

117TH CONGRESS
1ST SESSION

S. 489

To require an annual report of Federal employees and retirees with delinquent tax debt.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2021

Mr. BRAUN (for himself and Ms. ERNST) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require an annual report of Federal employees and retirees with delinquent tax debt.

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 “Federal Employees and
5 Retirees with Delinquent Tax Debt Initiative (FERDI)
6 Act”.

7 **SEC. 2. ANNUAL REPORT ON FEDERAL EMPLOYEES AND**
8 **RETIREES WITH DELINQUENT TAX DEBT.**

9 (a) IN GENERAL.—The Secretary of the Treasury (or
10 the Secretary’s delegate) shall submit to the relevant com-

1 mittees and make a public on the internet an annual re-
 2 port on current and retired Federal civilian and military
 3 employees who have delinquent tax debt or an unfiled tax
 4 return for the most recent fiscal year.

5 (b) MATTERS INCLUDED.—The report under sub-
 6 section (a) shall include—

7 (1) the population of individuals who are civil-
 8 ian employees, retired civilian employees, active duty
 9 military employees, military reserve or national
 10 guard employees, and retired military employees;

11 (2) the number of individuals in each category
 12 listed in paragraph (1) who have delinquent tax debt
 13 (excluding those individuals who have an installment
 14 agreement) or an unfiled tax return;

15 (3) the aggregate balance owed and the delin-
 16 quency rate for each such category; and

17 (4) the information described in paragraphs (2)
 18 and (3) broken down by Federal agency.

19 (c) RELEVANT COMMITTEES.—For purposes of this
 20 section, the term “relevant committees” means the Com-
 21 mittee on Finance of the Senate, the Committee on Ways
 22 and Means of the House of Representatives, the Com-
 23 mittee on Homeland Security and Governmental Affairs
 24 of the Senate, and Committee on Oversight and Reform
 25 of the House of Representatives.

1 **SEC. 3. INELIGIBILITY OF NONCOMPLIANT TAXPAYERS FOR**
 2 **FEDERAL EMPLOYMENT.**

3 (a) IN GENERAL.—Chapter 73 of title 5, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 “SUBCHAPTER VIII—INELIGIBILITY OF NON-
 7 COMPLIANT TAXPAYERS FOR FEDERAL EM-
 8 PLOYMENT

9 “§ 7381. Definitions

10 “For purposes of this subchapter—

11 “(1) the term ‘agency’ means—

12 “(A) an Executive agency;

13 “(B) the United States Postal Service;

14 “(C) the Postal Regulatory Commission;

15 and

16 “(D) an employing authority in the legisla-
 17 tive branch;

18 “(2) the term ‘employee’ means an employee in
 19 or under an agency, including an individual de-
 20 scribed in section 2104(b) or 2105(e); and

21 “(3) the term ‘seriously delinquent tax debt’—

22 “(A) means a Federal tax liability that has
 23 been assessed by the Secretary of the Treasury
 24 under the Internal Revenue Code of 1986 and
 25 may be collected by the Secretary by levy or by
 26 a proceeding in court; and

1 “(B) does not include—

2 “(i) a debt that is being paid in a
3 timely manner pursuant to an agreement
4 under section 6159 or section 7122 of such
5 Code;

6 “(ii) a debt with respect to which a
7 collection due process hearing under sec-
8 tion 6330 of such Code, or relief under
9 subsection (a), (b), or (f) of section 6015
10 of such Code, is requested or pending;

11 “(iii) a debt with respect to which a
12 continuous levy has been issued under sec-
13 tion 6331 of such Code (or, in the case of
14 an applicant for employment, a debt with
15 respect to which the applicant agrees to be
16 subject to such a levy); and

17 “(iv) a debt with respect to which
18 such a levy is released under section
19 6343(a)(1)(D) of such Code.

20 **“§ 7382. Ineligibility for employment**

21 “(a) IN GENERAL.—Subject to subsection (c), an in-
22 dividual is ineligible to be appointed, or to continue serv-
23 ing, as an employee if that individual—

24 “(1) has a seriously delinquent tax debt;

1 “(2) does not submit the certification required
2 under subsection (b); or

3 “(3) does not submit an authorization form re-
4 quested under section 7383(b)(1).

5 “(b) DISCLOSURE REQUIREMENT.—The head of each
6 agency shall take appropriate measures to ensure that
7 each individual applying for employment with that agency
8 is required to submit (as part of the application for em-
9 ployment) a certification that the individual does not have
10 any seriously delinquent tax debt.

11 “(c) REGULATIONS.—

12 “(1) IN GENERAL.—Subject to paragraph (2),
13 the Director of the Office of Personnel Management,
14 in consultation with the Commissioner of Internal
15 Revenue, shall, for purposes of carrying out this sec-
16 tion with respect to the executive branch, promul-
17 gate any regulations that the Office considers nec-
18 essary.

