

**Calendar No. 199**113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 1276****[Report No. 113–111]**

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.

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**IN THE SENATE OF THE UNITED STATES**

JULY 10, 2013

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

SEPTEMBER 25 (legislative day, SEPTEMBER 24), 2013

Reported by Mr. CARPER, with an amendment

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

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**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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. OVERSIGHT OF THE REVOLVING FUND OF THE OF-**  
 7 ****OFFICE OF PERSONNEL MANAGEMENT.****

8        Section 1304(e) of title 5, United States Code, is  
 9 amended—

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

15        (b) in paragraph (5), by adding at the end the fol-  
 16 lowing: “Each budget submitted under this paragraph  
 17 shall include an estimate from the Inspector General of  
 18 the Office of the amount required to pay the reasonable  
 19 expenses to adequately audit, investigate, and perform  
 20 other oversight activities relating to the fund and the func-  
 21 tions financed by the fund for the applicable fiscal year,  
 22 which shall not exceed 0.33 percent of the total budgetary  
 23 authority requested in the budget estimates submitted to  
 24 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.

12       **SECTION 1. SHORT TITLE.**

13           *This Act may be cited as the “Security Clearance*  
14       *Oversight and Reform Enhancement Act”.*

15       **SEC. 2. OVERSIGHT OF THE REVOLVING FUND OF THE OF-**  
16                               **FICE OF PERSONNEL MANAGEMENT.**

17           *Section 1304(e) of title 5, United States Code, is*  
18       *amended—*

19           (1) *in paragraph (1), in the first sentence, by in-*  
20           *serting before the period the following: “, and for the*  
21           *cost of audits, investigations, and oversight activities*  
22           *relating to the fund and the functions financed by the*  
23           *fund, conducted by the Inspector General of the Of-*  
24           *fice”;* and

1           (2) *in paragraph (5), by adding at the end the*  
2 *following: “Each budget submitted under this para-*  
3 *graph shall include an estimate from the Inspector*  
4 *General of the Office of the amount required to pay*  
5 *the reasonable expenses to adequately audit, inves-*  
6 *tigate, and perform other oversight activities relating*  
7 *to the fund and the functions financed by the fund for*  
8 *the applicable fiscal year, which shall not exceed 0.33*  
9 *percent of the total budgetary authority requested in*  
10 *the budget estimates submitted to Congress by the Of-*  
11 *fice for that fiscal year.”.*



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113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 1276**

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