

119TH CONGRESS
1ST SESSION

S. _____

To provide for the creation of the missing Armed Forces and civilian personnel Records Collection at the National Archives, to require the expeditious public transmission to the Archivist and public disclosure of missing Armed Forces and civilian personnel records, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CRAPO (for himself and Mrs. SHAHEEN) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To provide for the creation of the missing Armed Forces and civilian personnel Records Collection at the National Archives, to require the expeditious public transmission to the Archivist and public disclosure of missing Armed Forces and civilian personnel records, 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 “Bring Our Heroes
5 Home Act”.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that all records of the
3 Federal Government relating to missing Armed Forces
4 and civilian personnel should—

5 (1) be preserved for historical and governmental
6 purposes and for public research, including for fami-
7 lies seeking to learn the ultimate fate of their loved
8 ones;

9 (2) carry a presumption of declassification; and

10 (3) be disclosed under this Act to enable the
11 fullest possible accounting for missing Armed Forces
12 and civilian personnel.

13 (b) PURPOSES.—The purposes of this Act are—

14 (1) to provide for the creation of the Missing
15 Armed Forces and Civilian Personnel Records Col-
16 lection at the National Archives; and

17 (2) to require the expeditious public trans-
18 mission to the Archivist and public disclosure of
19 missing Armed Forces and civilian personnel
20 records, subject to narrow exceptions, as set forth in
21 this Act.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

24 (1) ARCHIVIST.—The term “Archivist” means
25 the Archivist of the United States.

1 (2) COLLECTION.—The term “Collection”
2 means the Missing Armed Forces and Civilian Per-
3 sonnel Records Collection established under section
4 4(a).

5 (3) EXECUTIVE AGENCY.—The term “Executive
6 agency”—

7 (A) means an agency, as defined in section
8 552(f) of title 5, United States Code;

9 (B) includes any Executive department,
10 military department, Government corporation,
11 Government controlled corporation, or other es-
12 tablishment in the executive branch of the Fed-
13 eral Government, including the Executive Office
14 of the President, any branch of the Armed
15 Forces, and any independent regulatory agency;
16 and

17 (C) does not include any non-appropriated
18 agency, department, corporation, or establish-
19 ment.

20 (4) EXECUTIVE DIRECTOR.—The term “Execu-
21 tive Director” means the Executive Director of the
22 Review Board.

23 (5) GOVERNMENT OFFICE.—The term “Govern-
24 ment office” means an Executive agency, the Li-
25 brary of Congress, or the National Archives.

1 (6) MISSING ARMED FORCES AND CIVILIAN
2 PERSONNEL.—The term “missing Armed Forces and
3 civilian personnel”—

4 (A) means 1 or more missing persons; and

5 (B) includes an individual who was a miss-
6 ing person and whose status was later changed
7 to “missing and presumed dead”.

8 (7) MISSING ARMED FORCES AND CIVILIAN
9 PERSONNEL RECORD.—The term “missing Armed
10 Forces and civilian personnel record” means a
11 record that relates, directly or indirectly, to the loss,
12 fate, or status of missing Armed Forces and civilian
13 personnel that—

14 (A) was created or made available for use
15 by, obtained by, or otherwise came into the cus-
16 tody, possession, or control of—

17 (i) any Government office;

18 (ii) any Presidential library; or

19 (iii) any of the Armed Forces; and

20 (B) relates to 1 or more missing Armed
21 Forces and civilian personnel who became miss-
22 ing persons during the period—

23 (i) beginning on December 7, 1941;

24 and

1 (ii) ending on the date of enactment
2 of this Act.

3 (8) MISSING PERSON.—The term “missing per-
4 son” means—

5 (A) a person described in paragraph (1) of
6 section 1513 of title 10, United States Code;
7 and

8 (B) any other civilian employee of the Fed-
9 eral Government or an employee of a contractor
10 of the Federal Government who serves in direct
11 support of, or accompanies, the Armed Forces
12 in the field under orders and who is in a miss-
13 ing status (as that term is defined in paragraph
14 (2) of such section 1513).

15 (9) NATIONAL ARCHIVES.—The term “National
16 Archives”—

17 (A) means the National Archives and
18 Records Administration; and

19 (B) includes any component of the Na-
20 tional Archives and Records Administration (in-
21 cluding Presidential archival depositories estab-
22 lished under section 2112 of title 44, United
23 States Code).

24 (10) OFFICIAL INVESTIGATION.—The term “of-
25 ficial investigation” means a review, briefing, in-

1 quiry, or hearing relating to missing Armed Forces
2 and civilian personnel conducted by a Presidential
3 commission, committee of Congress, or agency, re-
4 gardless of whether it is conducted independently, at
5 the request of any Presidential commission or com-
6 mittee of Congress, or at the request of any official
7 of the Federal Government.

8 (11) ORIGINATING BODY.—The term “origi-
9 nating body” means the Government office or other
10 initial source that created a record or particular in-
11 formation within a record.

12 (12) PUBLIC INTEREST.—The term “public in-
13 terest” means the compelling interest in the prompt
14 public disclosure of missing Armed Forces and civil-
15 ian personnel records for historical and govern-
16 mental purposes, for public research, and for the
17 purpose of fully informing the people of the United
18 States, most importantly families of missing Armed
19 Forces and civilian personnel, about the fate of the
20 missing Armed Forces and civilian personnel and the
21 process by which the Federal Government has
22 sought to account for them.

23 (13) RECORD.—The term “record” has the
24 meaning given the term “records” in section 3301 of
25 title 44, United States Code.

1 (14) REVIEW BOARD.—The term “Review
2 Board” means the Missing Armed Forces and Civil-
3 ian Personnel Records Review Board established
4 under section 5.

5 **SEC. 4. MISSING ARMED FORCES AND CIVILIAN PER-**
6 **SONNEL RECORDS COLLECTION AT THE NA-**
7 **TIONAL ARCHIVES.**

8 (a) ESTABLISHMENT OF COLLECTION.—Not later
9 than 90 days after a quorum of the Missing Armed Forces
10 and Civilian Personnel Records Review Board has been
11 established under section 7, the Archivist shall—

12 (1) commence establishment of a collection of
13 records to be known as the “Missing Armed Forces
14 and Civilian Personnel Records Collection”;

15 (2) commence preparing the subject guidebook
16 and index to the Collection; and

17 (3) establish criteria and acceptable formats for
18 Executive agencies to follow when transmitting cop-
19 ies of missing Armed Forces and civilian personnel
20 records to the Archivist, to include required
21 metadata, including applicable information privacy
22 safeguards.

23 (b) REGULATIONS.—Not later than 90 days after the
24 date of the swearing in of the Review Board members,
25 the Review Board shall promulgate rules to establish

1 guidelines and processes for the disclosure of records con-
2 tained in the Collection, including applicable information
3 privacy safeguards.

