

113TH CONGRESS
1ST SESSION

S. 1276

To increase oversight of the Revolving Fund of the Office of Personnel Management, strengthen the authority to terminate or debar employees and contractors involved in misconduct affecting the integrity of security clearance background investigations, enhance transparency regarding the criteria utilized by Federal departments and agencies to determine when a security clearance is required, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 10, 2013

Mr. TESTER (for himself, Mrs. McCASKILL, Mr. PORTMAN, Mr. JOHNSON of Wisconsin, and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To increase oversight of the Revolving Fund of the Office of Personnel Management, strengthen the authority to terminate or debar employees and contractors involved in misconduct affecting the integrity of security clearance background investigations, enhance transparency regarding the criteria utilized by Federal departments and agencies to determine when a security clearance is required, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Security Clearance
3 Oversight and Reform Enhancement Act”.

4 **SEC. 2. OVERSIGHT OF THE REVOLVING FUND OF THE OF-**
5 **FICE OF PERSONNEL MANAGEMENT.**

6 Section 1304(e) of title 5, United States Code, is
7 amended—

8 (a) in paragraph (1), in the first sentence, by insert-
9 ing before the period the following: “, and for the cost
10 of audits, investigations, and oversight activities relating
11 to the fund and the functions financed by the fund, con-
12 ducted by the Inspector General of the Office”; and

13 (b) in paragraph (5), by adding at the end the fol-
14 lowing: “Each budget submitted under this paragraph
15 shall include an estimate from the Inspector General of
16 the Office of the amount required to pay the reasonable
17 expenses to adequately audit, investigate, and perform
18 other oversight activities relating to the fund and the func-
19 tions financed by the fund for the applicable fiscal year,
20 which shall not exceed 0.33 percent of the total budgetary
21 authority requested in the budget estimates submitted to
22 Congress by the Office for that fiscal year.”.

1 **SEC. 3. TERMINATION AND DEBARMENT OF INDIVIDUALS**
2 **INVOLVED IN MISCONDUCT AFFECTING THE**
3 **INTEGRITY OF THE BACKGROUND INVES-**
4 **TIGATIONS PROGRAM OF THE OFFICE OF**
5 **PERSONNEL MANAGEMENT.**

6 (a) **TERMINATION AND DEBARMENT.**—The Office of
7 Personnel Management shall terminate or debar an indi-
8 vidual employed or contracted by the Office of Personnel
9 Management if the Office of Personnel Management deter-
10 mines, based upon a preponderance of the evidence, that
11 the individual was involved in misconduct affecting the in-
12 tegrity of the background investigations program of the
13 Office of Personnel Management, including, but not lim-
14 ited to—

15 (1) falsification of a background investigation
16 report;

17 (2) fraud relating to a background investigation
18 report;

19 (3) failure to review a background investigation
20 report;

21 (4) impersonation of a Federal law enforcement
22 officer; or

23 (5) abuse of authority relating to the employ-
24 ment or contract by the Office of Personnel Manage-
25 ment.

1 (b) PROCEDURES FOR DETERMINATION OF TERMI-
 2 NATION AND DEBARMENT.—

3 (1) ESTABLISHMENT OF PROCEDURES.—The
 4 Office of Personnel Management shall establish pro-
 5 cedures under which the Office of Personnel Man-
 6 agement shall determine whether an employee or
 7 contractor should be terminated or debarred under
 8 subsection (a).

9 (2) DUE PROCESS.—Notwithstanding chapters
 10 5 and 75 of title 5, United States Code, the proce-
 11 dures established under paragraph (1) shall ensure
 12 that—

13 (A) the employee or contractor is provided
 14 with notice and opportunity to be heard; and

15 (B) the determination whether to termi-
 16 nate, debar, or reinstate the employee or con-
 17 tractor is made expeditiously.

18 **SEC. 4. DIRECTOR OF NATIONAL INTELLIGENCE GUIDANCE**
 19 **ON DETERMINATIONS OF POSITIONS REQUIR-**
 20 **ING A SECURITY CLEARANCE.**

21 (a) GUIDANCE.—Not later than 180 days after the
 22 date of the enactment of this Act, the Director of National
 23 Intelligence shall issue guidance for the departments and
 24 agencies of the Federal Government to be used by such
 25 departments and agencies to—

1 (1) determine whether the occupant of a posi-
2 tion requires a security clearance for the perform-
3 ance of the duties of such position; and

4 (2) periodically review and, if necessary, revise
5 the designation of a position as requiring a security
6 clearance for the performance of the duties of such
7 position.

8 (b) PROCEDURES.—The guidance described under
9 subsection (a) shall include such procedures for the dis-
10 charge of the guidance as the Director of National Intel-
11 ligence considers appropriate.

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