

115TH CONGRESS
2D SESSION

S. 3755

To establish a demonstration program regarding background checks for certain employees of the Bureau of Indian Affairs.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2018

Mr. HOEVEN (for himself and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To establish a demonstration program regarding background checks for certain employees of the Bureau of Indian Affairs.

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 “Background Investiga-
5 tion Authorization Demonstration Act”.

6 **SEC. 2. DEMONSTRATION PROGRAM ON BIA EMPLOYMENT**

7 **BACK GROUND CHECKS.**

8 (a) ESTABLISHMENT OF PROGRAM.—

9 (1) IN GENERAL.—The Secretary of the Inte-
10 rior (referred to in this section as the “Secretary”)

1 shall establish a demonstration program for the pur-
2 pose of conducting or adjudicating, in coordination
3 with the Director of the Bureau of Indian Affairs,
4 personnel background investigations for applicants
5 for law enforcement positions in the Bureau of In-
6 dian Affairs.

7 (2) BACKGROUND INVESTIGATIONS AND SECU-
8 RITY CLEARANCE DETERMINATIONS.—

9 (A) BIA INVESTIGATIONS.—As part of the
10 demonstration program established under para-
11 graph (1), the Secretary, through the Office of
12 Justice Services, may carry out a background
13 investigation, security clearance determination,
14 or both a background investigation and a secu-
15 rity clearance determination for an applicant
16 for a law enforcement position in the Bureau of
17 Indian Affairs.

18 (B) USE OF PREVIOUS INVESTIGATIONS
19 AND DETERMINATIONS.—

20 (i) IN GENERAL.—Subject to clause
21 (ii), as part of the demonstration program
22 established under paragraph (1), the Sec-
23 retary, in adjudicating background inves-
24 tigations for applicants for law enforce-
25 ment positions in the Bureau of Indian Af-

1 fairs, shall consider previous background
2 investigations for an applicant, security
3 clearance determinations for an applicant,
4 or both background investigations and se-
5 curity clearance determinations for an ap-
6 plicant, as the case may be, that have been
7 conducted by a State, local, or Tribal Gov-
8 ernment, or by the Bureau of Indian Af-
9 fairs, within the 5-year period preceding
10 the application for employment with the
11 Bureau of Indian Affairs.

12 (ii) QUALITY.—The Secretary shall
13 only consider previous background inves-
14 tigations and security clearance determina-
15 tions for an applicant that have been con-
16 ducted by a State, local, or Tribal Govern-
17 ment if the Secretary can verify that those
18 previous investigations and determinations,
19 as the case may be, are of a comparable
20 quality and thoroughness to investigations
21 and determinations carried out by the Bu-
22 reau of Indian Affairs, the Office of Per-
23 sonnel Management, or another Federal
24 agency.

1 (iii) ADDITIONAL INVESTIGATION.—If,
2 as described in clause (i), the Secretary
3 considers an existing background investiga-
4 tion, security clearance determination, or
5 both, as the case may be, for an applicant
6 that has been carried out by a State, local,
7 or Tribal Government, or by the Bureau of
8 Indian Affairs, the Secretary—

9 (I) may carry out additional in-
10 vestigation and examination of the ap-
11 plicant if the Secretary determines
12 that such additional information is
13 needed in order to make an appro-
14 priate determination as to the char-
15 acter and trustworthiness of the appli-
16 cant before final adjudication can be
17 made and a security clearance can be
18 issued; and

19 (II) shall not initiate a new back-
20 ground investigation process with the
21 National Background Investigations
22 Bureau or other Federal agency un-
23 less that new background investiga-
24 tion process covers a period of time

1 that was not covered by a previous
2 background investigation process.

3 (iv) AGREEMENTS.—The Secretary
4 may enter into a Memorandum of Agree-
5 ment with a State, local, or Tribal Govern-
6 ment to develop steps to expedite the proc-
7 ess of receiving and obtaining access to
8 background investigation and security
9 clearance determinations for use in the
10 demonstration program.

11 (3) SUNSET.—The demonstration program es-
12 tablished under this section shall terminate 5 years
13 after the date of the commencement of the program.

14 (b) SUFFICIENCY.—Notwithstanding any other provi-
15 sion of law, a background investigation conducted or adju-
16 dicated by the Secretary pursuant to the demonstration
17 program authorized in subsection (a) that results in the
18 granting of a security clearance to an applicant for a law
19 enforcement position in the Bureau of Indian Affairs shall
20 be sufficient to meet the applicable requirements of the
21 Office of Personnel Management or other Federal agency
22 for such investigations.

23 (c) ANNUAL REPORT.—The Secretary shall submit
24 an annual report to the Committee on Indian Affairs of
25 the Senate and the Committee on Natural Resources of

1 the House of Representatives on the demonstration pro-
2 gram established under subsection (a), which shall include
3 a description of—

4 (1) the demonstration program and any rel-
5 evant annual changes or updates to the program;

6 (2) the number of background investigations
7 carried out under the program;

8 (3) the costs, including any cost savings, associ-
9 ated with the investigation and adjudication process
10 under the program;

11 (4) the processing times for the investigation
12 and adjudication processes under the program;

13 (5) any Memoranda of Agreement entered into
14 with State, local, or Tribal Governments; and

15 (6) any other information that the Secretary
16 determines to be relevant.

17 (d) GAO STUDY AND REPORT.—

18 (1) INITIAL REPORT.—Not later than 18
19 months after the beginning of the demonstration
20 program under this section, the Comptroller General
21 of the United States shall prepare and submit to
22 Congress an initial report on such demonstration
23 program.

24 (2) FINAL REPORT.—Not later than 3 years
25 after the beginning of the demonstration program

1 under this section, the Comptroller General of the
2 United States shall prepare and submit to Congress
3 a final report on such demonstration program.

4 (3) TRIBAL INPUT.—In preparing the reports
5 under this subsection, the Comptroller General shall
6 prioritize input from Indian Tribes regarding the
7 demonstration program under this section.

○