

TRANSITION TEAM ETHICS IMPROVEMENT ACT

\_\_\_\_\_  
JANUARY 27, 2020.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed  
\_\_\_\_\_

Mrs. CAROLYN B. MALONEY (NY), from the Committee on Oversight  
and Reform submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 964]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Reform, to whom was referred the bill (H.R. 964) to amend the Presidential Transition Act of 1963 to require the development of ethics plans for certain transition teams, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Summary and Purpose of Legislation .....	3
Background and Need for Legislation .....	3
Section-by-Section Analysis .....	5
Legislative History .....	6
Committee Consideration .....	6
Roll Call Votes .....	6
Explanation of Amendments .....	8
List of Related Committee Hearings .....	8
Statement of Oversight Findings and Recommendations of the Committee .....	8
Statement of General Performance Goals and Objectives .....	8
Application of Law to the Legislative Branch .....	8
Duplication of Federal Programs .....	8
Disclosure of Directed Rule Makings .....	9
Federal Advisory Committee Act Statement .....	9
Unfunded Mandates Reform Act Statement .....	9
Earmark Identification .....	9

Committee Cost Estimate .....	9
New Budget Authority and Congressional Budget Office Cost Estimate .....	9
Changes In Existing Law Made by the Bill, as Reported .....	10
Minority Views .....	23

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Transition Team Ethics Improvement Act”.

**SEC. 2. PRESIDENTIAL TRANSITION ETHICS PROGRAMS.**

The Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) in section 3(f), by adding at the end the following:

“(3) Not later than 10 days after submitting an application for a security clearance for any individual, and not later than 10 days after any such individual is granted a security clearance (including an interim clearance), each eligible candidate (as that term is described in subsection (h)(4)(A)) or the President-elect (as the case may be) shall submit a report containing the name of such individual to the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.”;

(2) in section 4—

(A) in subsection (a)—

(i) in paragraph (3), by striking “and” at the end;

(ii) by redesignating paragraph (4) as paragraph (5); and

(iii) by inserting after paragraph (3) the following:

“(4) the term ‘nonpublic information’—

“(A) means information from the Federal Government that a transition team member obtains as part of the employment of such member that the member knows or reasonably should know has not been made available to the general public; and

“(B) includes information that has not been released to the public that a transition team member knows or reasonably should know—

“(i) is exempt from disclosure under section 552 of title 5, United States Code, or otherwise protected from disclosure by law; and

“(ii) is not authorized by the appropriate agency or official to be released to the public; and”;

(B) in subsection (g)—

(i) in paragraph (1), by striking “November” and inserting “October”;

and

(ii) by adding at the end the following:

“(3) ETHICS PLAN.—

“(A) IN GENERAL.—Each memorandum of understanding under paragraph (1) shall include an agreement that the eligible candidate will implement and enforce an ethics plan to guide the conduct of the transition beginning on the date on which the eligible candidate becomes the President-elect.

“(B) CONTENTS.—The ethics plan shall include, at a minimum—

“(i) a description of the ethics requirements that will apply to all transition team members, including specific requirements for transition team members who will have access to nonpublic or classified information;

“(ii) a description of how the transition team will—

“(I) address the role on the transition team of—

“(aa) registered lobbyists under the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) and individuals who were formerly registered lobbyists under that Act;

“(bb) persons registered under the Foreign Agents Registration Act, as amended (22 U.S.C. 611 et seq.), foreign nationals, and other foreign agents; and

“(cc) transition team members with sources of income or clients that are not disclosed to the public;

“(II) prohibit a transition team member with personal financial conflicts of interest as described in section 208 of title 18, United States Code, from working on particular matters involving specific parties that affect the interests of such member; and

“(III) address how the covered eligible candidate will address their own personal financial conflicts of interest during a Presidential term if the covered eligible candidate becomes the President-elect;

“(iii) a Code of Ethical Conduct, to which each transition team member will sign and be subject to, that reflects the content of the ethics plans under this paragraph and at a minimum requires each transition team member to—

“(I) seek authorization from transition team leaders or their designees before seeking, on behalf of the transition, access to any nonpublic information;

“(II) keep confidential any nonpublic information provided in the course of the duties of the member with the transition and exclusively use such information for the purposes of the transition; and

“(III) not use any nonpublic information provided in the course of transition duties, in any manner, for personal or private gain for the member or any other party at any time during or after the transition; and

“(iv) a description of how the transition team will enforce the Code of Ethical Conduct, including the names of the transition team members responsible for enforcement, oversight, and compliance.

