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 IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

MAY 27 (legislative day, MAY 26), 2010

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other 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 “~~Reducing Over-Classi-~~
5 ~~fication Act of 2009~~”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) A key conclusion in the Final Report of the
4 National Commission on Terrorist Attacks Upon the
5 United States (commonly known as the “9/11 Com-
6 mission”) was the need to prevent over-classification
7 by the Federal Government.

8 (2) The 9/11 Commission and others have ob-
9 served that the over-classification of homeland secu-
10 rity information interferes with accurate, actionable,
11 and timely homeland security information sharing,
12 increases the cost of information security, and need-
13 lessly limits public access to information.

14 (3) The over-classification problem, which has
15 worsened since the 9/11 attacks, causes considerable
16 confusion about what information can be shared
17 with whom both internally at the Department of
18 Homeland Security and with its external partners.
19 This problem negatively impacts the dissemination
20 of homeland security information to the Depart-
21 ment’s State, local, tribal, and territorial homeland
22 security and law enforcement partners, private sec-
23 tor customers, and the public.

24 (4) Excessive government secrecy stands in the
25 way of a safer and more secure homeland. This
26 trend is antithetical to the creation and operation of

1 the information sharing environment established
2 under section 1016 of the Intelligence Reform and
3 Terrorism Prevention Act of 2004 (6 U.S.C. 485),
4 and must be halted and reversed.

5 (5) To do so, the Department should start with
6 the understanding that all departmental information
7 that is not properly classified, or marked as con-
8 trolled unclassified information and otherwise ex-
9 empt from disclosure, should be made available to
10 members of the public pursuant to section 552 of
11 title 5, United States Code (commonly referred to as
12 the “Freedom of Information Act”).

13 (6) The Department should also develop and
14 administer policies, procedures, and programs that
15 promote compliance with applicable laws, executive
16 orders, and other authorities pertaining to the prop-
17 er use of classification markings and the United
18 States National Archives and Records Administra-
19 tion policies implementing them.

20 **SEC. 3. OVER-CLASSIFICATION PREVENTION WITHIN THE**
21 **DEPARTMENT OF HOMELAND SECURITY.**

22 Subtitle A of title II of the Homeland Security Act
23 of 2002 (6 U.S.C. 121 et seq.) is amended by adding at
24 the end the following new section:

1 **“SEC. 210F. OVER-CLASSIFICATION PREVENTION PRO-**
2 **GRAM.**

3 “(a) **IN GENERAL.**—The Secretary shall develop and
4 administer policies, procedures, and programs within the
5 Department to prevent the over-classification of homeland
6 security information, terrorism information, weapons of
7 mass destruction information, and other information with-
8 in the scope of the information sharing environment estab-
9 lished under section 1016 of the Intelligence Reform and
10 Terrorism Prevention Act of 2004 (6 U.S.C. 485) that
11 must be disseminated to prevent and to collectively re-
12 spond to acts of terrorism. The Secretary shall coordinate
13 with the Archivist of the United States and consult with
14 representatives of State, local, tribal, and territorial gov-
15 ernment and law enforcement, organizations with exper-
16 tise in civil rights, civil liberties, and government over-
17 sight, and the private sector, as appropriate, to develop
18 such policies, procedures, and programs.

19 “(b) **REQUIREMENTS.**—Not later than one year after
20 the date of the enactment of the Reducing Over-Classifica-
21 tion Act of 2009, the Secretary, in administering the poli-
22 cies, procedures, and programs required under subsection
23 (a), shall—

24 “(1) create, in consultation with the Archivist
25 of the United States, standard classified and unclas-
26 sified formats for finished intelligence products cre-

1 ated by the Department, consistent with any govern-
2 ment-wide standards, practices or procedures for
3 similar products;

4 “(2) require that all finished intelligence prod-
5 ucts created by the Department be simultaneously
6 prepared in the standard unclassified format, pro-
7 vided that such an unclassified product would rea-
8 sonably be expected to be of any benefit to a State,
9 local, tribal or territorial government, law enforce-
10 ment agency or other emergency response provider,
11 or the private sector, based on input provided by the
12 Interagency Threat Assessment and Coordination
13 Group Detail established under section 210D;

