

Calendar No. 166

114TH CONGRESS <i>1st Session</i>	{	SENATE	{	REPORT 114-94
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PRESIDENTIAL TRANSITIONS IMPROVEMENTS ACT OF 2015

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1172

TO IMPROVE THE PROCESS OF PRESIDENTIAL TRANSITION



JULY 27, 2015.—Ordered to be printed

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{ REPORT
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PRESIDENTIAL TRANSITIONS IMPROVEMENTS ACT OF 2015

JULY 27, 2015.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1172]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1172) to improve the process of presidential transition, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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I. PURPOSE AND SUMMARY

S. 1172, the Edward “Ted” Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015, seeks to improve the process of presidential transitions. Under existing law, the transfer of power from one administration to the next is aided by the General Services Administration (GSA), which provides transition planning support to major presidential candidates and, following a presidential election, provides the president-elect and vice-president-elect the services and facilities needed to assume their official duties. S. 1172 would ensure that a senior-level and White House-led inter-agency transition council is in place at least six months before Election Day, and that a standing, working-level

inter-agency group will develop an integrated strategy for transitions. The bill also clarifies the transition duties of the GSA and expands training available to incoming presidential appointees.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The peaceful transfer of executive power from one president to another is a hallmark of American democracy. Careful planning for a presidential transition ensures that a president-elect is ready to govern on the first day of a new administration and prevents disruptions that can create vulnerabilities to the nation's security.

Concerns over the need for a smooth transition first led Congress to address this issue during the Cold War by enacting the Presidential Transition Act of 1963.¹ The purpose of the legislation was to "promote the orderly transfer of executive power" during presidential transitions and "prevent results detrimental to the safety and well-being of the United States and its people."² Before 1963, most expenses for presidential transitions were borne by the president-elect, the winning party, and volunteers.³ The Presidential Transition Act altered this model by directing the GSA to provide services, including office space and other facilities for the incoming transition team, the employment of transition staff, and the arrangement of staff from other agencies to assist in the transition.⁴

Subsequent legislation has updated and expanded the Presidential Transition Act. The Presidential Transition Effectiveness Act of 1988 increased the authorized appropriations to the GSA Administrator to provide services and facilities for the transition and to incoming and outgoing administrations; required that a specified amount of money be returned to the Treasury if the former vice president becomes the president-elect; and added several reporting requirements, including the disclosure of all transition personnel and the disclosure of all private money received for use during the transition.⁵

The Presidential Transition Act of 2000 amended the law further to provide for additional appointee orientation and human resources support for the incoming administration.⁶ The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), enacted in response to the recommendations of the 9/11 Commission,⁷ also amended the Presidential Transition Act, providing that a president-elect should submit the names of candidates for high-level national security positions, and the appropriate agencies should conduct necessary background investigations of these individuals, as soon as possible after the presidential election.⁸ In addition, IRTPA allowed major party nominees to request security clearances for members of their transition team with a need for access to classified information and directed that background investigations for

¹ Pub. L. No. 88-277, 78 Stat. 153 (1964) (codified at 3 U.S.C. § 102 (note)).

² *Id.*

³ U.S. President's Commission on Campaign Costs, Financing Presidential Campaigns, 23–24 (U.S. Gov't Printing Office, 1962).

⁴ 3 U.S.C. § 102 (note).

⁵ Pub. L. No. 100-398.

⁶ Pub. L. No. 106-293.

⁷ National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report*, 422–23 (2004), available at <http://www.9-11commission.gov/report/911Report.pdf>.

