

113TH CONGRESS
1ST SESSION

H. R. 1768

To amend the Diplomatic Security Act to require certain notifications to Congress of Accountability Review Boards of the Department of State, avoid conflicts of interest of the members of such Boards, require actions with respect to reports from such Boards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2013

Mr. ROYCE (for himself, Ms. ROS-LEHTINEN, Mr. CHABOT, Mr. McCAUL, Mr. POE of Texas, Mr. SALMON, Mr. KINZINGER of Illinois, Mr. COTTON, Mr. HOLDING, Mr. WEBER of Texas, Mr. PERRY, Mr. DESANTIS, Mr. RADEL, Mr. COLLINS of Georgia, Mr. MEADOWS, Mr. MESSER, and Mr. GRIMM) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To amend the Diplomatic Security Act to require certain notifications to Congress of Accountability Review Boards of the Department of State, avoid conflicts of interest of the members of such Boards, require actions with respect to reports from such Boards, 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 “Accountability Review
3 Board Reform Act of 2013”.

4 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) The United States has a crucial stake in
7 supporting the presence abroad of United States
8 Government personnel representing United States
9 interests.

10 (2) United States Government personnel and
11 missions abroad are confronted by serious security
12 risks, including the threat of terrorism, which will
13 continue for the foreseeable future.

14 (3) The Accountability Review Board process
15 was established in 1986 by Congress to conduct a
16 thorough assessment of security-related incidents at
17 or related to a United States Government mission
18 abroad.

19 (4) Each assessment by a Board is expected to
20 promote strengthened security measures, and to pro-
21 vide for the accountability of United States Govern-
22 ment personnel with security-related responsibilities.

23 (5) The terrorist attack in Benghazi, Libya, on
24 September 11, 2012, that took the lives of four
25 United States Government personnel has brought
26 unprecedented attention to the work of such Boards.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that the effectiveness of Accountability Review
3 Boards would be improved by reconstituting such Boards
4 to increase their independence from the Department of
5 State.

6 **SEC. 3. NOTIFICATION TO CONGRESS ABOUT CERTAIN IN-**
7 **FORMATION RELATING TO ACCOUNTABILITY**
8 **REVIEW BOARDS OF THE DEPARTMENT OF**
9 **STATE.**

10 Subsection (c) of section 301 of the Omnibus Diplo-
11 matic Security and Antiterrorism Act (22 U.S.C. 4831)
12 is amended—

13 (1) in the matter preceding paragraph (1), by
14 inserting “, the Chairman of the Committee on For-
15 eign Affairs of the House of Representatives,” after
16 “the Committee on Foreign Relations of the Sen-
17 ate”; and

18 (2) in paragraph (2), by striking “and” at the
19 end;

20 (3) by redesignating paragraph (3) as para-
21 graph (5); and

22 (4) by inserting after paragraph (2) the fol-
23 lowing new paragraphs:

24 “(3) of any individual who is employed at a
25 grade of not lower than the level of FS-3 or GS-14

1 who is hired, assigned, or detailed to assist the
2 Board to carry out its duties;

3 “(4) of any political appointee who is hired, as-
4 signed, or detailed to assist the Board to carry out
5 its duties; and”.

6 **SEC. 4. ACCOUNTABILITY REVIEW BOARDS.**

7 (a) MEMBERSHIP.—Subsection (a) of section 302 of
8 the Omnibus Diplomatic Security and Antiterrorism Act
9 (22 U.S.C. 4832) is amended—

10 (1) by striking the first sentence and inserting
11 the following new sentence: “A Board shall consist
12 of five members, two appointed by the Secretary of
13 State, two appointed by the Chairperson of the
14 Council of Inspectors General on Integrity and Effi-
15 ciency (the CIGIE Chairperson), and one appointed
16 by the Director of National Intelligence.”; and

17 (2) by striking the final two sentences and in-
18 serting the following new sentences: “Members of a
19 Board who are not Federal officers or employees
20 shall each be paid at a rate not to exceed the max-
21 imum rate of basic pay payable for level IV of the
22 Executive Schedule under section 5317 of title 5,
23 United States Code, for each day (including travel
24 time) during which such members are engaged in
25 the actual performance of duties vested in such

1 Board. Members of the Board who are Federal offi-
2 cers or employees shall receive no additional pay by
3 reason of such membership. Only in exceptional cir-
4 cumstances may a member of a Board be a current
5 Federal officer or employee.”.

6 (b) STAFF.—Paragraph (2) of subsection (b) of sec-
7 tion 302 of the Omnibus Diplomatic Security and
8 Antiterrorism Act is amended to read as follows:

9 “(2) STAFF.—

10 “(A) IN GENERAL.—A Board may hire
11 staff to assist the Board, and may have any
12 Federal Government employee assigned or de-
13 tailed to such Board, with or without reim-
14 bursement, to assist such Board. Any such as-
15 signee or detailee shall retain without interrup-
16 tion the rights, status, and privileges of his or
17 her regular employment.