14 “(3) ensure that such policies, procedures, and
15 programs protect the national security as well as the
16 information privacy rights and legal rights of United
17 States persons pursuant to all applicable law and
18 policy, including the privacy guidelines for the infor-
19 mation sharing environment established pursuant to
20 section 1016 of the Intelligence Reform and Ter-
21 rorism Prevention Act of 2004 (6 U.S.C. 485), as
22 appropriate;

23 “(4) establish an ongoing auditing mechanism
24 administered by the Inspector General of the De-
25 partment or other appropriate senior Department of-

1 ficial that randomly selects, on a periodic basis, clas-
2 sified information from each component of the De-
3 partment that generates finished intelligence prod-
4 ucts to—

5 “(A) assess whether applicable classifica-
6 tion policies, procedures, rules, and regulations
7 have been followed;

8 “(B) describe any problems with the ad-
9 ministration of the applicable classification poli-
10 cies, procedures, rules, and regulations, includ-
11 ing specific non-compliance issues;

12 “(C) recommend improvements in aware-
13 ness and training to address any problems iden-
14 tified in subparagraph (B); and

15 “(D) report at least annually to the Com-
16 mittee on Homeland Security of the House of
17 Representatives, the Committee on Homeland
18 Security and Governmental Affairs of the Sen-
19 ate, and the public, in an appropriate format,
20 on the findings of the Inspector General’s au-
21 dits under this section;

22 “(5) establish a process whereby employees may
23 challenge original classification decisions made by
24 Department employees or contractors and be re-
25 warded with specific incentives for successful chal-

1 lenges resulting in the removal of classification
2 markings or the downgrading of them;

3 “(6) inform employees and contractors that fail-
4 ure to comply with the policies, procedures, and pro-
5 grams established under this section could subject
6 them to a series of penalties; and

7 “(7) institute a series of penalties for employees
8 and contractors who repeatedly fail to comply with
9 the policies, procedures, and programs established
10 under this section after having received both notice
11 of their noncompliance and appropriate training or
12 re-training to address such noncompliance.

13 “(e) FINISHED INTELLIGENCE PRODUCT DE-
14 FINED.—The term ‘finished intelligence product’ means a
15 document in which an intelligence analyst has evaluated,
16 interpreted, integrated, or placed into context raw intel-
17 ligence or information.”.

18 **SEC. 4. ENFORCEMENT OF OVER-CLASSIFICATION PREVEN-**
19 **TION WITHIN THE DEPARTMENT OF HOME-**
20 **LAND SECURITY.**

21 Subtitle A of title II of the Homeland Security Act
22 of 2002 (6 U.S.C. 121 et seq.) is further amended by add-
23 ing at the end the following new section:

1 ~~“SEC. 210G. ENFORCEMENT OF OVER-CLASSIFICATION PRE-~~
2 ~~VENTION PROGRAMS.~~

3 ~~“(a) PERSONAL IDENTIFIERS.—The Secretary~~
4 ~~shall—~~

5 ~~“(1) assess the technologies available or in use~~
6 ~~at the Department by which an electronic personal~~
7 ~~identification number or other electronic identifying~~
8 ~~marker can be assigned to each Department em-~~
9 ~~ployee and contractor with original classification au-~~
10 ~~thority in order to—~~

11 ~~“(A) track which documents have been~~
12 ~~classified by a particular employee or con-~~
13 ~~tractor;~~

14 ~~“(B) determine the circumstances when~~
15 ~~such documents have been shared;~~

16 ~~“(C) identify and address over-classifica-~~
17 ~~tion problems, including the misapplication of~~
18 ~~classification markings to documents that do~~
19 ~~not merit such markings; and~~

20 ~~“(D) assess the information sharing im-~~
21 ~~pact of any such problems or misuse;~~

22 ~~“(2) develop an implementation plan for a De-~~
23 ~~partment standard for such technology with appro-~~
24 ~~priate benchmarks, a timetable for its completion,~~
25 ~~and cost estimate for the creation and implementa-~~
26 ~~tion of a system of electronic personal identification~~

1 numbers or other electronic identifying markers for
2 all relevant Department employees and contractors;
3 and

4 ~~“(3)~~ upon completion of the implementation
5 plan described in paragraph (2), or not later than
6 180 days after the date of the enactment of the Re-
7 ducing Over-Classification Act of 2009, whichever is
8 earlier, the Secretary shall provide a copy of the
9 plan to the Committee on Homeland Security of the
10 House of Representatives and the Committee on
11 Homeland Security and Governmental Affairs of the
12 Senate.