⁸ Pub. L. No. 108-458 § 7601(a), codified at 3 U.S.C. § 102 (note, subsection (f)).

these individuals be completed, to the fullest extent practicable, by the day after the general election.⁹

In 2010, recognizing a growing need for transition activities to start well before the day of a presidential election, the Committee reported the Pre-Election Presidential Transition Act of 2010 (“the 2010 Act”), which was then passed by both the Senate and the House of Representatives and signed into law on October 15, 2010.¹⁰ Building on best practices from past transitions, the bill authorized the creation of a transition coordinating council composed of high-level executive branch officials selected by the president. The 2010 Act also authorized the establishment of an agency-level transition director’s council for career employees designated to lead transition efforts in their agencies. In addition, to move the transition planning calendar back, the 2010 Act authorized GSA to provide transition planning support to major party nominees or major third-party candidates following the candidates’ nomination.¹¹

In the report accompanying the Pre-Election Presidential Transition Act of 2010, the Committee stated:

The post-September 11 security environment has made the old transition model obsolete. Numerous challenges now necessitate earlier planning and closer cooperation between incoming and outgoing administrations; the period between Election Day and the inauguration of a new president simply provides too short a timeframe for an incoming administration to do everything it needs to prepare for taking office. The selection process for incoming senior administration officials, many of whom require extensive security clearance background checks, for example, can be long and cumbersome. The Pre-Election Presidential Transition Act seeks to mitigate the risks inherent in the transfer of power and encourage early transition planning by providing resources and educating the campaigns, the press, and the public on the importance of early transition activities.¹²

Presidential Transitions Improvements Act of 2015

The challenges and risks identified by the Committee in passing the Pre-Election Presidential Transition Act of 2010 have only increased since 2010. Drawing from reviews of past transitions, including the Partnership for Public Service’s *Ready to Govern* report¹³ and the *Retrospective & Lessons Learned* report of Governor Mitt Romney’s transition team,¹⁴ the Presidential Transitions Improvements Act of 2015 will strengthen the transition planning of the multiple parties whose active involvement is necessary for a successful transition: the incumbent president, major candidates, the president and vice-president-elect, senior career officials across the government, and the transition support team at GSA.

⁹ Pub. L. No. 108–458 § 7601(c), codified at 50 U.S.C. § 435b (note).

¹⁰ Pub. L. No. 111–283.

¹¹ *Id.*

¹² S. REP. NO. 111–239 at 3 (2010).

¹³ Partnership for Public Service, *Ready to Govern: Improving the Presidential Transition* (Jan. 2010) (hereinafter *Ready to Govern*), available at <http://ourpublicservice.org/issues/develop-leaders/ready-to-govern.php>.

¹⁴ Christopher Liddell, Daniel Kroese & Clark Campbell, *Romney Readiness Project 2012: Retrospective & Lessons Learned*, (R2P Inc., 2013).

Inter-Agency transition planning

The bill institutionalizes and strengthens several of the processes that have been effective in past transitions, including the high-level and career-level working groups that were authorized—but not mandated—by the 2010 Act.¹⁵ The bill requires that the high-level, interagency transition coordinating council, chaired by a senior White House official chosen by the president, be established at least six months before Election Day. This will ensure that incumbent administrations take an early, organized approach to transition planning. The bill also requires the creation of an Agency Transition Directors Council, composed of senior representatives from major agencies and other agencies with significant responsibilities for transition activities. This council will ensure that there is strong career-level transition leadership, which will provide continuity at a time when significant numbers of political appointees are departing. The Committee also encourages both the White House Transition Coordinating Council and the Agency Transition Directors Council, consistent with practice of similar councils in the past, to seek participation by non-governmental groups with expertise in transitions.

The bill also codifies and strengthens the role that GSA has long played in inter-agency transition planning by requiring the Administrator of GSA to designate a senior career appointee to carry out the duties and authorities of GSA relating to presidential transitions under this bill or any other provision of law. The bill designates this person the “Federal Transition Coordinator,” with responsibility for coordinating transition planning, chairing the Agency Transition Directors Council, and serving as a liaison to eligible presidential candidates. Recognizing the length of modern transitions, the bill also extends the ability of GSA to offer transition services from 30 days after Inauguration Day to 180 days after Inauguration Day.