4 (c) OVERSIGHT.—

5 (1) SENATE.—The Committee on Homeland
6 Security and Governmental Affairs of the Senate
7 shall have continuing jurisdiction, including legisla-
8 tive oversight jurisdiction, in the Senate with respect
9 to the Collection.

10 (2) HOUSE OF REPRESENTATIVES.—The Com-
11 mittee on Oversight and Government Reform of the
12 House of Representatives shall have continuing ju-
13 risdiction, including legislative oversight jurisdiction,
14 in the House of Representatives with respect to the
15 Collection.

16 **SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE**
17 **NATIONAL ARCHIVES, AND PUBLIC DISCLO-**
18 **SURE OF MISSING ARMED FORCES AND CI-**
19 **VILIAN PERSONNEL RECORDS BY GOVERN-**
20 **MENT OFFICES.**

21 (a) IN GENERAL.—

22 (1) PREPARATION.—As soon as practicable
23 after the date of enactment of this Act, and suffi-
24 ciently in advance of the deadlines established under
25 this Act, each Government office shall—

1 (A) identify and locate any missing Armed
2 Forces and civilian personnel records in the
3 custody, possession, or control of the Govern-
4 ment office, including intelligence reports, con-
5 gressional inquiries, memoranda to or from the
6 White House and other Federal departments
7 and agencies, Prisoner of War (POW)
8 debriefings, live sighting reports, documents re-
9 lating to POW camps, movement of POWs, ex-
10 ploitation of POWs, experimentation on POWs,
11 or status changes from Missing in Action
12 (MIA) to Killed in Action (KIA); and

13 (B) prepare for transmission to the Archi-
14 vist in accordance with the criteria and accept-
15 able formats established by the Archivist a copy
16 of any missing Armed Forces and civilian per-
17 sonnel records that have not previously been
18 transmitted to the Archivist by the Government
19 office.

20 (2) CERTIFICATION.—Each Government office
21 shall submit to the Archivist, under penalty of per-
22 jury, a certification indicating—

23 (A) whether the Government office has
24 conducted a thorough search for all missing
25 Armed Forces and civilian personnel records in

1 the custody, possession, or control of the Gov-
2 ernment office; and

3 (B) whether a copy of any missing Armed
4 Forces and civilian personnel record has not
5 been transmitted to the Archivist.

6 (3) PRESERVATION.—No missing Armed Forces
7 and civilian personnel record shall be destroyed, al-
8 tered, or mutilated in any way.

9 (4) EFFECT OF PREVIOUS DISCLOSURE.—Infor-
10 mation that was made available or disclosed to the
11 public before the date of enactment of this Act in a
12 missing Armed Forces and civilian personnel record
13 may not be withheld, redacted, postponed for public
14 disclosure, or reclassified.

15 (5) WITHHELD AND SUBSTANTIALLY RE-
16 DACTED RECORDS.—

17 (A) IN GENERAL.—For any missing Armed
18 Forces and civilian personnel record that is
19 transmitted to the Archivist which a Govern-
20 ment office proposes to substantially redact or
21 withhold in full from public access, the head of
22 the Government office shall submit an unclassi-
23 fied and publicly releasable report to the Archi-
24 vist, the Review Board, and each appropriate
25 committee of the Senate and the House of Rep-

1 representatives justifying the decision of the Gov-
2 ernment office to substantially redact or with-
3 hold the record by demonstrating that the re-
4 lease of information would clearly and demon-
5 strably be expected to cause an articulated
6 harm, and that the harm would be of such
7 gravity as to outweigh the public interest in ac-
8 cess to the information.

9 (B) RULEMAKING.—The Archivist shall
10 promulgate regulations to define the term “sub-
11 stantially redacted record” for purposes of sub-
12 paragraph (A).

13 (b) REVIEW.—

14 (1) IN GENERAL.—Except as provided under
15 paragraph (5), not later than 270 days after a
16 quorum of the Review Board has been established
17 under section 7, each Government office shall, in ac-
18 cordance with the criteria and acceptable formats es-
19 tablished by the Archivist—

20 (A) identify, locate, copy, and review each
21 missing Armed Forces and civilian personnel
22 record in the custody, possession, or control of
23 the Government office for transmission to the
24 Archivist and disclosure to the public or, if
25 needed, review by the Review Board; and

1 (B) cooperate fully, in consultation with
2 the Archivist, in carrying out paragraph (3).

3 (2) REQUIREMENT.—The Review Board shall
4 promulgate rules for the disclosure of relevant
5 records by Government offices under paragraph (1).

6 (3) NATIONAL ARCHIVES RECORDS.—Not later
7 than 270 days after a quorum of the Review Board
8 has been established under section 7, the Archivist
9 shall—

10 (A) locate and identify all missing Armed
11 Forces and civilian personnel records in the
12 custody of the National Archives as of the date
13 of enactment of this Act that remain classified,
14 in whole or in part;

15 (B) notify a Government office if the Ar-
16 chivist locates and identifies a record of the
17 Government office under subparagraph (A); and

18 (C) make each classified missing Armed
19 Forces and civilian personnel record located and
20 identified under subparagraph (A) available for
21 review by Executive agencies through the Na-
22 tional Declassification Center established under
23 Executive Order 13526 (50 U.S.C. 3161 note;
24 relating to classified national security informa-
25 tion), or any successor order.

1 (4) RECORDS ALREADY PUBLIC.—A missing
2 Armed Forces and civilian personnel record that is
3 in the custody of the National Archives on the date
4 of enactment of this Act and that has been publicly
5 available in its entirety without redaction shall be
6 made available in the Collection without any addi-
7 tional review by the Archivist, the Review Board, or
8 any other Government office under this Act.

9 (5) EXEMPTIONS.—

10 (A) DEPARTMENT OF DEFENSE POW/MIA
11 ACCOUNTING AGENCY.—The Defense POW/
12 MIA Accounting Agency is exempt from the re-
13 quirement under this subsection to declassify
14 and transmit to the Archivist documents in its
15 custody or control that pertain to a specific
16 case or cases that the Defense POW/MIA Ac-
17 counting Agency is actively investigating or de-
18 veloping for the purpose of locating,
19 disinterring, or identifying a missing member of
20 the Armed Forces.

21 (B) DEPARTMENT OF DEFENSE MILITARY
22 SERVICE CASUALTY OFFICES AND DEPARTMENT
23 OF STATE SERVICE CASUALTY OFFICES.—The
24 Department of Defense Military Service Cas-
25 ualty Offices and the Department of State

1 Service Casualty Offices are exempt from the
2 requirement to declassify and transmit to the
3 Archivist documents in their custody or control
4 that pertain to individual cases with respect to
5 which the office is lending support and assist-
6 ance to the families of missing individuals.

7 (c) TRANSMISSION TO THE NATIONAL ARCHIVES.—

8 Each Government office shall—

9 (1) not later than 270 days after a quorum of
10 the Review Board has been established under section
11 7, commence transmission to the Archivist of copies
12 of the missing Armed Forces and civilian personnel
13 records in the custody, possession, or control of the
14 Government office, except for records described in
15 subsection (a)(5); and

16 (2) not later than 1 year after a quorum of the
17 Review Board has been established under section 7,
18 complete transmission to the Archivist of copies of
19 all missing Armed Forces and civilian personnel
20 records in the possession or control of the Govern-
21 ment office.

