subsec. (c)(2)(D). Pub. L. 112-235, § 2(a), substituted “from the date of the appointment.” for period at end.

Subsec. (c)(3). Pub. L. 112-235, § 2(b), struck out at end “A member of the Board appointed to fill a vacancy before the expiration of a term shall serve for the remainder of the term.”

2010—Subsec. (b)(5). Pub. L. 111-259 substituted “jurisdiction or by a member of the committee of jurisdiction,” for “jurisdiction,” and inserted “, to evaluate the proper classification of certain records,” after “certain records”.

2004—Subsec. (a). Pub. L. 108-458, § 1102(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(5). Pub. L. 108-458, § 1102(b), added par. (5).

§ 3355b. Identification, collection, and review for declassification of information of archival value or extraordinary public interest

(a) Briefings on agency declassification programs

(1) As requested by the Board, or by the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, the head of any agency with the authority under an Executive order to classify information shall provide to the Board, the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, on an annual basis, a summary briefing and report on such agency’s progress and plans in the declassification of national security information. Such briefing shall cover the declassification goals set by statute, regula-