“(C) PUBLICLY AVAILABLE.—The transition team shall make the ethics plan described in this paragraph publicly available on the website of the General Services Administration the earlier of—

“(i) the day on which the memorandum of understanding is completed; or

“(ii) October 1.”; and

(3) in section 6(b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “and” at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(C) a list of all positions each transition team member has held outside the Federal Government for the previous 12-month period, including paid and unpaid positions;

“(D) sources of compensation for each transition team member exceeding \$5,000 a year for the previous 12-month period;

“(E) a description of the role of each transition team member, including a list of any policy issues that the member expects to work on, and a list of agencies the member expects to interact with, while serving on the transition team;

“(F) a list of any issues from which each transition team member will be recused while serving as a member of the transition team pursuant to the transition team ethics plan outlined in section 4(g)(3); and

“(G) an affirmation that no transition team member has a financial conflict of interest that precludes the member from working on the matters described in subparagraph (E).”;

(B) in paragraph (2), by inserting “not later than 2 business days” after “public”; and

(C) by adding at the end the following:

“(3) The head of a Federal department or agency, or their designee, shall not permit access to the Federal department or agency, or employees of such department or agency, that would not be provided to a member of the public for any transition team member who does not make the disclosures listed under paragraph (1).”.

#### SUMMARY AND PURPOSE OF LEGISLATION

The Transition Team Ethics Improvement Act would amend the Presidential Transition Act of 1963 to strengthen the ethics and transparency of presidential transitions by requiring the development of ethics plans for presidential transition teams and by requiring Presidents-elect to include core elements in those ethics plans and publicly release the plans.

#### BACKGROUND AND NEED FOR LEGISLATION

The Government Accountability Office (GAO) conducted a review of the 2016 presidential transition. GAO reported that President Donald Trump’s transition team failed to designate a transition official to enforce its ethics code during the transition. As a result,

transition team members were not strictly required to follow their ethics pledges. President Trump's transition team also ignored a recommendation from the Office of Government Ethics (OGE) to hire a government ethics expert during the transition period and did not provide financial information on prospective nominees to OGE for the purpose of conducting blind reviews.<sup>1</sup>

Former OGE Director Walter Shaub testified in a Committee hearing on H.R. 1: "This transparency measure would strengthen public confidence in presidential transitions because it would require the President-elect to disclose in detail how the presidential transition team manages ethics issues."<sup>2</sup>

The bill would require Presidents-elect to publicly release ethics plans for their transition teams that contain certain core requirements. The bill would also strengthen ethics and increase transparency during the transition process by requiring the President-elect to submit the names of transition team members who apply for security clearances, as well as the names of individuals who receive security clearances, to the Committee on Oversight and Reform and to the Senate Homeland Security and Governmental Affairs Committee (HSGAC).

According to a Memorandum of Understanding signed by the Chair of President Trump's Transition Team, members of the Presidential Team were permitted to access classified information given "that the member has the security clearances necessary to have access to that information, and the requisite need to know," and "that the member has signed the requisite non-disclosure agreement."<sup>3</sup> Press reports have raised significant concerns about individuals on the Presidential Transition Team who may have had access to classified information. For example, General Michael Flynn, who served as Vice Chair of the Presidential Transition Team, pleaded guilty to lying to law enforcement about his communications with Russian government officials during the transition period.<sup>4</sup> It was also publicly reported that the Presidential Transition Team requested a security clearance for Michael Flynn, Jr., who Vice President-Elect Mike Pence stated was "helping on administrative matters."<sup>5</sup> Michael Flynn, Jr. was reportedly fired from the Presidential Transition Team "for using Twitter to spread a fake news story about Hillary Clinton that led to an armed confrontation in a pizza restaurant in Washington."<sup>6</sup> Bijan Kian, a former business associate of General Flynn who served on the Presidential Transition Team, was indicted for conspiracy to violate lobbying rules

<sup>1</sup> Government Accountability Office, *Presidential Transition: Information on Ethics, Funding, and Agency Services* (Sept. 17, 2017) (GAO-17-615R) (online at [www.gao.gov/assets/690/687012.pdf](http://www.gao.gov/assets/690/687012.pdf)).

<sup>2</sup> Committee on Oversight and Reform, Hearing on *H.R. 1: Strengthening Ethics Rules for the Executive Branch* (Feb. 6, 2019) (116th Cong.) (online at <https://oversight.house.gov/legislation/hearings/hr-1-strengthening-ethics-rules-for-the-executive-branch>).

<sup>3</sup> Memorandum of Understanding Regarding Transition Procedures, Identification of Transition Contacts, and Access to Non-public Government and Transition Information Between Denis R. McDonough, Chief of Staff to the President and Chris Christie, Designated Chair of the President-elect's Transition Team (Nov. 8, 2016) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2016%20Presidential%20Transition.pdf>).

<sup>4</sup> Statement of the Offense, *United States v. Flynn* (D.D.C. 1:17-cr-00232) (Dec. 1, 2017) (online at [www.justice.gov/file/1015126/download](http://www.justice.gov/file/1015126/download)).