22 (d) PERIODIC REVIEW OF POSTPONED MISSING
23 ARMED FORCES AND CIVILIAN PERSONNEL RECORDS.—

24 (1) IN GENERAL.—All missing Armed Forces
25 and civilian personnel records, or information within

1 a missing Armed Forces and civilian personnel
2 record, the public disclosure of which has been post-
3 poned under the standards under this Act shall be
4 reviewed by the originating body—

5 (A)(i) periodically, but not less than every
6 5 years, after the date on which the Review
7 Board terminates under section 7(p); and

8 (ii) at the direction of the Archivist; and

9 (B) consistent with the recommendations
10 of the Review Board under section 9(b)(3)(B).

11 (2) CONTENTS.—

12 (A) IN GENERAL.—A periodic review of a
13 missing Armed Forces and civilian personnel
14 record, or information within a missing Armed
15 Forces and civilian personnel record, by the
16 originating body shall address the public disclo-
17 sure of the missing Armed Forces and civilian
18 personnel record under the standards under
19 this Act.

20 (B) CONTINUED POSTPONEMENT.—If an
21 originating body conducting a periodic review of
22 a missing Armed Forces and civilian personnel
23 record, or information within a missing Armed
24 Forces and civilian personnel record, the public
25 disclosure of which has been postponed under

1 the standards under this Act, determines that
2 continued postponement is required, the origi-
3 nating body shall provide to the Archivist an
4 unclassified written description of the reason
5 for the continued postponement that the Archi-
6 vist shall highlight and make accessible on a
7 publicly accessible website administered by the
8 National Archives.

9 (C) SCOPE.—The periodic review of post-
10 poned missing Armed Forces and civilian per-
11 sonnel records, or information within a missing
12 Armed Forces and civilian personnel record,
13 shall serve the purpose stated in section
14 2(b)(2), to provide expeditious public disclosure
15 of missing Armed Forces and civilian personnel
16 records, to the fullest extent possible, subject
17 only to the grounds for postponement of disclo-
18 sure under section 6.

19 (D) DISCLOSURE ABSENT CERTIFICATION
20 BY PRESIDENT.—Not later than 10 years after
21 the date on which a quorum of the Review
22 Board has been established under section 7, all
23 missing Armed Forces and civilian personnel
24 records, and information within a missing
25 Armed Forces and civilian personnel record,

1 shall be publicly disclosed in full, and available
2 in the Collection, unless—

3 (i) the head of the originating body,
4 Executive agency, or other Government of-
5 fice recommends in writing that continued
6 postponement is necessary;

7 (ii) the written recommendation de-
8 scribed in clause (i)—

9 (I) is provided to the Archivist in
10 unclassified and publicly releasable
11 form not later than 180 days before
12 the date that is 10 years the date on
13 which a quorum of the Review Board
14 has been established under section 7;
15 and

16 (II) includes—

17 (aa) a justification of the
18 recommendation to postpone dis-
19 closure with clear and convincing
20 evidence that the identifiable
21 harm is of such gravity that it
22 outweighs the public interest in
23 disclosure; and

24 (bb) a recommended speci-
25 fied time at which or a specified

1 occurrence following which the
2 material may be appropriately
3 disclosed to the public under this
4 Act;

5 (iii) the Archivist transmits all rec-
6 ommended postponements and the rec-
7 ommendation of the Archivist to the Presi-
8 dent not later than 90 days before the date
9 that is 10 years after the date on which a
10 quorum of the Review Board has been es-
11 tablished under section 7; and

12 (iv) the President transmits to the Ar-
13 chivist a certification indicating that con-
14 tinued postponement is necessary and the
15 identifiable harm, as demonstrated by clear
16 and convincing evidence, is of such gravity
17 that it outweighs the public interest in dis-
18 closure not later than the date that is 10
19 years after the date on which a quorum of
20 the Review Board has been established
21 under section 7.

22 (e) RECORDS MANAGEMENT.—In carrying out this
23 section, the Archivist shall comply with any applicable
24 statutory or regulatory requirement related to records
25 management.

1 **SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLO-**
2 **SURE OF RECORDS.**

3 (a) IN GENERAL.—Disclosure to the public of a miss-
4 ing Armed Forces and civilian personnel record or par-
5 ticular information in a missing Armed Forces and civilian
6 personnel record created after the date that is 25 years
7 before the date of the review of the missing Armed Forces
8 and civilian personnel record by the Archivist may be post-
9 poned subject to the limitations under this Act only—

10 (1) if—

11 (A) it pertains to—

12 (i) military plans, weapons systems, or
13 operations;

14 (ii) foreign government information;

15 (iii) intelligence activities (including
16 covert action), intelligence sources or meth-
17 ods, or cryptology;

18 (iv) foreign relations or foreign activi-
19 ties of the United States, including con-
20 fidential sources;

21 (v) scientific, technological, or eco-
22 nomic matters relating to the national se-
23 curity;

24 (vi) United States Government pro-
25 grams for safeguarding nuclear materials
26 or facilities;

1 (vii) vulnerabilities or capabilities of
2 systems, installations, infrastructures,
3 projects, plans, or protection services relat-
4 ing to the national security; or

5 (viii) the development, production, or
6 use of weapons of mass destruction; and

7 (B) the threat posed by the public disclo-
8 sure of the missing Armed Forces and civilian
9 personnel record or information is of such grav-
10 ity that it outweighs the public interest in dis-
11 closure;

12 (2) if the information is protected from disclo-
13 sure under section 552(b) of title 5, United States
14 Code (commonly known as the “Freedom of Infor-
15 mation Act”); or

16 (3) if it reveals information described in para-
17 graphs (1) through (9) of section 3.3(b) of Executive
18 Order 13526 (50 U.S.C. 3161 note; relating to clas-
19 sified national security information).

20 (b) OLDER RECORDS.—Disclosure to the public of a
21 missing Armed Forces and civilian personnel record or
22 particular information in a missing Armed Forces and ci-
23 vilian personnel record created on or before the date that
24 is 25 years before the date of the review of the missing
25 Armed Forces and civilian personnel record by the Archi-

1 vist may be postponed subject to the limitations under this
2 Act only if, as demonstrated by clear and convincing evi-
3 dence—

4 (1) the release of the information would be ex-
5 pected to—

6 (A) reveal the identity of a confidential
7 human source, a human intelligence source, a
8 relationship with an intelligence or security
9 service of a foreign government or international
10 organization, or a nonhuman intelligence
11 source, or impair the effectiveness of an intel-
12 ligence method currently in use, available for
13 use, or under development;

14 (B) reveal information that would impair
15 United States cryptologic systems or activities;

16 (C) reveal formally named or numbered
17 United States military war plans that remain in
18 effect, or reveal operational or tactical elements
19 of prior plans that are contained in such active
20 plans; or

21 (D) reveal information, including foreign
22 government information, that would cause seri-
23 ous harm to relations between the United
24 States and a foreign government, or to ongoing
25 diplomatic activities of the United States; and

1 (2) the threat posed by the public disclosure of
2 the missing Armed Forces and civilian personnel
3 record or information is of such gravity that it out-
4 weighs the public interest in disclosure.