13 ~~“(b) TRAINING.—~~The Secretary, in coordination with
14 the Archivist of the United States, shall—

15 ~~“(1)~~ require annual training for each Depart-
16 ment employee and contractor with classification au-
17 thority or those responsible for analysis, dissemina-
18 tion, preparation, production, receiving, publishing,
19 or otherwise communicating written classified infor-
20 mation, including training to—

21 ~~“(A)~~ educate each employee and contractor
22 about—

23 ~~“(i)~~ the Department’s requirement
24 that all classified finished intelligence prod-
25 ucts that they create be simultaneously

1 prepared in unclassified form in a standard
2 format prescribed by the Department, pro-
3 vided that the unclassified product would
4 reasonably be expected to be of any benefit
5 to a State, local, tribal, or territorial gov-
6 ernment, law enforcement agency, or other
7 emergency response provider, or the pri-
8 vate sector, based on input provided by the
9 Interagency Threat Assessment and Co-
10 ordination Group Detail established under
11 section 210D;

12 “(ii) the proper use of classification
13 markings, including portion markings; and

14 “(iii) the consequences of over-classi-
15 fication and other improper uses of classi-
16 fication markings, including the
17 misapplication of classification markings to
18 documents that do not merit such mark-
19 ings, and of failing to comply with the De-
20 partment’s policies and procedures estab-
21 lished under or pursuant to this section,
22 including the negative consequences for the
23 individual’s personnel evaluation, homeland
24 security, information sharing, and the

1 overall success of the Department's mis-
2 sions;

3 “(B) serve as a prerequisite, once com-
4 pleted successfully, as evidenced by an appro-
5 priate certificate, for—

6 “(i) obtaining classification authority;
7 and

8 “(ii) renewing such authority annu-
9 ally; and

10 “(C) count as a positive factor, once com-
11 pleted successfully, in the Department's employ-
12 ment, evaluation, and promotion decisions; and

13 “(2) ensure that such program is conducted ef-
14 ficiently, in conjunction with any other security, in-
15 telligence, or other training programs required by
16 the Department to reduce the costs and administra-
17 tive burdens associated with the additional training
18 required by this section.

19 “(c) DETAILEE PROGRAM.—The Secretary shall—

20 “(1) implement a Departmental detailee pro-
21 gram to detail Departmental personnel to the Na-
22 tional Archives and Records Administration for one
23 year, for the purpose of—

24 “(A) training and educational benefit for
25 the Department personnel assigned so that they

1 may better understand the policies, procedures
2 and laws governing original classification au-
3 thorities;

4 “(B) bolstering the ability of the National
5 Archives and Records Administration to con-
6 duct its oversight authorities over the Depart-
7 ment and other Departments and agencies; and

8 “(C) ensuring that the policies and proce-
9 dures established by the Secretary remain con-
10 sistent with those established by the Archivist
11 of the United States;

12 “(2) ensure that the program established under
13 paragraph (1) includes at least one individual for
14 each Department office with delegated original clas-
15 sification authority; and

16 “(3) in coordination with the Archivist of the
17 United States, report to Congress not later than 90
18 days after the conclusion of the first year of the pro-
19 gram established under paragraph (1), on—

20 “(A) the advisability of expanding the pro-
21 gram on a government-wide basis, whereby
22 other departments and agencies would send
23 detailees to the National Archives and Records
24 Administration; and

1 “(B) the administrative and monetary
2 costs of full compliance with this section.

3 “(d) SUNSET OF DETAILEE PROGRAM.—Except as
4 otherwise provided by law, subsection (c) shall cease to
5 have effect on December 31, 2012.

6 “(e) FINISHED INTELLIGENCE PRODUCT DE-
7 FINED.—The term ‘finished intelligence product’ has the
8 meaning given the term in section 210F(e).”.

9 **SEC. 5. TECHNICAL AMENDMENT.**

10 The table of contents in section 1(b) of the Homeland
11 Security Act of 2002 (6 U.S.C. 101(b)) is amended by
12 adding after the item relating to section 210E the fol-
13 lowing new items:

“Sec. 210F. Over-classification prevention program.

“Sec. 210G. Enforcement of over-classification prevention programs.”.