<sup>5</sup> Source: *Trump Transition Team Requested Security Clearance for Flynn Jr.*, CNN (Dec. 6, 2016) (online at [www.cnn.com/2016/12/06/politics/trump-transition-michael-flynn-conspiracy-theories/index.html](http://www.cnn.com/2016/12/06/politics/trump-transition-michael-flynn-conspiracy-theories/index.html)); State of the Union, CNN (Dec. 6, 2016) (online at <http://transcripts.cnn.com/TRANSCRIPTS/1612/06/cg.01.html>).

<sup>6</sup> *Trump Fires Adviser's Son from Transition for Spreading Fake News*, New York Times (Dec. 6, 2016) (online at [www.nytimes.com/2016/12/06/us/politics/michael-flynn-son-trump.html](http://www.nytimes.com/2016/12/06/us/politics/michael-flynn-son-trump.html)).

based on conduct that Mr. Kian and Flynn Intel Group undertook from “at least July 2016, through at least March 2017.”<sup>7</sup>

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

The short title is the “Transition Team Ethics Improvement Act.”

##### *Sec. 2. Presidential transition ethics programs*

Clause (1) amends subsection (f) of section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) to add a provision that requires each eligible candidate or the President-elect to submit the names of campaign or transition team members who apply for security clearances, as well as the names of individuals who receive security clearances, to the Committee and to HSGAC.

Clause (2), subclause (A) amends subsection (a) of section 4 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) to add a definition for the term “nonpublic information.”

Clause (2), subclause (B) amends subsection (g) of section 4 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) to add provisions that require eligible candidates to agree to implement and enforce ethics plans during the transition period, require certain minimum requirements for such ethics plans, and require public disclosure of the ethics plans.

Clause (3), subclause (A) amends paragraph (1) of subsection (b) of section 6 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) to add provisions that require a transition team member who is designated to a federal department or agency transition team to make additional disclosures, including information on all positions the transition team member has held outside of the federal government in the previous 12-month period, all of the transition team member’s sources of compensation exceeding \$5,000 a year for the previous 12-month period, a description of the transition team member’s role on the transition, a list of any issues from which the transition team member will be recused, and an affirmation that the individual has no conflicts of interest.

Clause (3), subclause (B) amends paragraph (2) of subsection (b) of section 6 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) to add language that would require all disclosures made under paragraph (1) of subsection (b) of section 6 of the Presidential Transition Act of 1963 to be made public not later than 2 business days before the initial transition team contact with a Federal department or agency.

Clause (3), subclause (C) further amends subsection (b) of section 6 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) to prohibit a transition team member who does not make the disclosures required by paragraph (1) of section 6 of the Presidential Transition Act of 1963 from gaining access to a Federal department or agency.

##### *Sec. 3. Severability*

If a provision of this Act is named unconstitutional, it does not make the entire Act unconstitutional.

<sup>7</sup> Indictment, *United States v. Rafiekian* (E.D. Va. 1:18-cr-00457) (Dec. 12, 2018) (online at [www.justice.gov/opa/press-release/file/1120621/download](http://www.justice.gov/opa/press-release/file/1120621/download)).

## LEGISLATIVE HISTORY

On January 3, 2019, Representative John Sarbanes (D–MD) introduced H.R. 1, the For the People Act, and the bill was referred to various committees for consideration, including the Oversight and Reform Committee. The Transition Team Ethics Improvement Act comprised Subtitle F of Title VIII of H.R. 1.

On February 5, 2019, Representative Elijah E. Cummings (D–MD), Chairman of the Committee, introduced the Transition Team Ethics Improvement Act, H.R. 964, with 18 original co-sponsors, and Senator Elizabeth Warren (D–MA) introduced a companion bill, S. 338, with 13 original co-sponsors. H.R. 964 was referred to the Committee upon introduction.

On February 6, 2019, the Committee held a hearing to examine the proposals in H.R. 1 in the Committee’s jurisdiction, including the Transition Team Ethics Improvement Act. The Committee heard testimony from: Scott Amey, General Counsel of the Project on Government Oversight; Karen Hobert Flynn, President of Common Cause; Rudy Mehrbani, Spitzer Fellow and Senior Counsel at the Brennan Center for Justice; Walter Shaub, Jr., Senior Advisor at Citizens for Responsibility and Ethics in Washington; and Bradley A. Smith, Chairman of the Institute for Free Speech.<sup>8</sup>

On February 7, 2019, Senators Ron Johnson (R–WI), Tom Carper (D–DE), and Maggie Hassan (D–NH) introduced the Presidential Enhancement Act of 2019, S. 394. That bill includes a large portion of the provisions of H.R. 964. S. 394 was referred to HSGAC on February 7, 2019. HSGAC considered S. 394 at a business meeting on February 13, 2019 and approved the legislation by voice vote. On March 25, 2019, HSGAC reported the bill favorably and recommended that the bill, as amended, pass.

