AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Security Clearance Oversight and Reform Enhancement Act''.

SEC. 2. OVERSIGHT OF THE REVOLVING FUND OF THE OFFICE OF PERSONNEL MANAGEMENT.

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

(a) in paragraph (1), in the first sentence, by inserting before the period the following: '', and for the cost of audits, investigations, and oversight activities relating to the fund and the functions financed by the fund, conducted by the Inspector General of the Office''; and

(b) in paragraph (5), by adding at the end the following: ''Each budget submitted under this paragraph shall include an estimate from the Inspector General of the Office of the amount required to pay the reasonable expenses to adequately audit, investigate, and perform other oversight activities relating to the fund and the functions financed by the fund for the applicable fiscal year, which shall not exceed 0.33 percent of the total budgetary authority requested in the budget estimates submitted to Congress by the Office for that fiscal year.''.

SEC. 3. TERMINATION AND DEBARMENT OF INDIVIDUALS INVOLVED IN MISCONDUCT AFFECTING THE INTEGRITY OF THE BACKGROUND INVESTIGATIONS PROGRAM OF THE OFFICE OF PERSONNEL MANAGEMENT.

(a) TERMINATION AND DEBARMENT.—The Office of Personnel Management shall terminate or debar an individual employed or contracted by the Office of Personnel Management if the Office of Personnel Management determines, based upon a preponderance of the evidence, that the individual was involved in misconduct affecting the integrity of the background investigations program of the Office of Personnel Management, including, but not limited to—

(1) falsification of a background investigation report;

(2) fraud relating to a background investigation report;

(3) failure to review a background investigation report;

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

(5) abuse of authority relating to the employment or contract by the Office of Personnel Management.

(b) PROCEDURES FOR DETERMINATION OF TERMINATION AND DEBARMENT.—

(1) ESTABLISHMENT OF PROCEDURES.—The Office of Personnel Management shall establish procedures under which the Office of Personnel Management shall determine whether an employee or contractor should be terminated or debarred under subsection (a).

(2) DUE PROCESS.—Notwithstanding chapters 5 and 75 of title 5, United States Code, the procedures established under paragraph (1) shall ensure that—

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

(B) the determination whether to terminate, debar, or reinstate the employee or contractor is made expeditiously.

SEC. 4. DIRECTOR OF NATIONAL INTELLIGENCE GUIDANCE ON DETERMINATIONS OF POSITIONS REQUIRING A SECURITY CLEARANCE.

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

(1) determine whether the occupant of a position requires a security clearance for the performance of the duties of such position; and

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

(b) PROCEDURES.—The guidance described under subsection (a) shall include such procedures for the discharge of the guidance as the Director of National Intelligence considers appropriate.

○