Agency transition planning

While an incumbent White House leads a transition, much of the day-to-day transition work occurs at the agency level. To ensure that agencies plan adequately for transitions, the bill requires that, not later than six months before Election Day, the head of each agency will designate a senior career employee of each major component and subcomponent of the agency to oversee transition activities. Also, the bill requires that, not later than September 15 of a presidential election year, the head of the agency will designate a qualified career employee to serve in an acting capacity during the transition for each critical non-career position in an agency.

Cooperation between incumbent administration and major candidates

Early, effective communication and cooperation between an incumbent administration and major presidential candidates is essential for effective transitions. Therefore, the bill provides that a transition representative from each major candidate will also serve,

¹⁵ The councils authorized by the 2010 Act were modeled on previous councils created by executive action. See e.g., “Facilitation of a Presidential Transition,” Exec. Order No. 13176, 65 Fed. Reg. 71, 233 (Nov. 27, 2000) and “Facilitation of a Presidential Transition,” Exec. Order No. 13476, 73 Fed. Reg. 60, 605 (Oct. 9, 2008).

in an advisory capacity, on both the White House Transition Coordinating Council and the Agency Transition Directors Council. The bill also requires, to the greatest extent practicable, the negotiation of memorandums of understanding between the incumbent administration and the transition teams of major candidates to be completed not later than November 1 of a presidential election year. The memorandums of understanding will be based on those from past transitions as much as possible.

Training of incoming appointees

Many appointees coming into an administration have extensive policy experience but are new to federal service. Training helps prepare these appointees so that they are better equipped to carry out their duties in the unique environment of the federal government. The bill provides that training may be offered to appointees to key positions in federal agencies (in addition to the training already offered under the Presidential Transition Act to heads of departments and senior officials of the Executive Office of the President). The bill also ensures that training will be available to incoming key appointees in the case of a president who is re-elected, and to key appointees throughout a president's administration, and not just at the beginning of a term in office. This training, combined with other actions that an incumbent administration may already take, such as providing ethics guidance to transition teams, will help improve the management skills of incoming appointees.

National Archives presidential transition

The National Archives and Records Administration (NARA) also plays a key role in transitions by helping the outgoing administration prepare files and documents for archiving. The bill provides for better transition planning at NARA by allowing for inclusion, in the budget request for NARA for the fiscal year in which an incumbent president's first term would expire, estimated costs of NARA's Presidential transition activities.

Conclusion

The success of a transition in large part depends on the expectations set by the incumbent president and the initiatives of the major candidates and president-elect. For example, the climate of cooperation and professionalism, combined with thorough transition planning, during the transition between President George W. Bush and then President-elect Barack Obama, led to what has been characterized as one of the most seamless transitions in modern history.¹⁶ S. 1172 would provide significant additional authorities and processes for strengthening transition planning, and will provide a strong endorsement from Congress of highly organized transitions that start well before Election Day.

III. LEGISLATIVE HISTORY

The Edward "Ted" Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015, S. 1172, was introduced April 30, 2015, by Senators Tom Carper (D–De.), and Ron Johnson

¹⁶See, e.g., Ready to Govern, pp. i, 3.

(R-Wi.). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1172 at a business meeting on May 6, 2015. During the business meeting, three amendments were adopted. Senator Johnson's first amendment requires the Office of Personnel and Management (OPM) to report the number, names, titles, and pay of all political appointees who have been converted to career positions to the Committee on Oversight & Government Reform (OGR) and the Homeland Security and Governmental Affairs Committee (HSGAC) on a quarterly basis. Senator Johnson's second amendment requires the Government Accountability Office (GAO) to study and report on regulations promulgated near the end of presidential terms. Senator Ben Sasse's amendment requires the Secretary of Homeland Security to conduct an analysis of national security threats related to terrorism and border security vulnerabilities during a presidential transition, and report to Congress. The three amendments were adopted by voice vote en bloc with Senators Johnson, McCain, Portman, Lankford, Ernst, Sasse, Carper, McCaskill, Baldwin, Heitkamp, and Peters present.