On March 26, 2019, the Committee considered H.R. 964 at a business meeting with a quorum present. Chairman Cummings offered an amendment in the nature of a substitute, which was agreed to by voice vote, and the Oversight and Reform Committee ordered the bill reported favorably, as amended, by a recorded vote of 18–12.

## COMMITTEE CONSIDERATION

On March 26, 2019, the Committee considered H.R. 964 at a business meeting. Chairman Cummings offered an amendment in the nature of a substitute, which was agreed to by voice vote, and the Committee ordered the bill reported favorably, as amended, by a recorded vote of 18–12.

## ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee’s consideration of H.R. 964:

---

<sup>8</sup>*Id.*

COMMITTEE ON OVERSIGHT AND REFORM  
116TH CONGRESS  
RATIO 24-18  
ROLL CALL

Date: 3-26-19

VOTE #: 8

Vote on: H.R. 964 – Favorably Report to House, as Amended.

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)	X			MR. JORDAN (OH)		X	
MS. MALONEY (NY)	X			MR. AMASH (MI)		X	
MS. NORTON (DC)				MR. GOSAR (AZ)			
MR. CLAY (MO)	X			MS. FOXX (NC)		X	
MR. LYNCH (MA)				MR. MASSIE (KY)			
MR. COOPER (TN)	X			MR. MEADOWS (NC)			
MR. CONNOLLY (VA)				MR. HICE (GA)		X	
MR. KRISHNAMOORTHY (IL)	X			MR. GROTHMAN (WI)		X	
MR. RASKIN (MD)	X			MR. COMER (KY)			
MR. ROUDA (CA)	X			MR. CLOUD (TX)			
MS. HILL (CA)	X			MR. GIBBS (OH)		X	
MS. WASSERMAN SCHULTZ (FL)	X			MR. HIGGINS (LA)		X	
MR. SARBANES (MD)	X			MR. NORMAN (SC)			
MR. WELCH (VT)	X			MR. ROY (TX)		X	
MS. SPEIER (CA)				MS. MILLER (WV)		X	
MS. KELLY (IL)	X			MR. GREEN (TN)		X	
MR. DeSAULNIER (CA)	X			MR. ARMSTRONG (ND)		X	
MS. LAWRENCE (MI)				MR. STEUBE (FL)		X	
MS. PLASKETT (VI)							
MR. KHANNA (CA)	X						
MR. GOMEZ (CA)	X						
MS. OCASIO-CORTEZ (NY)	X						
MS. PRESSLEY (MA)	X						
MS. TLAIB (MI)	X						

Roll Call Totals: Ayes: 18 Nays: 12 Present:

Passed:   X   Failed: \_\_\_\_\_

## EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative Elijah Cummings (D–MD), Chairman of the Committee, offered an amendment in the nature of a substitute that modified the bill to require disclosures from both the President-elect and each President-elect candidate in order to ensure the disclosure of security clearance applications and approvals that are submitted before the election, among other technical changes. The Committee adopted the amendment by a voice vote.

## LIST OF RELATED COMMITTEE HEARINGS

In accordance with section 103(i) of H. Res. 6, the Committee held a hearing to consider the proposals set forth in the Transition Team Ethics Improvement Act on February 6, 2019, as part of a hearing to examine the proposals in H.R. 1 that were in the Committee’s jurisdiction.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee finds that the Trump Transition Team failed to establish effective measures to manage its ethics program or address conflicts of interest and was not transparent about the process by which it addressed such issues, such that the Committee recommends the adoption of this bill (H.R. 964) to ensure that future transitions from one presidential administration to the next will adopt more robust ethics measures and will do so in a more transparent manner.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goal or objective of this bill is to amend the Presidential Transition Act of 1963 to require the development of ethics plans for certain transition teams, and for other purposes.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill amends the Presidential Transition Act of 1963 to require the development of ethics plans for certain transition teams, and for other purposes. As such, this bill does not relate to terms and conditions of employment or access to public services or accommodations.

## DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 3(c)(5) of rule XIII, no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Ac-

countability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT STATEMENT

The legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES REFORM ACT STATEMENT

Pursuant to section 423 of the *Congressional Budget Act of 1974* the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974*.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the *Congressional Budget Act of 1974* is as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 17, 2019.*

Hon. ELIJAH E. CUMMINGS,  
*Chairman, Committee on Oversight and Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 964, the Transition Team Ethics Improvement Act.

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,  
*Director.*

Enclosure.