5 (c) EXCEPTION.—Regardless of the date on which a
6 missing Armed Forces and civilian personnel record was
7 created, disclosure to the public of information in the
8 missing Armed Forces and civilian personnel record may
9 be postponed if—

10 (1) the public disclosure of the information
11 would reveal the name or identity of a living person
12 who provided confidential information to the United
13 States and would pose a substantial risk of harm to
14 that person, in accordance with section 552(b)(7)(D)
15 of title 5, United States Code.

16 (2) the public disclosure of the information
17 could reasonably be expected to constitute an unwar-
18 ranted invasion of personal privacy, and that inva-
19 sion of privacy is so substantial that it outweighs the
20 public interest;

21 (3) the public disclosure of the information
22 could reasonably be expected to cause harm to the
23 methods currently in use or available for use by
24 members of the Armed Forces to survive, evade, re-
25 sist, or escape; or

1 (4) the public disclosure of such information
2 would conflict with United States law, regulations,
3 or executive orders, including any law, regulation, or
4 executive order governing the disclosure of classified
5 information.

6 **SEC. 7. ESTABLISHMENT AND POWERS OF THE MISSING**
7 **ARMED FORCES AND CIVILIAN PERSONNEL**
8 **RECORDS REVIEW BOARD.**

9 (a) ESTABLISHMENT.—There is established as an
10 independent establishment in the executive branch a board
11 to be known as the “Missing Armed Forces and Civilian
12 Personnel Records Review Board” to ensure and facilitate
13 the review, transmission to the Archivist, and public dis-
14 closure of missing Armed Forces and civilian personnel
15 records.

16 (b) MEMBERSHIP.—

17 (1) APPOINTMENTS.—The Review Board shall
18 be composed of 5 members appointed by the Presi-
19 dent, subject to the advice and consent of the Sen-
20 ate, of whom—

21 (A) 1 shall be appointed in consultation
22 with the Archivist of the United States and
23 shall serve as the Chairperson of the Review
24 Board;

1 (B) 1 shall be appointed in consultation
2 with the majority leader of the Senate;

3 (C) 1 shall be appointed in consultation
4 with the minority leader of the Senate;

5 (D) 1 shall be appointed in consultation
6 with the Speaker of the House of Representa-
7 tives; and

8 (E) 1 shall be appointed in consultation
9 with the minority leader of the House of Rep-
10 resentatives.

11 (2) QUALIFICATIONS.—The members of the Re-
12 view Board shall—

13 (A) be appointed without regard to polit-
14 ical affiliation;

15 (B) be citizens of the United States of in-
16 tegrity and impartiality;

17 (C) not be employees of an Executive agen-
18 cy on the date of the appointment;

19 (D) have high national professional reputa-
20 tion in their fields and be capable of exercising
21 the independent and objective judgment nec-
22 essary to the fulfillment of their role in ensur-
23 ing and facilitating the identification, location,
24 review, transmission to the Archivist, and public

1 disclosure of missing Armed Forces and civilian
2 personnel records;

3 (E) possess an appreciation of the value of
4 missing Armed Forces and civilian personnel
5 records to scholars, the Federal Government,
6 and the public, particularly families of missing
7 Armed Forces and civilian personnel;

8 (F) include at least 1 professional histo-
9 rian; and

10 (G) include at least 1 attorney.

11 (3) CONSULTATION WITH THE OFFICE OF GOV-
12 ERNMENT ETHICS.—In considering persons to be ap-
13 pointed to the Review Board, the President shall
14 consult with the Director of the Office of Govern-
15 ment Ethics to—

16 (A) determine criteria for possible conflicts
17 of interest of members of the Review Board,
18 consistent with ethics laws, statutes, and regu-
19 lations for executive branch employees; and

20 (B) ensure that no individual selected for
21 such position of member of the Review Board
22 possesses a conflict of interest as so deter-
23 mined.

24 (4) CONSULTATION.—Appointments to the Re-
25 view Board shall be made after considering individ-

1 uals recommended by the American Historical Asso-
2 ciation, the Organization of American Historians,
3 the Society of American Archivists, the American
4 Bar Association, veterans' organizations, and organi-
5 zations representing families of missing Armed
6 Forces and civilian personnel.

7 (c) SECURITY CLEARANCES.—

8 (1) IN GENERAL.—Each member of the Review
9 Board shall seek appropriate security clearances nec-
10 essary to carry out the duties of the Review Board.

11 (2) REVIEW.—The appropriate departments,
12 agencies, and elements of the executive branch of the
13 Federal Government shall cooperate to ensure that
14 an application by an individual nominated to be a
15 member of the Review Board seeking a security
16 clearance under paragraph (1) is expeditiously re-
17 viewed and granted or denied.

18 (d) CONSIDERATION BY THE SENATE.—Nominations
19 for appointment under subsection (b)(1)(A) shall be re-
20 ferred to the Committee on Homeland Security and Gov-
21 ernmental Affairs of the Senate for consideration.

22 (e) VACANCY.—Not later than 60 days after the date
23 on which a vacancy on the Review Board occurs, the va-
24 cancy shall be filled in the same manner as specified for
25 original appointment.

1 (f) CHAIRPERSON NEEDED FOR QUORUM.—A major-
2 ity of the members of the Review Board, including the
3 Chairperson appointed and confirmed pursuant to sub-
4 section (b)(1)(A), shall constitute a quorum.

5 (g) REMOVAL OF REVIEW BOARD MEMBER.—

6 (1) IN GENERAL.—A member of the Review
7 Board shall not be removed from office, other
8 than—

9 (A) by impeachment by Congress; or

10 (B) by the action of the President for inef-
11 ficiency, neglect of duty, malfeasance in office,
12 physical disability, mental incapacity, or any
13 other condition that substantially impairs the
14 performance of the member's duties.

15 (2) JUDICIAL REVIEW.—

16 (A) IN GENERAL.—A member of the Re-
17 view Board removed from office may obtain ju-
18 dicial review of the removal in a civil action
19 commenced in the United States District Court
20 for the District of Columbia.

21 (B) RELIEF.—The member may be rein-
22 stated or granted other appropriate relief by
23 order of the court.

24 (3) NOTICE OF REMOVAL.—If a member of the
25 Review Board is removed from office, and that re-

1 removal is by the President, not later than 10 days
2 after the removal, the President shall submit to the
3 leadership of Congress, the Committee on Homeland
4 Security and Governmental Affairs of the Senate
5 and the Committee on Oversight and Reform of the
6 House of Representatives a report specifying the
7 facts found and the grounds for the removal.

