

SECURELY EXPEDITING CLEARANCES THROUGH
REPORTING TRANSPARENCY ACT OF 2017

JULY 25, 2017.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government
Reform, submitted the following

R E P O R T

[To accompany H.R. 3210]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 3210) to require the Director of the Na-
tional Background Investigations Bureau to submit a report on the
backlog of personnel security clearance investigations, and for other
purposes, having considered the same, report favorably thereon
with an amendment and recommend that the bill as amended do
pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Securely Expediting Clearances Through Reporting Transparency Act of 2017” or the “SECRET Act of 2017”.

SEC. 2. REPORT ON BACKLOG OF PERSONNEL SECURITY CLEARANCE INVESTIGATIONS.

Not later than 90 days after the date of enactment of this Act, and quarterly thereafter for 5 years, the Director of the National Background Investigations Bureau of the Office of Personnel Management shall submit to Congress a report on the backlog of security clearance investigations that includes—

- (1) the size of the personnel security clearance investigation process backlog; and
- (2) the average length of time, for each sensitivity level, to carry out an initial investigation and a periodic investigation.

SEC. 3. REPORT ON SECURITY CLEARANCE INVESTIGATIONS OF PERSONNEL OF THE EXECUTIVE OFFICE OF THE PRESIDENT.

Not later than 90 days after the date of enactment of this Act, the Director of the National Background Investigations Bureau of the Office of Personnel Management shall submit to Congress a report that explains the process for conducting and adjudicating security clearance investigations for personnel of the Executive Office of the President, including White House personnel.

SEC. 4. REPORT ON DUPLICATIVE COSTS.

Not later than 120 days after the date of enactment of this Act, the Director of the National Background Investigations Bureau of the Office of Personnel Management shall submit to Congress a report on the cost of duplicating resources under the control or direction of the National Background Investigations Bureau for implementation of the plan referenced in section 951(a)(1) of the National Defense Authorization Act for Fiscal Year 2017 (10 U.S.C. 1564 note).

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 3210, the Securely Expediting Clearances Through Reporting Transparency Act of 2017 (“SECRET Act”), creates basic reporting requirements for the National Background Investigations Bureau (NBIB) regarding the current backlog of federal security clearance investigations. Specifically, the bill requires NBIB to report quarterly on the size of the backlog and the average length of an investigation, broken down by type of clearance sought.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3210 is necessary to prevent government inefficiency caused by delays in the completion of background investigations for current and prospective employees. Prospective federal employees frequently cannot start their jobs until their clearance process is complete. The delay attributable to the backlog causes some promising candidates to find employment elsewhere. Contractors face similar backlog-related problems, creating a bottleneck that can lead to missed deadlines and more waste.

Up-to-date estimates on the backlog are crucial to understanding whether the situation is improving or deteriorating. In June 2017, the security clearance investigation backlog at NBIB stood at 650,000.¹ For perspective, the entire community of individuals with a federal security clearance and access to classified information is roughly 2.3 million.²

¹Briefing by Charles Phalen, Director, National Background Investigations Bureau, to H. Comm. on Oversight & Gov’t Reform Staff (June 5, 2017).

²Office of Management and Budget, Insider Threat and Security Clearance Reform Cross Agency Priority Goal Quarterly Progress Update, FY 2016 Quarter 4, at 18.

H.R. 3210 would require NBIB to report quarterly to Congress on the size of the backlog and the average time for a clearance investigation, by clearance type. The first report will be due 90 days after enactment, and the quarterly reporting requirement will continue for 5 years. With that information, Congress will be able to monitor NBIB's performance and evaluate trends over time. That understanding will help guide subsequent security clearance reform efforts.

LEGISLATIVE HISTORY

On July 12, 2017, Representative Stephen Knight (R-CA) introduced H.R. 3210, the Securely Expediting Clearances Through Reporting Transparency Act of 2017, with Representative Gerald Connolly (D-VA). H.R. 3210 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 3210 at a business meeting on July 19, 2017 and ordered the bill reported favorably, as amended, by voice vote.

SECTION-BY-SECTION

Section 1. Short title

The short title of the bill is the "Securely Expediting Clearances Through Reporting Transparency Act of 2017" or the "SECRET Act of 2017."

Section 2. Report on backlog of personnel security clearance investigations

Section 2 requires that the Director of the National Background Investigations Bureau (NBIB) of the Office of Personnel Management submit to Congress a quarterly report detailing the backlog of personnel security investigations. These reports are to be submitted starting 90 days after the enactment of this bill and on a quarterly basis thereafter for 5 years. Section 2 requires that the report include the size of the investigative backlog, which includes the number of security clearance investigations that have yet to be completed. Section 2 also requires that the quarterly report include the average time for an individual investigation throughout the personnel security clearance investigation process. The report shall break down the data in question by clearance and level, as well as type of investigation (initial or periodic reinvestigation).

Section 3. Report on security clearance investigations of personnel of the Executive Office of the President

Section 3 requires that NBIB issue a report within 90 days of enactment of the bill explaining the process for conducting and adjudicating security clearance investigations for personnel within the Executive Office of the President.

Section 4. Report on duplicative costs

Section 4 requires that NBIB issue a report within 120 days of enactment of the bill describing potential duplicative costs resulting from a potential transfer of personnel security investigation responsibilities from NBIB to the Department of Defense, as outlined in a plan to be developed in accordance with Section 951(a)(1) of

the National Defense Authorization Act for Fiscal Year 2017 (10 U.S.C. 1564 note).

EXPLANATION OF AMENDMENTS

During Full Committee consideration of the bill, Representative Gerald Connolly (D–VA) offered an amendment to require NBIB to produce a report within 120 days of enactment on possible duplicative costs resulting from a potential transfer of background investigation responsibilities to the Department of Defense (DOD). The National Defense Authorization Act of 2017 required DOD to devise and publish a plan for such a transfer. The amendment was adopted by voice vote.

Representative Raja Krishnamoorthi (D–IL) also offered an amendment requiring NBIB to produce a report describing the general process by which security clearance investigations are conducted and adjudicated for employees of the Executive Office of the President. The amendment was adopted by voice vote.

COMMITTEE CONSIDERATION

On July 19, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported, as amended, by voice vote.

ROLL CALL VOTES

There were no roll call votes requested or conducted during Full Committee consideration of H.R. 3210.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill requires the Director of the National Background Investigations Bureau to submit a report on the backlog of personnel security clearance investigations. As such, this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goal or objective of this bill is to require the Director of the National Background Investigations Bureau to submit a report on the backlog of personnel security clearance investigations.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of section 551 or title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement, the Committee has included below a letter received from the Congressional Budget Office.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974, which the Committee has included below.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of

1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 25, 2017.

Hon. TREY GOWDY,
Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3210, the SECRET Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

MARK P. HADLEY
(for Keith Hall, Director).

Enclosure.

H.R. 3210—SECRET Act of 2017

H.R. 3210 would require the National Background Investigations Bureau (NBIB), within the Office of Personnel Management (OPM), to provide three reports to the Congress. The reports would cover information about the backlog in federal investigations for security clearances, the process for conducting security clearances for the Executive Office of the President, and the costs to NBIB and the Department of Defense for such investigations.

Information from OPM indicates that the information required for those reports is already compiled for other efforts. Thus, CBO estimates it would cost less than \$500,000 over the 2018–2022 period to prepare the reports; such spending would be subject to the availability of appropriated funds.

Enacting H.R. 3210 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 3210 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3210 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.