Also during the business meeting, Senator Carper asked for and received unanimous consent to change the short title of the bill to the "Edward 'Ted' Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015."¹⁷

The Committee ordered the bill, as amended, reported favorably by voice vote en bloc on May 6, 2015. Senators present for the vote on the bill were Senators Johnson, McCain, Portman, Lankford, Ernst, Sasse, Carper, McCaskill, Baldwin, Heitkamp, and Peters.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the "Edward 'Ted' Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015."

Section 2. Presidential transition improvements

This section amends the Presidential Transition Act of 1963 to provide that the Administrator of the GSA shall designate a senior career appointee to carry out the duties and authorities of GSA relating to presidential transitions under this bill or any other provision of law, to serve as the Federal Transition Coordinator with responsibility for coordinating transition planning, to ensure that agencies comply with all statutory requirements relating to transition planning and reporting, and to serve as a liaison to eligible presidential candidates.

This section also strengthens the White House-led interagency transition coordinating council that was authorized by the Pre-Election Presidential Transition Act of 2010 by requiring that the council (re-named the White House Transition Coordinating Council) be established not later than six months before Election Day. This council is responsible for providing guidance to agencies and the Federal Transition Coordinator, facilitating information sharing and communication between eligible candidates and senior offi-

¹⁷ Senator Kaufman was the sponsor of the Pre-Election Presidential Transition Act of 2010; Governor Leavitt led Governor Romney's transition team in 2012.

cials in the White House and in federal agencies, and conducting inter-agency emergency preparedness and response exercises.

In addition, this section establishes a working-level Agency Transition Directors Council, that will be chaired by the Federal Transition Coordinator and will also include senior representatives from major agencies and other agencies with significant responsibilities for transition activities. A transition representative from each major candidate will also serve on the White House Transition Coordinating Council and the Agency Transition Directors Council in an advisory capacity. The Agency Transition Directors Council will assist in developing an integrated government-wide transition strategy and will ensure that briefing materials that may be requested by eligible candidates are prepared not later than November 1 in a presidential election year.

To ensure that agencies plan adequately for transitions, this section also requires that not later than six months before Election Day, the head of each agency shall designate a senior career employee of each major component and subcomponent of the agency to oversee transition activities. Also, not later than September 15 of a presidential election year, for each critical non-career position in an agency, the head of the agency shall designate a qualified career employee to serve in an acting capacity during the transition.

This section also requires, to the greatest extent practicable, the negotiation of memorandums of understanding between the incumbent administration (acting through the Federal Transition Coordinator) and the transition teams of major candidates, not later than November 1 of a presidential election year. To the greatest extent practicable, the memorandums of understanding shall be based on those from past transitions.

This section clarifies that GSA may provide human resource management support as part of its transition services, and also clarifies that, in the event of a contested or undetermined election outcome, GSA can continue to provide services to the presidential contenders until the outcome of the election is determined. The bill also extends the ability of GSA to offer transition services from 30 days after Inauguration Day to 180 days after Inauguration Day.

The Presidential Transition Act currently allows resources appropriated under the Act to be used for training of department heads and key positions in the Executive Office of the President. This section amends that provision to also allow training of appointees to key positions in federal agencies. This section also ensures that training is available to incoming key appointees in the case of a president who is re-elected, and provides that training can be offered to key appointees throughout a president's administration, and not just at the beginning of a term in office.

To keep Congress apprised of transition activities, this section also requires the submission of reports on those activities, through the Federal Transition Coordinator, to HSGAC and OGR six months and again three months before Election Day.

Section 3. National Archives presidential transition

This section amends the Presidential Records Act to allow the National Archives and Records Administration (NARA) to include estimates of NARA's presidential activities in the budget submis-

sion for the fiscal year in which an incumbent president's first term would expire.

Section 4. Reports on political appointees appointed to nonpolitical permanent positions

This section requires OPM to submit to HSGAC and OGR quarterly reports regarding requests by agencies to appoint political appointees or former political appointees to nonpolitical civil service positions. These reports are required to include details on both the political and civil service positions related to each request and whether OPM approved or denied the request.