8 (h) COMPENSATION OF MEMBERS.—

9 (1) BASIC PAY.—A member of the Review
10 Board shall be treated as an employee of the execu-
11 tive branch and compensated at a rate equal to the
12 daily equivalent of the annual rate of basic pay pre-
13 scribed for level IV of the Executive Schedule under
14 section 5315 of title 5, United States Code, for each
15 day, including travel time, during which the member
16 is engaged in the performance of the duties of the
17 Review Board.

18 (2) TRAVEL EXPENSES.—A member of the Re-
19 view Board shall be allowed reasonable travel ex-
20 penses, including per diem in lieu of subsistence, at
21 rates for employees of agencies under subchapter I
22 of chapter 57 of title 5, United States Code, while
23 away from the member's home or regular place of
24 business in the performance of services for the Re-
25 view Board.

1 (i) DUTIES OF THE REVIEW BOARD.—

2 (1) IN GENERAL.—The Review Board shall con-
3 sider and render a decision on a determination by a
4 Government office to seek to postpone the disclosure
5 of a missing Armed Forces and civilian personnel
6 record, in whole or in part.

7 (2) RECORDS.—In carrying out paragraph (1),
8 the Review Board shall consider and render a deci-
9 sion regarding—

10 (A) whether a record constitutes a missing
11 Armed Forces and civilian personnel record;
12 and

13 (B) whether a missing Armed Forces and
14 civilian personnel record, or particular informa-
15 tion in a missing Armed Forces and civilian
16 personnel record, qualifies for postponement of
17 disclosure under this Act.

18 (j) POWERS.—

19 (1) IN GENERAL.—The Review Board shall
20 have the authority to act in a manner prescribed
21 under this Act, including the authority to—

22 (A) direct Government offices to transmit
23 to the Archivist missing Armed Forces and ci-
24 vilian personnel records as required under this
25 Act;

1 (B) direct Government offices to transmit
2 to the Archivist substitutes and summaries of
3 missing Armed Forces and civilian personnel
4 records that can be publicly disclosed to the
5 fullest extent for any missing Armed Forces
6 and civilian personnel record that is proposed
7 for postponement in full or that is substantially
8 redacted;

9 (C) obtain access to missing Armed Forces
10 and civilian personnel records that have been
11 identified by a Government office;

12 (D) direct a Government office to make
13 available to the Review Board, and if necessary
14 investigate the facts surrounding, additional in-
15 formation, records, or testimony from individ-
16 uals, which the Review Board has reason to be-
17 lieve is required to fulfill the functions and re-
18 sponsibilities of the Review Board under this
19 Act;

20 (E) hold such hearings, sit and act at such
21 times and places, take such testimony, receive
22 such evidence, administer such oaths, and sub-
23 poena documents as the Review Board con-
24 siders advisable to carry out the responsibilities
25 of the Review Board under this Act;

1 (F) subpoena private persons to compel the
2 production of documents and other records rel-
3 evant to the responsibilities of the Review
4 Board under this Act;

5 (G) require any Government office to ac-
6 count in writing for the destruction of any
7 records relating to the loss, fate, or status of
8 missing Armed Forces and civilian personnel;

9 (H) receive information from the public re-
10 garding the identification and public disclosure
11 of missing Armed Forces and civilian personnel
12 records; and

13 (I) make a final determination regarding
14 whether a missing Armed Forces and civilian
15 personnel record will be disclosed to the public
16 or disclosure of the missing Armed Forces and
17 civilian personnel record to the public will be
18 postponed, notwithstanding the determination
19 of an Executive agency.

20 (2) ENFORCEMENT OF SUBPOENAS.—Any sub-
21 poena issued under the Review Board under this
22 subsection may be enforced by any appropriate Fed-
23 eral court acting pursuant to a lawful request of the
24 Review Board.

1 (k) PRESIDENTIAL AUTHORITY OVER REVIEW
2 BOARD DETERMINATION.—

3 (1) PUBLIC DISCLOSURE OR POSTPONEMENT
4 OF DISCLOSURE.—After the Review Board has made
5 a formal determination concerning the public disclo-
6 sure or postponement of disclosure of an missing
7 Armed Forces and civilian personnel record or infor-
8 mation contained in a missing Armed Forces and ci-
9 vilian personnel record, obtained or developed solely
10 within the executive branch, the President—

11 (A) shall have the sole and nondelegable
12 authority to require the disclosure or postpone-
13 ment of such record or information under the
14 standards set forth in sections 5 and 6; and

15 (B) shall provide the Review Board with
16 an unclassified written certification specifying
17 the President's decision within 30 days after
18 the Review Board's determination and notice to
19 the executive agency as required under this Act,
20 stating the justification for the President's deci-
21 sion, including the applicable grounds for post-
22 ponement under section 6.

23 (2) PERIODIC REVIEW.—Any missing Armed
24 Forces and civilian personnel record for which public
25 disclosure is postponed by the President shall be

1 subject to the requirements of periodic review and
2 declassification of classified information and public
3 disclosure in the Collection set forth in section 5.

4 (3) RECORD OF PRESIDENTIAL POSTPONE-
5 MENT.—The Review Board shall, upon its receipt,
6 publish in the Federal Register a copy of any unclas-
7 sified written certification, statement, or other mate-
8 rials transmitted by or on behalf of the President
9 with regard to postponement of the public disclosure
10 of missing Armed Forces and civilian personnel
11 records under section 6.

12 (l) WITNESS IMMUNITY.—The Review Board shall be
13 considered to be an agency of the United States for pur-
14 poses of section 6001 of title 18, United States Code.

15 (m) OVERSIGHT.—

16 (1) IN GENERAL.—The Committee on Home-
17 land Security and Governmental Affairs of the Sen-
18 ate and the Committee on Oversight and Govern-
19 ment Reform of the House of Representatives
20 shall—

21 (A) have continuing legislative oversight
22 jurisdiction with respect to the official conduct
23 of the Review Board and the disposition of
24 postponed records after termination of the Re-
25 view Board; and

1 (B) not later than 10 days after submit-
2 ting a request, be provided access to any
3 records held or created by the Review Board.

4 (2) DUTY OF REVIEW BOARD.—The Review
5 Board shall have the duty to cooperate with the ex-
6 ercise of oversight jurisdiction under paragraph (1).

7 (3) SECURITY CLEARANCES.—The Chair and
8 Ranking Members of the Committee on Homeland
9 Security and Governmental Affairs of the Senate
10 and the Committee on Oversight and Government
11 Reform of the House of Representatives, and des-
12 ignated Committee staff, shall be granted all secu-
13 rity clearances and accesses held by the Review
14 Board, including to relevant Presidential and depart-
15 ment or agency special access and compartmented
16 access programs.

17 (n) SUPPORT SERVICES.—The Administrator of Gen-
18 eral Services shall provide administrative services for the
19 Review Board on a reimbursable basis.