<b>H.R. 964, Transition Team Ethics Improvement Act</b>			
As ordered reported by the House Committee on Oversight and Reform on March 26, 2019			
Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	n.e.
Pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
n.e. = not estimated; * = between zero and \$500,000.			

H.R. 964 would amend the Presidential Transition Act of 1963. Specifically, the legislation would update existing laws regarding presidential transition teams and security clearances, financial disclosures, and ethics.

Using information from the General Services Administration and the Office of Government Ethics, CBO expects that most of the costs for those activities would not be covered by the federal government but instead would be paid for from private donations. Thus, CBO estimates that the federal cost to implement the bill would be insignificant.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Assistant Director for Budget Analysis.

**CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in roman):

**PRESIDENTIAL TRANSITION ACT OF 1963**

\* \* \* \* \*

**SERVICES AND FACILITIES AUTHORIZED TO BE PROVIDED TO PRESIDENTS-ELECT AND VICE-PRESIDENTS-ELECT**

SEC. 3. (a) The Administrator of General Services, referred to hereafter in this Act as “the Administrator,” is authorized to provide, upon request, to each President-elect and each Vice-President-elect, for use in connection with his preparations for the assumption of official duties as President or Vice President necessary services and facilities, including the following:

- (1) Suitable office space appropriately equipped with furniture, furnishings, office machines and equipment, and office supplies, as determined by the Administrator, after consulta-

tion with the President-elect, the Vice-President-elect, or their designee provided for in subsection (e) of this section, at such place or places within the United States as the President-elect or Vice-President-elect shall designate.

(2) Payment of the compensation of members of office staffs designated by the President-elect or Vice-President-elect at rates determined by them not to exceed the rate provided by the Classification Act of 1949, as amended, for grade GS-18: *Provided*, That any employee of any agency of any branch of the Government may be detailed to such staffs on a reimbursable basis with the consent of the head of the agency; and while so detailed such employee shall be responsible only to the President-elect or Vice-President-elect for the performance of his duties: *Provided further*, That any employee so detailed shall continue to receive the compensation provided pursuant to law for his regular employment, and shall retain the rights and privileges of such employment without interruption. Notwithstanding any other law, persons receiving compensation as members of office staffs under this subsection, other than those detailed from agencies, shall not be held or considered to be employees of the Federal Government except for purposes of the Civil Service Retirement Act, the Federal Employees' Compensation Act, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees Health Benefits Act of 1959.

(3) Payment of expenses for the procurement of services of experts or consultants or organizations thereof for the President-elect or Vice-President-elect, as authorized for the head of any department by section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a),.

(4)(A) Payment of travel expenses and subsistence allowances, including rental of Government or hired motor vehicles, found necessary by the President-elect or Vice-President-elect, as authorized for persons employed intermittently or for persons serving without compensation by section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-2), as may be appropriate;

(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 other occupying space on chartered aircraft shall be deposited to the credit of the appropriations made under section 7 of this Act.

(5) Communications services found necessary by the President-elect or Vice-President-elect.

(6) Payment of expenses for necessary printing and binding, notwithstanding the Act of January 12, 1895, and the Act of March 1, 1919, as amended (44 U.S.C. 111).

(7) Reimbursement to the postal revenues in amounts equivalent to the postage that would otherwise be payable on mail matter referred to in subsection (d) of this section.

(8)(A)(i) 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.

(ii) Activities under this paragraph may include interchange between such appointees and individuals who—

(I) held similar leadership roles in prior administrations;

(II) are department or agency experts from the Office of Management and Budget or an Office of Inspector General of a department or agency; or

(III) are relevant staff from the General Accounting Office.

(iii) Activities under this paragraph may include training or orientation in records management to comply with section 2203 of title 44, United States Code, including training on the separation of Presidential records and personal records to comply with subsection (b) of that section.

(iv) Activities under this paragraph may include training or orientation in human resources management and performance-based management.

(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

(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).

(9)(A) Notwithstanding subsection (b), development of a transition directory by the Administrator of General Services Administration, in consultation with the Archivist of the United States (head of the National Archives and Records Administration) for activities conducted under paragraph (8).

(B) The transition directory shall be a compilation of Federal publications and materials with supplementary materials developed by the Administrator that provides information on the officers, organization, and statutory and administrative authorities, functions, duties, responsibilities, and mission of each department and agency.

(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 this section in connection with any obligations incurred by the President-elect or Vice-President-elect—

(1) before the day following the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code; or

(2) after 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.

(c) The terms “President-elect” and “Vice-President-elect” as used in this Act shall mean such persons as are the apparent successful candidates for the office of President and Vice President, respectively, as ascertained by the Administrator following the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

(d) Each President-elect shall be entitled to conveyance within the United States and its territories and possessions of all mail matter, including airmail, sent by him in connection with his preparations for the assumption of official duties as President, and such mail matter shall be transmitted as penalty mail as provided in title 39, United States Code, section 4152. Each Vice-President-elect shall be entitled to conveyance within the United States and its territories and possessions of all mail matter, including airmail, sent by him under his written autograph signature in connection with his preparations for the assumption of official duties as Vice President.