Section 5. Report on regulations promulgated near the end of presidential terms.

This section requires GAO to produce a report regarding regulations promulgated during the last 120-day period of presidential administrations ending in 1993, 2001, 2009 and 2017.

Section 6. Analysis of threats and vulnerabilities

This section requires the Secretary of Homeland Security to submit to Congress, by not later than February 15, 2016, a report analyzing the threats and vulnerabilities facing the United States during a presidential transition. The report shall identify and discuss vulnerabilities related to border security and threats related to terrorism, including from weapons of mass destruction; shall identify steps being taken to address the threats and vulnerabilities during a presidential transition; and may include recommendations for actions by components and agencies within the Department of Homeland Security.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate the Committee has considered the regulatory impact of this bill. The legislation will not result in additional regulation, increased economic impact, adverse impact on personal privacy, or additional paperwork on any individuals or businesses. The Congressional Budget Office confirmed that S. 1172 contains no intergovernmental or private-sector mandates as defined in Unfunded Mandates Reform Act.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JUNE 16, 2015.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1172, the Edward "Ted" Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015.

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

Sincerely,

KEITH HALL.

Enclosure.

S. 1172—Edward “Ted” Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015

S. 1172 would amend federal law to codify the process of transitioning from one presidential administration to another. The bill would establish councils of federal employees to oversee and coordinate transition activities within the White House and across all federal agencies. The bill also would require each agency to appoint staff to manage internal transition activities. Finally, S. 1172 would extend the period of time during which the General Services Administration can spend funds on services and facilities for the incoming administration after the inauguration.

According to major government agencies and non-profit organizations involved with previous presidential transitions, most of the provisions of the legislation would require agencies to implement practices that are typically put into place immediately preceding and following a presidential election. Therefore, CBO estimates that implementing this legislation would cost less than \$500,000 over the next five years. Because enacting S. 1172 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

S. 1172 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contacts for this estimate are Matthew Pickford and Ben Christopher. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 3—THE PRESIDENT

* * * * *

CHAPTER 2—OFFICE AND COMPENSATION OF PRESIDENT

* * * * *

THE PRESIDENTIAL TRANSITION ACT OF 1963

* * * * *

SEC. 3. SERVICES AND FACILITIES AUTHORIZED TO BE PROVIDED TO PRESIDENTS-ELECT AND VICE-PRESIDENTS-ELECT.

(a) * * *

(1) * * *

* * * * *

(4) * * *

(A) * * *

(B) When requested by the President-elect or Vice-President-elect or their designee, and approved by the President, Government aircraft may be provided for transition purposes on a reimbursable basis; when requested by the

President-elect, the Vice-President-elect, or the designee of the President-elect or Vice-President-elect, aircraft may be chartered for transition purposes; and any collections from the Secret Service, press, or others occupying space on chartered aircraft shall be deposited to the credit of the appropriations made under [section 6] section 7 of this Act.

- * * * * *
- (8) * * *
 (A) * * *
- (i) Not notwithstanding subsection (b), payment of expenses during the transition *and during the term of a President* for briefings, workshops, or other activities to acquaint key prospective Presidential appointees with the types of problems and challenges that most typically confront new political appointees when they make the transition from campaign and other prior activities to assuming the responsibility for governance [after inauguration].

- * * * * *
- (B) Activities under this paragraph shall be conducted primarily for individuals the President-elect or eligible candidate (as defined in subsection (h)(4)) for President intends to nominate as department heads or appoint to key positions in the Executive Office of the President or *Executive agencies* (as defined in section 105 of title 5, United States Code).

- * * * * *
- (10) Notwithstanding subsection (b), consultation by the Administrator with any President-elect, Vice-President-elect, or eligible candidate (as defined in subsection (h)(4)) to develop a systems architecture plan for the computer and communications systems of the candidate to coordinate a transition to Federal systems if the candidate is elected *including, to the greatest extent practicable, human resource management system software compatible with the software used by the incumbent President and likely to be used by the President-elect and Vice-President-elect*.