19 “(2) CONTENT.—The regulations promulgated
20 under paragraph (1) shall provide for the following:

21 “(A) All applicable due process rights af-
22 forded by chapter 75 and any other provision of
23 law shall apply with respect to a determination
24 under this section that an applicant is ineligible
25 to be appointed as an employee or that an em-

1 ployee is ineligible to continue serving as an
2 employee.

3 “(B) Before any such determination is
4 given effect with respect to an individual, the
5 individual shall be afforded 180 days to dem-
6 onstrate that the debt of the individual is a
7 debt described in clause (i), (ii), (iii), or (iv) of
8 section 7381(3)(B).

9 “(C) An employee may continue to serve,
10 in a situation involving financial hardship, if
11 the continued service of the employee is in the
12 best interests of the United States, as deter-
13 mined on a case-by-case basis and certified as
14 such by the head of the employing agency.

15 “(d) REPORTS TO CONGRESS.—Not later than 1 year
16 after the date of enactment of this section, and annually
17 thereafter, the Director of the Office of Personnel Man-
18 agement shall submit to the Committee on Homeland Se-
19 curity and Governmental Affairs of the Senate and the
20 Committee on Oversight and Reform of the House of Rep-
21 resentatives a report regarding, for the year covered by
22 the report, the number of exemptions requested and the
23 number of exemptions granted under subsection (c)(2)(C).

1 **“§ 7383. Review of public records**

2 “(a) IN GENERAL.—Each agency shall provide for
3 such reviews of public records as the head of the agency
4 considers appropriate to determine if a notice of lien has
5 been filed pursuant to section 6323 of the Internal Rev-
6 enue Code of 1986 with respect to an employee of, or an
7 applicant for employment with, that agency.

8 “(b) ADDITIONAL REQUESTS.—If a notice of lien is
9 discovered under subsection (a) with respect to an em-
10 ployee or applicant for employment, the applicable agency
11 may—

12 “(1) request that the employee or applicant exe-
13 cute and submit a form authorizing the Secretary of
14 the Treasury to disclose to the head of the agency
15 information limited to describing whether—

16 “(A) the employee or applicant has a seri-
17 ously delinquent tax debt; or

18 “(B) there is a final administrative or judi-
19 cial determination that such employee or appli-
20 cant committed any act described in section
21 7385(b); and

22 “(2) request that the Secretary of the Treasury
23 disclose any information so authorized to be dis-
24 closed.

1 “(c) AUTHORIZATION FORM.—The Secretary of the
 2 Treasury shall make available to all agencies a standard
 3 form for the authorization described in subsection (b)(1).

4 **“§ 7384. Confidentiality**

5 “Neither the head nor any other employee of an agen-
 6 cy may—

7 “(1) use any information furnished under this
 8 subchapter for any purpose other than the adminis-
 9 tration of this subchapter;

10 “(2) make any publication through which the
 11 information furnished by or with respect to any par-
 12 ticular individual under this subchapter can be iden-
 13 tified; or

14 “(3) permit anyone who is not an employee of
 15 that agency to examine or otherwise have access to
 16 any such information.

17 **“§ 7385. Adverse actions for employees who under-
 18 state taxes or fail to file**

19 “(a) IN GENERAL.—

20 “(1) IN GENERAL.—Subject to subsection (c),
 21 the head of an agency may take any personnel ac-
 22 tion against an employee of that agency if there is
 23 a final administrative or judicial determination that
 24 the employee committed any act described in sub-
 25 section (b).

1 “(2) PERSONNEL ACTIONS.—In paragraph (1),
2 the term ‘personnel action’—

3 “(A) includes separation; and

4 “(B) does not include administrative leave
5 or any other type of paid leave without duty or
6 charge to leave.

7 “(b) ACTS.—The acts described in this subsection
8 are—

9 “(1) willful failure to file any return of tax re-
10 quired under the Internal Revenue Code of 1986,
11 unless such failure is due to reasonable cause and
12 not to willful neglect; or

13 “(2) willful understatement of Federal tax li-
14 ability, unless such understatement is due to reason-
15 able cause and not to willful neglect.

16 “(c) PROCEDURE.—Under regulations prescribed by
17 the Director of the Office of Personnel Management, an
18 employee subject to a personnel action under this section
19 shall be entitled to the procedures provided under section
20 7513 or 7543, as applicable.”.

21 (b) CLERICAL AMENDMENT.—The table of sub-
22 chapters for chapter 73 of title 5, United States Code,
23 is amended by adding at the end the following:

“SUBCHAPTER VIII—INELIGIBILITY OF NONCOMPLIANT
TAXPAYERS FOR FEDERAL EMPLOYMENT

“7381. Definitions.

“7382. Ineligibility for employment.

“7383. Review of public records.

“7384. Confidentiality.

“7385. Adverse actions for employees who understate taxes or fail to file.”.

1 (c) **EFFECTIVE DATE.**—This section, and the amend-
2 ments made by this section, shall take effect on the date
3 that is 270 days after the date of enactment of this Act.

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