(e) Each President-elect and Vice-President-elect, or eligible candidate (as defined in subsection (h)(4)) for President or Vice-President, may designate to the Administrator an assistant authorized to make on his behalf such designations or findings of necessity as may be required in connection with the services and facilities to be provided under this Act. Not more than 10 per centum of the total expenditures under this Act for any President-elect or Vice-President-elect may be made upon the basis of a certificate by him or the assistant designated by him pursuant to this section that such expenditures are classified and are essential to the national security, and that they accord with the provisions of subsections (a), (b), and (d) of this section.

(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.

(3) *Not later than 10 days after submitting an application for a security clearance for any individual, and not later than 10 days after any such individual is granted a security clearance (including an interim clearance), each eligible candidate (as that term is described in subsection (h)(4)(A)) or the President-elect (as the case may be) shall submit a report containing the name of such individual to the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.*

(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)(A) In the case of an eligible candidate, the Administrator—

(i) shall notify the candidate of the candidate's right to receive the services and facilities described in paragraph (2) and shall provide with such notice a description of the nature and scope of each such service and facility; and

(ii) upon notification by the candidate of which such services and facilities such candidate will accept, shall, notwithstanding subsection (b), provide such services and facilities to the candidate during the period beginning on the date of the notification and ending on the date of the general elections described in subsection (b)(1).

The Administrator shall also notify the candidate that sections 7601(c) and 8403(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 provide additional services.

(B) The Administrator shall provide the notice under subparagraph (A)(i) to each eligible candidate—

(i) in the case of a candidate of a major party (as defined in section 9002(6) of the Internal Revenue Code of 1986), on one of the first 3 business days following the last nominating convention for such major parties; and

(ii) in the case of any other candidate, as soon as practicable after an individual becomes an eligible candidate (or, if later, at the same time as notice is provided under clause (i)).

(C)(i) The Administrator shall, not later than 12 months before the date of each general election for President and Vice-President (beginning with the election to be held in 2012), prepare a report summarizing modern presidential transition activities, including a bibliography of relevant resources.

(ii) The Administrator shall promptly make the report under clause (i) generally available to the public (including through electronic means) and shall include such report with the notice provided to each eligible candidate under subparagraph (A)(i).

(2)(A) Except as provided in subparagraph (B), the services and facilities described in this paragraph are the services and facilities described in subsection (a) (other than paragraphs (2), (3), (4), (7), and 8(A)(v) thereof), but only to the extent that the use of the services and facilities is for use in connection with the eligible candidate's preparations for the assumption of official duties as President or Vice-President.

(B) The Administrator—

(i) shall determine the location of any office space provided to an eligible candidate under this subsection;

(ii) shall, as appropriate, ensure that any computers or communications services provided to an eligible candidate under this subsection are secure;

(iii) shall offer information and other assistance to eligible candidates on an equal basis and without regard to political affiliation; and

(iv) may modify the scope of any services to be provided under this subsection to reflect that the services are provided to eligible candidates rather than the President-elect or Vice-President-elect, except that any such modification must apply to all eligible candidates.

(C) An eligible candidate, or any person on behalf of the candidate, shall not use any services or facilities provided under this subsection other than for the purposes described in subparagraph (A), and the candidate or the candidate's campaign shall reimburse the Administrator for any unauthorized use of such services or facilities.

(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) Notwithstanding any other provision of law, an eligible candidate may establish a separate fund for the payment of expenditures in connection with the eligible candidate's preparations for the assumption of official duties as President or Vice-President, including expenditures in connection with any services or facilities provided under this subsection (whether before such services or facilities are available under this section or to supplement such services or facilities when so provided). Such fund shall be established and maintained in such manner as to qualify such fund for purposes of section 501(c)(4) of the Internal Revenue Code of 1986.

(B)(i) The eligible candidate may—

(I) transfer to any separate fund established under subparagraph (A) contributions (within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8))) the candidate received for the general election for President or Vice-President or payments from the Presidential Election Campaign Fund under chapter 95 of the Internal Revenue Code of 1986 the candidate received for the general election; and

(II) solicit and accept amounts for receipt by such separate fund.

(ii) Any expenditures from the separate fund that are made from such contributions or payments described in clause (i)(I) shall be treated as expenditures (within the meaning of section

301(9) of such Act (2 U.S.C. 431(9))) or qualified campaign expenses (within the meaning of section 9002(11) of such Code), whichever is applicable.

(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 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 6.