(b) The Administrator may not expend funds for the provision of services and facilities under [section 3 of this Act] this section in connection with any obligations incurred by the President-elect or Vice-President-elect—

(1) * * *

(2) after [30 days] 180 days after the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.

* * * * *

(g) In the case where the President-elect is the incumbent President or in the case where the Vice-President-elect is the incumbent Vice President, *except for activities under subsection (a)(8)(A)*, there shall be no expenditures of funds for the provision of services and facilities to such incumbent under this Act, and any funds appropriated for such purposes shall be returned to the general funds of the Treasury.

(h) * * *

(1) * * *

- (2) * * *
- (A) * * *
- (B) * * *
- (C) * * *

(D) An eligible candidate shall have a right to the services and facilities described in this paragraph until the date on which the Administrator is able to determine the apparent successful candidates for the office of President and Vice President.

- (3) * * *
- (A) * * *
- (B) * * *
 - (i) * * *
 - (ii) * * *
 - (iii) An eligible candidate establishing a separate fund under subparagraph (A) shall (as a condition for receiving services and facilities described in paragraph (2)) comply with all requirements and limitations of [section 5] section 6 in soliciting or expending amounts in the same manner as the President-elect or Vice-President-elect, including reporting on the transfer and expenditure of amounts described in subparagraph (B)(i) in the disclosures required by [section 5] section 6.

* * * * *

SEC. 4. TRANSITION SERVICES AND ACTIVITIES BEFORE ELECTION.

(a) **DEFINITIONS.**—*In this section—*

- (1) *the term “Administrator” means the Administrator of General Services;*
- (2) *the term “agency” means an Executive agency, such as defined in section 105 of title 5, United States Code;*
- (3) *the term “eligible candidate” has the meaning given that term in section 3(h)(4); and*
- (4) *the term “Presidential election” means a general election held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.*

(b) **GENERAL DUTIES.**—*The President shall take such actions as the President determines necessary and appropriate to plan and coordinate activities by the Executive branch of the Federal Government to facilitate an efficient transfer of power to a successor President, including—*

- (1) *establishing and operating a White House transition coordinating council in accordance with subsection (d); and*
- (2) *establishing and operating an agency transition directors council in accordance with subsection (e).*

(c) **FEDERAL TRANSITION COORDINATOR.**—*The Administrator shall designate an employee of the General Services Administration who is a senior career appointee to—*

- (1) *carry out the duties and authorities of the General Services Administration relating to Presidential transitions under this Act or any other provision of law;*
- (2) *serve as the Federal Transition Coordinator with responsibility for coordinating transition planning across agencies, in-*

cluding through the agency transition directors council established under subsection (e);

(3) ensure agencies comply with all statutory requirements relating to transition planning and reporting; and

(4) act as a liaison to eligible candidates.

(d) **WHITE HOUSE TRANSITION COORDINATING COUNCIL.**—

(1) **ESTABLISHMENT.**—Not later than 6 months before the date of a Presidential election, the President shall establish a White House transition coordinating council for purposes of facilitating the Presidential transition.

(2) **DUTIES.**—The White House transition coordinating council shall—

(A) provide guidance to agencies and the Federal Transition Coordinator regarding preparations for the Presidential transition, including succession planning and preparation of briefing materials;

(B) facilitate communication and information sharing between the transition representatives of eligible candidates and senior employees in agencies and the Executive Office of the President; and

(C) prepare and host interagency emergency preparedness and response exercises.

(3) **MEMBERSHIP.**—The members of the White House transition coordinating council shall include—

(A) senior employees of the Executive branch selected by the President, which may include the Chief of Staff to the President, any Cabinet officer, the Director of the Office of Management and Budget, the Administrator, the Director of the Office of Personnel Management, the Director of the Office of Government Ethics, and the Archivist of the United States;

(B) the Federal Transition Coordinator;

(C) the transition representative for each eligible candidate, who shall serve in advisory capacity; and

(D) any other individual the President determines appropriate.