18 “(B) SPECIAL RULE.—Any individual who
19 is hired, assigned, or detailed to assist a Board
20 under subparagraph (A) shall be subject to the
21 rule relating to the avoidance of conflicts of in-
22 terest under subsection (a) in the same manner
23 and to the same extent as a Member of such a
24 Board is subject to such avoidance under such
25 subsection.

1 “(C) OFFICE OF THE INSPECTOR GEN-
2 ERAL.—To the maximum extent practicable, in-
3 dividuals assisting the Board shall be employees
4 of the Office of the Inspector General of the
5 Department of State.”.

6 (c) CONFLICTS OF INTEREST.—Section 302 of the
7 Omnibus Diplomatic Security and Antiterrorism Act is
8 amended by adding at the end the following new sub-
9 sections:

10 “(c) AVOIDANCE OF CONFLICTS OF INTEREST.—

11 “(1) IN GENERAL.—The Secretary of State, the
12 CIGIE Chairperson, and the Director of National
13 Intelligence may not appoint any individual as a
14 member of a Board if the Secretary, the CIGIE
15 Chairperson, or the Director, as the case may be,
16 determines that such individual has a conflict of in-
17 terest concerning a person whose performance such
18 Board reasonably could be expected to review.

19 “(2) DECLINING APPOINTMENT.—An individual
20 shall decline appointment to membership on a Board
21 if such individual has actual knowledge of a conflict
22 of interest concerning a person whose performance
23 such Board could reasonably be expected to review.

24 “(3) RECUSAL FROM PARTICULAR ACTIVI-
25 TIES.—A member of a Board shall recuse him or

1 herself from any Board activity, interview, deposi-
2 tion, or recommendation concerning a person with
3 whom such member has a conflict of interest. Such
4 member shall promptly notify the other members of
5 such Board of any such recusal, but need not state
6 the basis therefor.

7 “(d) CONFLICT OF INTEREST DEFINED.—In this
8 section, the term ‘conflict of interest’ means one of the
9 following relationships, whether current or former, that
10 would cause a reasonable person with knowledge of the
11 relevant facts to question the impartiality of the parties
12 to such relationship toward each other:

13 “(1) A business, contractual, or other financial
14 relationship that involves other than a routine con-
15 sumer transaction.

16 “(2) A familial, member of household, or other
17 close personal relationship, including a social rela-
18 tionship of a romantic or intimate nature.

19 “(3) A direct managerial or supervisory work-
20 place relationship.”.

21 **SEC. 5. EVIDENCE.**

22 Subsection (a) of section 303 of the Omnibus Diplo-
23 matic Security and Antiterrorism Act (22 U.S.C. 4833)
24 is amended by adding at the end the following new para-
25 graph:

1 “(4) DETERMINATION OF RELEVANCY.—The
2 Board may accept any evidence determined by a
3 member of the Board to be relevant and material to
4 an investigation or inquiry of the Board. The Fed-
5 eral Rules of Evidence are not applicable to the
6 Board.”.

7 **SEC. 6. BOARD ACTIONS.**

8 (a) PROGRAM RECOMMENDATIONS.—Subsection (b)
9 of section 304 of the Omnibus Diplomatic Security and
10 Antiterrorism Act (22 U.S.C. 4834) is amended to read
11 as follows:

12 “(b) PROGRAM RECOMMENDATIONS.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), not later than 90 days after a Board is
15 convened in a case, such Board shall submit to the
16 Secretary of State and Congress its findings (which
17 may be classified to the extent determined necessary
18 by the Board), together with recommendations as
19 appropriate to improve the security and efficiency of
20 any program or operation which such Board has re-
21 viewed.

22 “(2) EXTENSION.—The 90 day period referred
23 to in paragraph (1) may be extended for up to 60
24 days if the Chairperson of the Board referred to in
25 such paragraph determines that such additional time

1 is necessary to complete a thorough review of the
2 program or operation at issue.

3 “(3) DISSENTING VIEWS.—If a member dis-
4 sents from any of the findings or recommendations
5 of the Board, such member may submit dissenting
6 views to accompany the submission of the Board’s
7 findings and recommendations under paragraph
8 (1).”.

9 (b) REPORTS.—Paragraph (1) of subsection (d) of
10 section 304 of the Omnibus Diplomatic Security and
11 Antiterrorism Act is amended to read as follows:

12 “(1) PROGRAM RECOMMENDATIONS.—Not later
13 than 90 days after the submission to the Secretary
14 of State of the findings and recommendations from
15 any Board in accordance with subsection (b), the
16 Secretary shall submit to Congress a corresponding
17 report on the action taken with respect to each such
18 recommendation.”.

19 **SEC. 7. REGULATIONS.**

20 The Secretary of State shall promulgate or update
21 regulations, as the case may be, to carry out the amend-
22 ments made by this Act.

23 **SEC. 8. EFFECTIVE DATE.**

24 The amendments made by this Act shall apply with
25 respect to any case of an Accountability Review Board

1 that is convened under section 301 of the Omnibus Diplo-
2 matic Security and Antiterrorism Act (22 U.S.C. 4831)
3 on or after the date of the enactment of this Act.

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