(4)(A) In this subsection, the term “eligible candidate” means, with respect to any presidential election (as defined in section 9002(10) of the Internal Revenue Code of 1986)—

(i) a candidate of a major party (as defined in section 9002(6) of such Code) for President or Vice-President of the United States; and

(ii) any other candidate who has been determined by the Administrator to be among the principal contenders for the general election to such offices.

(B) In making a determination under subparagraph (A)(ii), the Administrator shall—

(i) ensure that any candidate determined to be an eligible candidate under such subparagraph—

(I) meets the requirements described in Article II, Section 1, of the United States Constitution for eligibility to the office of President;

(II) has qualified to have his or her name appear on the ballots of a sufficient number of States such that the total number of electors appointed in those States is greater than 50 percent of the total number of electors appointed in all of the States; and

(III) has demonstrated a significant level of public support in national public opinion polls, so as to be realistically considered among the principal contenders for President or Vice-President of the United States; and

(ii) consider whether other national organizations have recognized the candidate as being among the principal contenders for the general election to such offices, including whether the Commission on Presidential Debates has determined that the candidate is eligible to participate in the candidate debates for the general election to such offices.

**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, 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 “nonpublic information”—

(A) means information from the Federal Government that a transition team member obtains as part of the employment of such member that the member knows or reasonably

*should know has not been made available to the general public; and*

*(B) includes information that has not been released to the public that a transition team member knows or reasonably should know—*

*(i) is exempt from disclosure under section 552 of title 5, United States Code, or otherwise protected from disclosure by law; and*

*(ii) is not authorized by the appropriate agency or official to be released to the public; and*

[(4)] (5) 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 by—

(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, including 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 an 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 noncareer 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 relating 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 and the Deputy Director for Management of the Office of Management and Budget, who shall serve as Co-Chairpersons of the agency transition directors council;

(B) other senior employees serving in the Executive Office of the President, as determined 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 Co-Chairpersons 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 States Code, for each noncareer 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** *October* 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.

(3) *ETHICS PLAN*.—

(A) *IN GENERAL*.—Each memorandum of understanding under paragraph (1) shall include an agreement that the

*eligible candidate will implement and enforce an ethics plan to guide the conduct of the transition beginning on the date on which the eligible candidate becomes the President-elect.*

*(B) CONTENTS.—The ethics plan shall include, at a minimum—*

*(i) a description of the ethics requirements that will apply to all transition team members, including specific requirements for transition team members who will have access to nonpublic or classified information;*

*(ii) a description of how the transition team will—*

*(I) address the role on the transition team of—*

*(aa) registered lobbyists under the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) and individuals who were formerly registered lobbyists under that Act;*

*(bb) persons registered under the Foreign Agents Registration Act, as amended (22 U.S.C. 611 et seq.), foreign nationals, and other foreign agents; and*

*(cc) transition team members with sources of income or clients that are not disclosed to the public;*

*(II) prohibit a transition team member with personal financial conflicts of interest as described in section 208 of title 18, United States Code, from working on particular matters involving specific parties that affect the interests of such member; and*

*(III) address how the covered eligible candidate will address their own personal financial conflicts of interest during a Presidential term if the covered eligible candidate becomes the President-elect;*

*(iii) a Code of Ethical Conduct, to which each transition team member will sign and be subject to, that reflects the content of the ethics plans under this paragraph and at a minimum requires each transition team member to—*

*(I) seek authorization from transition team leaders or their designees before seeking, on behalf of the transition, access to any nonpublic information;*

*(II) keep confidential any nonpublic information provided in the course of the duties of the member with the transition and exclusively use such information for the purposes of the transition; and*

*(III) not use any nonpublic information provided in the course of transition duties, in any manner, for personal or private gain for the member or any other party at any time during or after the transition; and*

*(iv) a description of how the transition team will enforce the Code of Ethical Conduct, including the names of the transition team members responsible for enforcement, oversight, and compliance.*

(C) *PUBLICLY AVAILABLE.*—*The transition team shall make the ethics plan described in this paragraph publicly available on the website of the General Services Administration the earlier of—*

- (i) *the day on which the memorandum of understanding is completed; or*
- (ii) *October 1.*

(h) **EQUITY IN ASSISTANCE.**—Any information or 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.

\* \* \* \* \*

DISCLOSURES OF FINANCING AND PERSONNEL; LIMITATION ON  
ACCEPTANCE OF DONATIONS

**SEC. 6. (a)(1)** The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under 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) The President-elect and Vice-President-elect (as a condition for receiving such services and funds) shall make available to the Administrator and the Comptroller General all information concerning such contributions as the Administrator or Comptroller General may require for purposes of auditing both the public and private funding used in the activities authorized by this Act.

(3) Disclosures made under paragraph (1) shall be—

(A) in the form of a report to the Administrator within 30 days after the inauguration of the President-elect as President and the Vice-President-elect as Vice President; and

(B) made available to the public by the Administrator upon receipt by the Administrator.