14 **SECTION 1. SHORT TITLE.**

15 *This Act may be cited as the “Reducing Over-Classi-
16 fication Act”.*

17 **SEC. 2. FINDINGS.**

18 *Congress finds the following:*

19 (1) *The National Commission on Terrorist At-
20 tacks Upon the United States (commonly known as
21 the “9/11 Commission”) concluded that there is a
22 need to prevent over-classification of information by
23 the Federal Government.*

1 (2) *The 9/11 Commission and others have ob-*
2 *erved that the over-classification of information*
3 *interferes with accurate, actionable, and timely infor-*
4 *mation sharing, increases the cost of information se-*
5 *curity, and needlessly limits public access to informa-*
6 *tion.*

7 (3) *Over-classification of information causes con-*
8 *siderable confusion about what information may be*
9 *shared with whom, and negatively affects the dissemi-*
10 *nation of information within the Federal Government*
11 *and with State, local, and tribal entities, and the pri-*
12 *vate sector.*

13 (4) *Excessive government secrecy stands in the*
14 *way of a safer and more secure homeland. Over-clas-*
15 *sification of information is antithetical to the cre-*
16 *ation and operation of the information sharing envi-*
17 *ronment established under 1016 of the Intelligence Re-*
18 *form and Terrorism Prevention Act of 2004 (6 U.S.C.*
19 *485).*

20 (5) *Federal departments or agencies authorized*
21 *to make original classification decisions or that per-*
22 *form derivative classification of information are re-*
23 *sponsible for developing, implementing, and admin-*
24 *istering policies, procedures, and programs that pro-*
25 *mote compliance with applicable laws, executive or-*

1 *ders, and other authorities pertaining to the proper*
2 *use of classification markings and the policies of the*
3 *National Archives and Records Administration.*

4 **SEC. 3. CLASSIFIED INFORMATION ADVISORY OFFICER.**

5 *(a) IN GENERAL.—Subsection (d) of section 201 of the*
6 *Homeland Security Act of 2002 (6 U.S.C. 121) is amended*
7 *by adding at the end the following:*

8 *“(26) To identify and designate, acting through*
9 *the Under Secretary for Intelligence and Analysis, a*
10 *Classified Information Advisory Officer to assist*
11 *State, local, tribal, and private sector entities that*
12 *have responsibility for the security of critical infra-*
13 *structure, in matters related to classified materials, as*
14 *described in section 210F.”.*

15 *(b) ESTABLISHMENT AND RESPONSIBILITIES.—*

16 *(1) IN GENERAL.—Subtitle A of title II of the*
17 *Homeland Security Act of 2002 (6 U.S.C. 121 et seq.)*
18 *is amended by adding at the end the following:*

19 **“SEC. 210F. CLASSIFIED INFORMATION ADVISORY OFFICER.**

20 *“(a) REQUIREMENT TO ESTABLISH.—The Secretary,*
21 *acting through the Under Secretary for Intelligence and*
22 *Analysis, shall identify and designate within the Depart-*
23 *ment a Classified Information Advisory Officer, as de-*
24 *scribed in this section.*

1 “(b) *RESPONSIBILITIES.*—*The responsibilities of the*
2 *Classified Information Advisory Officer shall be as follows:*

3 “(1) *To develop and disseminate educational*
4 *materials and to develop and administer training*
5 *programs to assist State, local, tribal, and private*
6 *sector entities with responsibility related to the secu-*
7 *rity of critical infrastructure—*

8 “(A) *in developing plans and policies to re-*
9 *spond to requests related to classified informa-*
10 *tion without communicating such information to*
11 *individuals who lack appropriate security clear-*
12 *ances;*

13 “(B) *regarding the appropriate procedures*
14 *for challenging classification designations of in-*
15 *formation received by personnel of such entities;*
16 *and*

17 “(C) *on the means by which such personnel*
18 *may apply for security clearances.*

19 “(2) *To inform the Under Secretary for Intel-*
20 *ligence and Analysis on policies and procedures that*
21 *could facilitate the sharing of classified information*
22 *with such personnel, as appropriate.”.*

23 “(2) *CLERICAL AMENDMENT.*—*The table of con-*
24 *tents in section 1(b) of the Homeland Security Act of*

1 2002 (6 U.S.C. 101 *et seq.*) is amended by inserting
2 after the item relating to section 210E the following:

“Sec. 210F. *Classified Information Advisory Officer.*”.