(4) **CHAIRPERSON.**—The Chairperson of the White House transition coordinating council shall be a senior employee in the Executive Office of the President, designated by the President.

(e) **AGENCY TRANSITION DIRECTORS COUNCIL.**—

(1) **IN GENERAL.**—The President shall establish and operate an agency transition directors council, which shall—

(A) ensure the Federal Government has an integrated strategy for addressing interagency challenges and responsibilities around Presidential transitions and turnover of non-career appointees;

(B) coordinate transition activities between the Executive Office of the President, agencies, and the transition team of eligible candidates and the President-elect and Vice-President-elect; and

(C) draw on guidance provided by the White House transition coordinating council and lessons learned from previous Presidential transitions in carrying out its duties.

(2) *DUTIES.*—As part of carrying out the responsibilities under paragraph (1), the agency transition directors council shall—

(A) assist the Federal Transition Coordinator in identifying and carrying out the responsibilities of the Federal Transition Coordinator relating to a Presidential transition;

(B) provide guidance to agencies in gathering briefing materials and information related to the Presidential transition that may be requested by eligible candidates;

(C) ensure materials and information described in subparagraph (B) are prepared not later than November 1 of a year during which a Presidential election is held;

(D) ensure agencies adequately prepare career employees who are designated to fill non-career positions under subsection (f) during a Presidential transition; and

(E) consult with the President's Management Council, or any successor thereto, in carrying out the duties of the agency transition directors council.

(3) *MEMBERSHIP.*—The members of the agency transition directors council shall include—

(A) the Federal Transition Coordinator, who shall serve as Chairperson of the agency transition directors council;

(B) a senior employee serving in the Executive Office of the President, who shall be appointed by the President;

(C) a senior representative from each agency described in section 901(b)(1) of title 31, United States Code, the Office of Personnel Management, the Office of Government Ethics, and the National Archives and Records Administration whose responsibilities include leading Presidential transition efforts within the agency;

(D) a senior representative from any other agency determined by the Federal Transition Coordinator to be an agency that has significant responsibilities relating to the Presidential transition process; and

(E) during a year during which a presidential election will be held, a transition representative for each eligible candidate, who shall serve in an advisory capacity.

(4) *MEETINGS.*—The agency transition directors council shall meet—

(A) subject to subparagraph (B), not less than once per year; and

(B) during the period beginning on the date that is 6 months before a Presidential election and ending on the date on which the President-elect is inaugurated, on a regular basis as necessary to carry out the duties and authorities of the agency transition directors council.

(f) *INTERIM AGENCY LEADERSHIP FOR TRANSITIONS.*—

(1) *OVERSIGHT AND IMPLEMENTATION OF TRANSITION.*—Not later than 6 months before the date of a Presidential election, the head of each agency shall designate a senior career employee of the agency and a senior career employee of each major component and subcomponent of the agency to oversee and implement the activities of the agency, component, or subcomponent relating to the Presidential transition.

(2) ACTING OFFICERS.—Not later than September 15 of a year during which a Presidential election occurs, and in accordance with subchapter III of chapter 33 of title 5, United State Code, for each non-career position in an agency that the head of the agency determines is critical, the head of the agency shall designate a qualified career employee to serve in the position in an acting capacity if the position becomes vacant.

(g) MEMORANDUMS OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than November 1 of a year during which a Presidential election occurs, the President (acting through the Federal Transition Coordinator) shall, to the maximum extent practicable, negotiate a memorandum of understanding with the transition representative of each eligible candidate, which shall include, at a minimum, the conditions of access to employees, facilities, and documents of agencies by transition staff.

(2) EXISTING RESOURCES.—To the maximum extent practicable, the memorandums of understanding negotiated under paragraph (1) shall be based on memorandums of understanding from previous Presidential transitions.