(b)(1) The President-elect and Vice-President-elect (as a condition for receiving services provided under section 3 and funds provided under section 7(a)(1)) shall make available to the public—

(A) the names and most recent employment of all transition personnel (full-time or part-time, public or private, or volun-

teer) who are members of the President-elect or Vice-President-elect's Federal department or agency transition teams; **[and]**

(B) information regarding the sources of funding which support the transition activities of each transition team member**[.];**

(C) a list of all positions each transition team member has held outside the Federal Government for the previous 12-month period, including paid and unpaid positions;

(D) sources of compensation for each transition team member exceeding \$5,000 a year for the previous 12-month period;

(E) a description of the role of each transition team member, including a list of any policy issues that the member expects to work on, and a list of agencies the member expects to interact with, while serving on the transition team;

(F) a list of any issues from which each transition team member will be recused while serving as a member of the transition team pursuant to the transition team ethics plan outlined in section 4(g)(3); and

(G) an affirmation that no transition team member has a financial conflict of interest that precludes the member from working on the matters described in subparagraph (E).

(2) Disclosures under paragraph (1) shall be made public *not later than 2 business days* before the initial transition team contact with a Federal department or agency and shall be updated as necessary.

(3) *The head of a Federal department or agency, or their designee, shall not permit access to the Federal department or agency, or employees of such department or agency, that would not be provided to a member of the public for any transition team member who does not make the disclosures listed under paragraph (1).*

(c) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under 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.

\* \* \* \* \*

## MINORITY VIEWS

H.R. 964, the Transition Team Ethics Improvement Act, continues the Committee Democrats' blatant misuse of the legislative process to push forward partisan political messages, rather than develop good government reforms. The bill is purportedly about strengthening Presidents-elect ethics plans for transition teams. However, H.R. 964 includes provisions that distract from the stated purpose and instead are designed to unfairly target the Trump Administration.

H.R. 964 is a political stunt set into an "ethics" bill. At the business meeting on March 26, 2019, when speaking on the need for an excessive security clearance reporting requirement, Democrat Members made it clear that the bill was about specifically identifying the Trump Transition Team members for whom the Transition had requested security clearances.<sup>1</sup> In response, Representative Jody Hice (R-GA) pointed out that the bill "turns an ethics bill into a political tool to target the administration. Before we even get to the code of ethical conduct for transition team members, we have a provision that would require a president-elect to report to Congress the transition team members who have applied for or received a security clearance."<sup>2</sup>

H.R. 964 would saddle a President-elect with an excessive and unnecessary burden of reporting to Congress each and every time a transition team member applies for and each and every time a transition team member receives a security clearance. There is no tie between establishing a transition team ethics plan and reporting on team members' security clearances. Further, the transition team could be unduly burdened by complying with a requirement that might result in sending reports to the Committee every 10 days.

H.R. 964 also piles on new and excessive disclosure requirements for transition team members. The President-elect is already required to disclose a team member's name, most recent employment, and the source of funds to be used to support the team member.<sup>3</sup> However, with this bill, the transition team would be required to disclose a description of roles, lists of issues the team member will work on, and agencies the team member will interact with while serving on the team. As Representative Hice stated at the March 26 business meeting, "[t]he transition team is just that. It is transitional. It is impossible to know what projects the team will be

---

<sup>1</sup>*Business Meeting of the H. Comm. on Oversight & Reform*, 116th Cong 198 (2019) (statement of Rep. Elijah Cummings, Chairman, H. Comm. on Oversight & Reform).

<sup>2</sup>*Id.* at 200 (statement of Rep. Jody Hice, Member, H. Comm. on Oversight & Reform).

<sup>3</sup>Presidential Transition Act of 1963, 3 U.S.C. § 102 note (2016).

working on and who they will talk to while establishing the next administration.”<sup>4</sup>

Although requiring transition team members to abide by an Ethical Code of Conduct may help future incoming Administrations less inclined to establish robust ethical requirements as the Trump ethics team did,<sup>5</sup> political provisions in the bill distract from bipartisan goals.

JIM JORDAN,  
*Ranking Member.*



---

<sup>4</sup>*Business Meeting of the H. Comm. on Oversight & Reform*, 116th Cong. 201 (2019) (statement of Rep. Jody Hice, Member, H. Comm. on Oversight & Reform).

<sup>5</sup>JACOB R. STRAUS, CONG. RESEARCH SERV., ETHICS PLEDGES AND OTHER EXECUTIVE BRANCH APPOINTEE RESTRICTIONS SINCE 1993: HISTORICAL PERSPECTIVE, CURRENT PRACTICES, AND OPTIONS FOR CHANGE (2017).