3 **SEC. 4. PROMOTION OF APPROPRIATE ACCESS TO INFOR-**
4 **MATION.**

5 Subsection (b) of section 102A of the National Security
6 Act of 1947 (50 U.S.C. 403–1) is amended—

7 (1) by inserting “(1)” before “Unless”; and

8 (2) by adding at the end the following new para-
9 graph:

10 “(2) The Director of National Intelligence shall—

11 “(A) consistent with paragraph (1), have access
12 to all intelligence information, including intelligence
13 reports, operational data, and other associated infor-
14 mation, produced by any element of the intelligence
15 community; and

16 “(B) consistent with the protection of intelligence
17 sources and methods, as determined by the Director—

18 “(i) ensure maximum access to the intel-
19 ligence information referenced in subparagraph
20 (A) for an employee of a department, agency, or
21 other entity of the Federal Government or of a
22 State, local, or tribal government who has an ap-
23 propriate security clearance; and

24 “(ii) provide a mechanism within the Office
25 of the Director of National Intelligence for the

1 *Director to direct access to the information ref-*
2 *erenced in subparagraph (A) for an employee re-*
3 *ferred to in clause (i).”.*

4 **SEC. 5. INTELLIGENCE INFORMATION SHARING.**

5 *(a) DEVELOPMENT OF GUIDANCE FOR INTELLIGENCE*
6 *PRODUCTS.—Paragraph (1) of section 102A(g) of the Na-*
7 *tional Security Act of 1947 (50 U.S.C. 403–1(g)) is amend-*
8 *ed—*

9 *(1) in subparagraph (E), by striking “and” at*
10 *the end;*

11 *(2) in subparagraph (F), by striking the period*
12 *at the end and inserting a semicolon and “and”; and*

13 *(3) by adding at the end the following:*

14 *“(G) in accordance with Executive Order No.*
15 *12958, as amended by Executive Order No. 13292 (68*
16 *Fed. Reg. 15315; relating to classification of national*
17 *security information) (or any subsequent cor-*
18 *responding executive order), and parts 2001 and 2004*
19 *of title 32, Code of Federal Regulations (or any subse-*
20 *quent corresponding regulation), establish—*

21 *“(i) guidance to standardize, in appro-*
22 *priate cases, the formats for classified and un-*
23 *classified intelligence products created by ele-*
24 *ments of the intelligence community for purposes*

1 *of promoting the sharing of intelligence products;*
2 *and*

3 *“(i) policies and procedures requiring the*
4 *increased use, in appropriate cases, and includ-*
5 *ing portion markings, of the classification of*
6 *portions of information within one intelligence*
7 *product.”.*

8 **(b) CREATION OF UNCLASSIFIED INTELLIGENCE**
9 **PRODUCTS AS APPROPRIATE FOR STATE, LOCAL, TRIBAL,**
10 **AND PRIVATE SECTOR STAKEHOLDERS.—***Subsection (g) of*
11 *section 102A of the National Security Act of 1947 (50*
12 *U.S.C. 403–1) is amended—*

13 *(1) by redesignating paragraphs (3) and (4) as*
14 *paragraphs (4) and (5), respectively; and*

15 *(2) by inserting after paragraph (2) the fol-*
16 *lowing:*

17 *“(3)(A) If the head of a Federal department or agency*
18 *determines that an intelligence product which includes*
19 *homeland security information, as defined in section 892(f)*
20 *of the Homeland Security Information Sharing Act (6*
21 *U.S.C. 482(f)), or terrorism information, as defined in sec-*
22 *tion 1016(a) of the Intelligence Reform and Terrorism Pre-*
23 *vention Act of 2004 (6 U.S.C. 485(a)), could likely benefit*
24 *a State, local, or tribal government, a law enforcement*
25 *agency, or a private sector entity with responsibility for*

1 *the security of critical infrastructure, such head shall share*
2 *that intelligence product with the Interagency Threat As-*
3 *essment and Coordination Group established in section*
4 *210D(a) of the Homeland Security Act of 2002 (6 U.S.C.*
5 *124k(a)).*