20 (o) INTERPRETIVE REGULATIONS.—The Review
21 Board may issue interpretive regulations if the Review
22 Board finds such regulation to be necessary and appro-
23 priate.

24 (p) TERMINATION AND WINDING UP.—

1 (1) IN GENERAL.—On the date that is 2 years
2 after the date of enactment of this Act, the Review
3 Board shall, by majority vote, determine whether all
4 Government offices have complied with the obliga-
5 tions, mandates, and directives under this Act.

6 (2) TERMINATION DATE.—The Review Board
7 shall terminate on the date that is 4 years after the
8 date on which members of the Review Board are
9 sworn in to the Review Board.

10 (3) REPORT.—Before the termination of the
11 Review Board under paragraph (2), the Review
12 Board shall submit to Congress reports, including a
13 complete and accurate accounting of expenditures
14 during its existence, and shall complete all other re-
15 porting requirements under this Act.

16 (4) RECORDS.—Upon termination of the Re-
17 view Board, the Review Board shall transfer all
18 records of the Review Board to the Archivist for in-
19 clusion in the Collection, and no record of the Re-
20 view Board shall be destroyed.

21 **SEC. 8. MISSING ARMED FORCES AND CIVILIAN PER-**
22 **SONNEL RECORDS REVIEW BOARD PER-**
23 **SONNEL.**

24 (a) EXECUTIVE DIRECTOR.—

1 (1) IN GENERAL.—Not later than 45 days after
2 the initial meeting of the Review Board, the Review
3 Board shall appoint an individual to the position of
4 Executive Director.

5 (2) QUALIFICATIONS.—The individual ap-
6 pointed as Executive Director—

7 (A) shall be a citizen of the United States
8 of integrity and impartiality;

9 (B) shall be appointed without regard to
10 political affiliation; and

11 (C) shall not have any conflict of interest
12 with the mission of the Review Board.

13 (3) CONSULTATION WITH THE OFFICE OF GOV-
14 ERNMENT ETHICS.—In their consideration of the
15 person to be appointed to the position of Executive
16 Director, the Review Board shall consult with the
17 Director of the Office of Government Ethics to—

18 (A) determine criteria for possible conflicts
19 of interest of the Executive Director, consistent
20 with ethics laws, statutes, and regulations for
21 executive branch employees; and

22 (B) ensure that no individual selected for
23 such position of Executive Director possesses a
24 conflict of interest as so determined.

25 (4) SECURITY CLEARANCE.—

1 (A) IN GENERAL.—The individual ap-
2 pointed as Executive Director shall have the se-
3 curity clearance necessary to carry out the du-
4 ties of the position at the time of appointment.

5 (B) EXPEDITED PROVISION.—The appro-
6 priate departments, agencies, and elements of
7 the executive branch of the Federal Government
8 shall cooperate to ensure that an application by
9 an individual nominated to be Executive Direc-
10 tor, seeking security clearances necessary to
11 carry out the duties of the Executive Director,
12 is expeditiously reviewed and granted or denied.

13 (5) DUTIES.—The Executive Director shall—

14 (A) serve as principal liaison to Govern-
15 ment offices;

16 (B) be responsible for the administration
17 and coordination of the review of records by the
18 Review Board;

19 (C) be responsible for the administration
20 of all official activities conducted by the Review
21 Board; and

22 (D) not have the authority to decide or de-
23 termine whether any record should be disclosed
24 to the public or postponed for disclosure.

1 (6) REMOVAL.—The Executive Director may be
2 removed by a majority vote of the Review Board.

3 (b) STAFF.—

4 (1) IN GENERAL.—The Review Board may, in
5 accordance with the civil service laws, but without
6 regard to civil service law and regulation for com-
7 petitive service as defined in subchapter I of chapter
8 33 of title 5, United States Code, appoint and termi-
9 nate additional employees as are necessary to enable
10 the Review Board and the Executive Director to per-
11 form their duties under this Act.

12 (2) TREATMENT AS EMPLOYEES OF EXECUTIVE
13 BRANCH.—The Executive Director and other em-
14 ployees of the Review Board shall be treated as em-
15 ployees of the executive branch.

16 (3) QUALIFICATIONS.—An individual appointed
17 to a position as an employee of the Review Board—

18 (A) shall be a citizen of the United States
19 of integrity and impartiality; and

20 (B) shall not have had any previous in-
21 volvement with any official investigation or in-
22 quiry relating to the loss, fate, or status of
23 missing Armed Forces and civilian personnel.

24 (4) CONSULTATION WITH THE OFFICE OF GOV-
25 ERNMENT ETHICS.—In their consideration of per-

1 sons to be appointed as staff of the Review Board,
2 the Review Board shall consult with the Director of
3 the Office of Government Ethics to—

4 (A) determine criteria for possible conflicts
5 of interest of staff of the Review Board, con-
6 sistent with ethics laws, statutes, and regula-
7 tions for executive branch employees; and

8 (B) ensure that no individual selected for
9 such position of staff of the Review Board pos-
10 sesses a conflict of interest as so determined.

11 (5) SECURITY CLEARANCE.—

12 (A) IN GENERAL.—An individual ap-
13 pointed as an employee of the Review Board
14 shall have the security clearance necessary to
15 carry out the duties of the position at the time
16 of appointment.

17 (B) EXPEDITED PROVISION.—The appro-
18 priate departments, agencies, and elements of
19 the executive branch of the Federal Government
20 shall cooperate to ensure that an application by
21 an individual who is a candidate for a position
22 with the Review Board, seeking security clear-
23 ances necessary to carry out the duties of the
24 position, is expeditiously reviewed and granted
25 or denied.

1 (c) COMPENSATION.—The Review Board shall fix the
2 compensation of the Executive Director and other employ-
3 ees of the Review Board described in subsection (b) with-
4 out regard to chapter 51 and subchapter III of chapter
5 53 of title 5, United States Code, relating to classification
6 of positions and General Schedule pay rates, except that
7 the rate of pay for the Executive Director and other em-
8 ployees may not exceed the rate payable for level V of the
9 Executive Schedule under section 5316 of title 5, United
10 States Code.

11 (d) ADVISORY COMMITTEES.—

12 (1) IN GENERAL.—The Review Board may cre-
13 ate 1 or more advisory committees to assist in ful-
14 filling the responsibilities of the Review Board under
15 this Act.

16 (2) APPLICABILITY OF FACA.—Any advisory
17 committee created by the Review Board shall be sub-
18 ject to chapter 10 of title 5, United States Code.

19 **SEC. 9. REVIEW OF RECORDS BY THE MISSING ARMED**
20 **FORCES AND CIVILIAN PERSONNEL RECORDS**
21 **REVIEW BOARD.**

22 (a) STARTUP REQUIREMENTS.—The Review Board
23 shall—

24 (1) not later than 90 days after the date on
25 which all members are sworn in, publish an initial

1 schedule for review of all missing Armed Forces and
2 civilian personnel records, which the Archivist shall
3 highlight and make available on a publicly accessible
4 website administered by the National Archives; and

5 (2) not later than 180 days after the swearing
6 in of the Review Board members, begin reviewing
7 missing Armed Forces and civilian personnel
8 records, as necessary, under this Act.