(h) EQUITY IN ASSISTANCE.—Any information of other assistance provided to eligible candidates under this section shall be offered on an equal basis and without regard to political affiliation.

(i) REPORTS.—

(1) IN GENERAL.—The President, acting through the Federal Transition Coordinator, shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate reports describing the activities undertaken by the President and agencies to prepare for the transfer of power to a new President.

(2) TIMING.—The reports under paragraph (1) shall be provided 6 months and 3 months before the date of a Presidential election.

[SEC. 4] SEC. 5. SERVICES AND FACILITIES AUTHORIZED TO BE PROVIDED TO FORMER PRESIDENTS AND FORMER VICE PRESIDENTS.

* * * * *

[SEC. 5] SEC. 6. DISCLOSURES OF FINANCING AND PERSONNEL; LIMITATION ON ACCEPTANCE OF DONATIONS.

(a) * * *

(1) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under [section 6(a)(1)] section 7(a)(1)) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all money, other than funds from the Federal Government, and including currency of the United States and of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand, received either before or after the date of the general elections for use in the preparation of the President-elect or Vice-President-elect for the assumption of official duties as President or Vice President.

(2) * * *

(3) * * *

(b) * * *

(1) The President-Elect and Vice-President-elect (as a condition for receiving services provided under section 3 and funds provided under [section 6(a)(1)] *section 7(a)(1)*) shall be made available to the public—

(A) * * *

(B) * * *

(2) * * *

(c) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under [section 6(a)(1)] *section 7(a)(1)*) shall not accept more than \$5,000 from any person, organization, or other entity for purposes of carrying out activities authorized by this Act.

* * * * *

[SEC. 6] SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) * * *

(1) * * *

(2) not more than \$1,500,000 may be appropriated for the purposes of providing services and facilities to the former president and former Vice President under [section 4] *section 5*, except that any amount appropriated pursuant to this paragraph in excess of \$1,250,000 shall be returned to the general fund of the Treasury in the case where the former Vice President is the incumbent President.

(b) * * *

TITLE 5—GOVERNMENT ORGANIZATIONS AND EMPLOYEES

* * * * *

Part III—EMPLOYEES

* * * * *

SUBPART G—INSURANCE AND ANNUITIES

* * * * *

SEC. 8331. DEFINITIONS.

For the purpose of this subchapter—

(1) “employee” means—

(A) * * *

* * * * *

(K) an individual appointed to a position on the office staff of a former President, or a former Vice President under [section 4] *section 5* of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph; and

* * * * *

SEC. 8701. DEFINITIONS.

(a) For the purpose of this chapter, “employee” means—

(1) * * *

* * * * *

(10) an individual appointed to a position on the office of a former President, or a former Vice President under [section 4] section 5 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection

* * * * *

SEC. 8901. DEFINITIONS.

For the purpose of this chapter—

- (1) “employee” means—
- (A) * * *

* * * * *

(I) an individual appointed to a position on the office staff of a former President, or former Vice President under [section 4] section 5 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph; and

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TITLE 44—PUBLIC PRINTING AND DOCUMENTS

* * * * *

CHAPTER 22—PRESIDENTIAL RECORDS

* * * * *

SEC. 2203. MANAGEMENT AND CUSTODY OF PRESIDENTIAL RECORDS.

- (a) * * *

(g) * * *

- (1) * * *
- (2) * * *

(3) When the President considers it practicable and in the public interest, the President shall include in the President's budget transmitted to Congress, for each fiscal year in which the term of office of the president will expire, such funds as may be necessary for carrying out the authorities of this subsection.

[3](4) The Archivist is authorized to dispose of such Presidential records which the Archivist has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation. Notice of such disposal shall be published in the Federal Register at least 60 days in advance of the proposed disposal date. Publication of such notice shall constitute a final agency action for purposes of review under chapter 7 of title 5, United States Code.

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