6 “(B) *If the Interagency Threat Assessment and Coordi-*
7 *nation Group determines that an intelligence product re-*
8 *ferred to in subparagraph (A), or any other intelligence*
9 *product that such Group has access to, could likely benefit*
10 *a State, local, or tribal government, a law enforcement*
11 *agency, or a private sector entity, the Group shall rec-*
12 *ommend to the Under Secretary for Intelligence and Anal-*
13 *ysis of the Department of Homeland Security that the*
14 *Under Secretary produce an intelligence product that is un-*
15 *classified or that is classified at the lowest possible level—*

16 “(i) *based on the intelligence product referred to*
17 *in subparagraph (A), in a manner consistent with the*
18 *guidance established under paragraph (1)(G)(i); and*

19 “(ii) *provide such product to the appropriate en-*
20 *tity or agency.*

21 “(C)(i) *The Secretary of Homeland Security shall sub-*
22 *mit to the congressional intelligence committees, the Com-*
23 *mittee on Homeland Security and Governmental Affairs of*
24 *the Senate, and the Committee on Homeland Security of*
25 *the House of Representatives an annual report on activities*

1 *carried out under this paragraph. Each such report shall*
2 *include a description of—*

3 *“(I) each recommendation made to the Under*
4 *Secretary for Intelligence and Analysis under sub-*
5 *paragraph (B);*

6 *“(II) each such recommendation that was carried*
7 *out by the Under Secretary; and*

8 *“(III) each such recommendation that was not*
9 *carried out by the Under Secretary.*

10 *“(ii) The initial report required under clause (i) shall*
11 *be submitted not later than 270 days after the date of the*
12 *enactment of the Reducing Over-Classification Act and no*
13 *reports shall be required under clause (i) after December*
14 *31, 2014.”.*

15 *(c) INTERAGENCY THREAT ASSESSMENT AND COORDI-*
16 *NATION GROUP ANNUAL REPORT MODIFICATION.—Sub-*
17 *section (c) of section 210D of the Homeland Security Act*
18 *of 2002 (6 U.S.C. 124k) is amended—*

19 *(1) in paragraph (1), by striking “and” at the*
20 *end;*

21 *(2) in paragraph (2), by striking the period at*
22 *the end and inserting a semicolon and “and”; and*

23 *(3) by adding at the end the following:*

24 *“(3) in each report required by paragraph (2)*
25 *submitted after the date of the enactment of the Re-*

1 *ducing Over-Classification Act, include a description*
2 *of the progress made by the head of each Federal de-*
3 *partment and agency to share information with the*
4 *ITACG pursuant to section 102A(g)(3)(A) of the Na-*
5 *tional Security Act of 1947 (50 U.S.C. 403-*
6 *1(g)(3)(A)).”.*

7 **SEC. 6. PROMOTION OF ACCURATE CLASSIFICATION OF IN-**
8 **FORMATION.**

9 *(a) DERIVATIVE CLASSIFICATION AND ORIGINAL CLAS-*
10 *SIFICATION DEFINED.—In this section, the terms “deriva-*
11 *tive classification” and “original classification” have the*
12 *meaning given those terms in Executive Order No. 12958,*
13 *as amended by Executive Order No. 13292 (68 Fed. Reg.*
14 *15315; relating to classification of national security infor-*
15 *mation) (or any subsequent corresponding executive order).*

16 *(b) INCENTIVES FOR ACCURATE CLASSIFICATIONS.—*
17 *The head of each department or agency of the United States*
18 *with an officer or employee who is authorized to make origi-*
19 *nal classification decisions or derivative classification deci-*
20 *sions shall consider such officer’s or employee’s consistent*
21 *and proper classification of information in determining*
22 *whether to award any personnel incentive to the officer or*
23 *employee.*

24 *(c) INSPECTOR GENERAL EVALUATIONS.—*

1 (1) *REQUIREMENT FOR EVALUATIONS.*—Not less
2 *frequently than once each year until December 31,*
3 *2014, the inspector general of each department or*
4 *agency of the United States with an officer or em-*
5 *ployee who is authorized to make original classifica-*
6 *tions shall carry out an evaluation of that depart-*
7 *ment or agency or a component of the department or*
8 *agency—*

9 (A) *to assess whether applicable classifica-*
10 *tion policies, procedures, rules, and regulations*
11 *have been adopted, followed, and effectively ad-*
12 *ministered within such department, agency, or*
13 *component; and*

14 (B) *to identify policies, procedures, rules,*
15 *regulations, or management practices that may*
16 *be contributing to persistent misclassification of*
17 *material within such department, agency or*
18 *component.*