9 (b) DETERMINATION OF THE REVIEW BOARD.—

10 (1) IN GENERAL.—The Review Board shall di-
11 rect that all records that relate, directly or indi-
12 rectly, to the loss, fate, or status of missing Armed
13 Forces and civilian personnel be transmitted to the
14 Archivist and disclosed to the public in the Collec-
15 tion in the absence of clear and convincing evidence
16 that the record is not a missing Armed Forces and
17 civilian personnel record.

18 (2) POSTPONEMENT.—In approving postpone-
19 ment of public disclosure of a missing Armed Forces
20 and civilian personnel record, or information within
21 a missing Armed Forces and civilian personnel
22 record, the Review Board shall seek to carry out the
23 following:

1 (A) Provide for the disclosure of segregable
2 parts, substitutes, or summaries of the missing
3 Armed Forces and civilian personnel record.

4 (B) Determine, in consultation with the
5 originating body and consistent with the stand-
6 ards for postponement under this Act, which of
7 the following alternative forms of disclosure
8 shall be made by the originating body:

9 (i) Any reasonably segregable par-
10 ticular information in a missing Armed
11 Forces and civilian personnel record.

12 (ii) A substitute record for that infor-
13 mation which is postponed.

14 (iii) A summary of a missing Armed
15 Forces and civilian personnel record.

16 (3) REPORTING.—With respect to a missing
17 Armed Forces and civilian personnel record, or in-
18 formation within a missing Armed Forces and civil-
19 ian personnel record, the public disclosure of which
20 is postponed under this Act, or for which only sub-
21 stitutions or summaries have been disclosed to the
22 public, the Review Board shall create and transmit
23 to the Archivist, the Committee on Homeland Secu-
24 rity and Governmental Affairs of the Senate, and
25 the Committee on Oversight and Government Re-

1 form of the House of Representatives an unclassified
2 and publicly releasable report containing—

3 (A) a description of actions by the Review
4 Board, the originating body, or any Government
5 office (including a justification of any such ac-
6 tion to postpone disclosure of any record or
7 part of any record) and of any official pro-
8 ceedings conducted by the Review Board; and

9 (B) a statement, based on a review of the
10 proceedings and in conformity with the deci-
11 sions reflected therein, designating a rec-
12 ommended specified time at which, or a speci-
13 fied occurrence following which, the material
14 may be appropriately disclosed to the public
15 under this Act, which the Review Board shall
16 disclose to the public with notice thereof, rea-
17 sonably calculated to make interested members
18 of the public aware of the existence of the state-
19 ment.

20 (4) ACTIONS AFTER DETERMINATION.—

21 (A) IN GENERAL.—Not later than 30 days
22 after the date of a determination by the Review
23 Board that a missing Armed Forces and civilian
24 personnel record shall be publicly disclosed in
25 the Collection or postponed for disclosure, the

1 Review Board shall notify the head of the origi-
2 nating body of the determination and highlight
3 and make available the determination on a pub-
4 licly accessible website reasonably calculated to
5 make interested members of the public aware of
6 the existence of the determination.

7 (B) OVERSIGHT NOTICE.—Simultaneous
8 with notice under subparagraph (A), the Review
9 Board shall provide notice of a determination
10 concerning the public disclosure or postpone-
11 ment of disclosure of a missing Armed Forces
12 and civilian personnel record, or information
13 contained within a missing Armed Forces and
14 civilian personnel record, which shall include a
15 written unclassified justification for public dis-
16 closure or postponement of disclosure, including
17 an explanation of the application of any stand-
18 ards in section 6 to the President, to the Com-
19 mittee on Homeland Security and Govern-
20 mental Affairs of the Senate, and the Com-
21 mittee on Oversight and Government Reform of
22 the House of Representatives.

23 (5) REFERRAL AFTER TERMINATION.—A miss-
24 ing Armed Forces and civilian personnel record that
25 is identified, located, or otherwise discovered after

1 the date on which the Review Board terminates shall
2 be transmitted to the Archivist for the Collection
3 and referred to the Committee on Armed Services of
4 the Senate and the Committee on Armed Services of
5 the House of Representatives for review, ongoing
6 oversight and, as warranted, referral for possible en-
7 forcement action relating to a violation of this Act
8 and determination as to whether declassification of
9 the missing Armed Forces and civilian personnel is
10 warranted under this Act.

11 (c) NOTICE TO PUBLIC.—Every 30 days, beginning
12 on the date that is 60 days after the date on which the
13 Review Board first approves the postponement of disclo-
14 sure of a missing Armed Forces and civilian personnel
15 record, the Review Board shall highlight and make acces-
16 sible on a publicly available website reasonably calculated
17 to make interested members of the public aware of the
18 existence of the postponement a notice that summarizes
19 the postponements approved by the Review Board, includ-
20 ing a description of the subject, originating body, length
21 or other physical description, and each ground for post-
22 ponement that is relied upon.

23 (d) REPORTS BY THE REVIEW BOARD.—

24 (1) IN GENERAL.—Not later than 1 year after
25 the date of enactment of this Act, and every year

1 thereafter until the Review Board terminates, the
2 Review Board shall submit a report regarding the
3 activities of the Review Board to—

4 (A) the Committee on Homeland Security
5 and Governmental Affairs of the Senate;

6 (B) the Committee on Oversight and Gov-
7 ernment Reform of the House of Representa-
8 tives;

9 (C) the President;

10 (D) the Archivist; and

11 (E) the head of any Government office the
12 records of which have been the subject of Re-
13 view Board activity.

14 (2) CONTENTS.—Each report under paragraph
15 (1) shall include the following information:

16 (A) A financial report of the expenses for
17 all official activities and requirements of the
18 Review Board and its employees.

19 (B) The progress made on review, trans-
20 mission to the Archivist, and public disclosure
21 of missing Armed Forces and civilian personnel
22 records.

23 (C) The estimated time and volume of
24 missing Armed Forces and civilian personnel

1 records involved in the completion of the duties
2 of the Review Board under this Act.

3 (D) Any special problems, including re-
4 quests and the level of cooperation of Govern-
5 ment offices, with regard to the ability of the
6 Review Board to carry out its duties under this
7 Act.

8 (E) A record of review activities, including
9 a record of postponement decisions by the Re-
10 view Board or other related actions authorized
11 under this Act, and a record of the volume of
12 records reviewed and postponed.

13 (F) Suggestions and requests to Congress
14 for additional legislative authority needs.

15 (G) An appendix containing copies of re-
16 ports relating to postponed records submitted to
17 the Archivist under subsection (b)(3) since the
18 end of the period covered by the most recent re-
19 port under paragraph (1).

20 (3) COPIES AND BRIEFS.—Coincident with the
21 reporting requirements in paragraph (2), or more
22 frequently as warranted by new information, the Re-
23 view Board shall provide copies to, and fully brief,
24 at a minimum, the President, the Archivist, leader-
25 ship of Congress, the Chair and Ranking Members

1 of the Committee on Homeland Security and Gov-
2 ernmental Affairs of the Senate and the Committee
3 on Oversight and Government Reform of the House
4 of Representatives, and the Chairs, Ranking Mem-
5 bers, Vice Chairs, as the case may be, of such other
6 committees as leadership of Congress determines ap-
7 propriate on—

8 (A) recommendations for periodic review,
9 downgrading, and declassification, as well as
10 the exact time or specified occurrence following
11 which specific missing Armed Forces and civil-
12 ian material may be appropriately disclosed;

13 (B) the rationale behind each postpone-
14 ment determination and the recommended
15 means to achieve disclosure of each postponed
16 item;

17 (C) any other findings that the Review
18 Board chooses to offer; and

19 (D) an addendum containing copies of re-
20 ports of postponed records to the Archivist re-
21 quired under subsection (b)(3) made since the
22 date of the preceding report under this sub-
23 section.

24 (4) TERMINATION NOTICE.—Not later than 90
25 days before the Review Board expects to complete

1 the work of the Review Board under this Act, the
2 Review Board shall provide written notice to Con-
3 gress of the intent of the Review Board to terminate
4 operations at a specified date.

5 **SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDI-**
6 **TIONAL STUDY.**

7 (a) MATERIALS UNDER SEAL OF COURT.—

8 (1) IN GENERAL.—The Review Board may re-
9 quest the Attorney General to petition any court of
10 the United States or of a foreign country to release
11 any information relevant to the loss, fate, or status
12 of missing Armed Forces and civilian personnel that
13 is held under seal of the court.

14 (2) GRAND JURY INFORMATION.—

15 (A) IN GENERAL.—The Review Board may
16 request the Attorney General to petition any
17 court of the United States to release any infor-
18 mation relevant to loss, fate, or status of miss-
19 ing Armed Forces and civilian personnel that is
20 held under the injunction of secrecy of a grand
21 jury.

22 (B) TREATMENT.—A request for disclo-
23 sure of missing Armed Forces and civilian per-
24 sonnel materials under this Act shall be deemed
25 to constitute a showing of particularized need

1 under rule 6 of the Federal Rules of Criminal
2 Procedure.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) the Attorney General should assist the Re-
6 view Board in good faith to unseal any records that
7 the Review Board determines to be relevant and held
8 under seal by a court or under the injunction of se-
9 crecy of a grand jury;

10 (2) the Secretary of State should—

11 (A) contact the Governments of the Rus-
12 sian Federation, the People's Republic of
13 China, and the Democratic People's Republic of
14 Korea to seek the disclosure of all records in
15 their respective custody, possession, or control
16 relevant to the loss, fate, or status of missing
17 Armed Forces and civilian personnel; and

18 (B) contact any other foreign government
19 that may hold information relevant to the loss,
20 fate, or status of missing Armed Forces and ci-
21 vilian personnel, and seek disclosure of such in-
22 formation; and

23 (3) all agencies should cooperate in full with the
24 Review Board to seek the disclosure of all informa-
25 tion relevant to the loss, fate, or status of missing

1 Armed Forces and civilian personnel consistent with
2 the public interest.

3 **SEC. 11. RULES OF CONSTRUCTION.**

4 (a) PRECEDENCE OVER OTHER LAW.—When this
5 Act requires transmission of a record to the Archivist or
6 public disclosure, it shall take precedence over any other
7 law (except section 6103 of the Internal Revenue Code of
8 1986), judicial decision construing such law, or common
9 law doctrine that would otherwise prohibit such trans-
10 mission or disclosure, with the exception of deeds gov-
11 erning access to or transfer or release of gifts and dona-
12 tions of records to the United States Government.

13 (b) FREEDOM OF INFORMATION ACT.—Nothing in
14 this Act shall be construed to eliminate or limit any right
15 to file requests with any Executive agency or seek judicial
16 review of the decisions under section 552 of title 5, United
17 States Code.

18 (c) JUDICIAL REVIEW.—Nothing in this Act shall be
19 construed to preclude judicial review under chapter 7 of
20 title 5, United States Code, of final actions taken or re-
21 quired to be taken under this Act.

22 (d) EXISTING AUTHORITY.—Nothing in this Act re-
23 vokes or limits the existing authority of the President, any
24 Executive agency, the Senate, or the House of Representa-

1 tives, or any other entity of the Government to publicly
2 disclose records in its custody, possession, or control.

3 (e) RULES OF THE SENATE AND HOUSE OF REP-
4 RESENTATIVES.—To the extent that any provision of this
5 Act establishes a procedure to be followed in the Senate
6 or the House of Representatives, such provision is adopt-
7 ed—

8 (1) as an exercise of the rulemaking power of
9 the Senate and House of Representatives, respec-
10 tively, and is deemed to be part of the rules of each
11 House, respectively, but applicable only with respect
12 to the procedure to be followed in that House, and
13 it supersedes other rules only to the extent that it
14 is inconsistent with such rules; and

15 (2) with full recognition of the constitutional
16 right of either House to change the rules (so far as
17 they relate to the procedure of that House) at any
18 time, in the same manner, and to the same extent
19 as in the case of any other rule of that House.

20 **SEC. 12. REQUESTS FOR EXTENSIONS.**

21 (a) IN GENERAL.—The head of a Government office
22 required to comply with a deadline under this Act that
23 is based on the date of establishment of a quorum of the
24 members of the Review Board under section 7 may request
25 an extension from the Review Board for good cause.

1 (b) EXTENDED DEADLINE.—If the Review Board
2 agrees to the request, the deadline applicable to the Gov-
3 ernment office for the purpose of such requirement shall
4 be such later date as the Review Board may determine
5 appropriate.

6 **SEC. 13. TERMINATION OF EFFECT OF ACT.**

7 (a) PROVISIONS PERTAINING TO THE REVIEW
8 BOARD.—The provisions of this Act that pertain to the
9 appointment and operation of the Review Board shall
10 cease to be effective when the Review Board and the terms
11 of its members have terminated under section 7(p).

12 (b) OTHER PROVISIONS.—The remaining provisions
13 of this Act shall continue in effect until such time as the
14 Archivist certifies to the President and Congress that all
15 missing Armed Forces and civilian personnel records have
16 been made available to the public in accordance with this
17 Act.

18 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated such sums
20 as are necessary to carry out this Act, to remain available
21 until expended.

22 **SEC. 15. SEVERABILITY.**

23 If any provision of this Act, or the application thereof
24 to any person or circumstance, is held invalid, the remain-
25 der of this Act and the application of that provision to

- 1 other persons not similarly situated or to other cir-
- 2 cumstances shall not be affected by the invalidation.