19 (2) *REPORTS.*—

20 (A) *REQUIREMENT.*—*Each inspector gen-*
21 *eral who is required to carry out an evaluation*
22 *under paragraph (1) shall submit to the appro-*
23 *priate entities a report on each such evaluation.*

1 (B) *CONTENT.*—Each report submitted
2 under subparagraph (A) shall include a descrip-
3 tion of—

4 (i) the policies, procedures, rules, regu-
5 lations, or management practices, if any,
6 identified by the inspector general under
7 paragraph (1)(B); and

8 (ii) the recommendations, if any, of the
9 inspector general to address any such iden-
10 tified policies, procedures, rules, regulations,
11 or management practices.

12 (C) *COORDINATION.*—The inspectors general
13 who are required to carry out evaluations under
14 paragraph (1) shall coordinate with each other
15 to ensure that evaluations follow a consistent
16 methodology, as appropriate, that allows for
17 cross-agency comparisons.

18 (3) *APPROPRIATE ENTITIES DEFINED.*—In this
19 paragraph, the term “appropriate entities” means—

20 (A) the Committee on Homeland Security
21 and Governmental Affairs and the Select Com-
22 mittee on Intelligence of the Senate;

23 (B) the Committee on Homeland Security,
24 the Committee on Oversight and Government Re-

1 *form, and the Permanent Select Committee on*
2 *Intelligence of the House of Representatives;*

3 *(C) any other committee of Congress with*
4 *jurisdiction over a department or agency referred*
5 *to in paragraph (1);*

6 *(D) the head of a department or agency re-*
7 *ferred to in paragraph (1); and*

8 *(E) the Director of the Information Secu-*
9 *rity Oversight Office.*

10 **SEC. 7. CLASSIFICATION TRAINING PROGRAM.**

11 *(a) INTELLIGENCE COMMUNITY DEFINED.—In this*
12 *section, the term “intelligence community” has the meaning*
13 *given that term in section 3(4) of the National Security*
14 *Act of 1947 (50 U.S.C. 401a(4)).*

15 *(b) REQUIREMENT FOR PROGRAM.—*

16 *(1) IN GENERAL.—The Director of National In-*
17 *telligence, in accordance with Executive Order No.*
18 *12958, as amended by Executive Order No. 13292 (68*
19 *Fed. Reg. 15315; relating to classification of national*
20 *security information) (or any subsequent cor-*
21 *responding executive order), shall require annual*
22 *training for each employee of an element of the intel-*
23 *ligence community and appropriate personnel of each*
24 *contractor to an element of the intelligence commu-*
25 *nity who has original classification authority, per-*

1 *forms derivative classification, or is responsible for*
2 *analysis, dissemination, preparation, production, re-*
3 *ceiving, publishing, or otherwise communicating writ-*
4 *ten classified information that includes training—*

5 *(A) to educate the employee and contractor*
6 *personnel regarding—*

7 *(i) the guidance established under sub-*
8 *paragraph (G)(i) of section 102A(g)(1) of*
9 *the National Security Act of 1947 (50*
10 *U.S.C. 403–1(g)(1)), as added by section*
11 *5(a)(3), regarding the formatting of finished*
12 *intelligence products;*

13 *(ii) the proper use of classification*
14 *markings, including portion markings that*
15 *indicate the classification of portions of in-*
16 *formation within one intelligence product;*
17 *and*

18 *(iii) any incentives and penalties re-*
19 *lated to the proper classification of intel-*
20 *ligence information; and*

21 *(B) that is one of the prerequisites, once*
22 *completed successfully, as evidenced by an appro-*
23 *priate certificate or other record, for—*

1 (i) obtaining original classification au-
2 thority or derivatively classifying informa-
3 tion; and

4 (ii) maintaining such authority.

5 (2) *RELATIONSHIP TO OTHER PROGRAMS.*—The
6 Director of National Intelligence shall ensure that the
7 training required by paragraph (1) is conducted effi-
8 ciently and in conjunction with any other security,
9 intelligence, or other training programs required by
10 elements of the intelligence community to reduce the
11 costs and administrative burdens associated with car-
12 rying out the training required by paragraph (1).

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H. R. 553

[Report No. 111-200]

AN ACT

To require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

MAY 27 (legislative day, MAY 26), 2010

Reported with an amendment