

115TH CONGRESS
2D SESSION

S. 2321

To amend the Presidential Transition Act of 1963 to require the development of ethics plans for certain transition teams, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 18, 2018

Ms. WARREN (for herself, Mr. CARPER, Mr. UDALL, Ms. HASSAN, Mr. MARKEY, Ms. HIRONO, Ms. KLOBUCHAR, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Presidential Transition Act of 1963 to require the development of ethics plans for certain transition teams, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transition Team Eth-
5 ics Improvement Act”.

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

7 The Presidential Transition Act of 1963 (3 U.S.C.
8 102 note) is amended—

1 (1) in section 3(f) by adding at the end the fol-
 2 lowing:

3 “(3) The President-elect shall submit to the Com-
 4 mittee on Homeland Security and Governmental Affairs
 5 of the Senate and the Committee on Oversight and Gov-
 6 ernment Reform of the House of Representatives a list
 7 of—

8 “(A) any individual for whom an application for
 9 a security clearance was submitted, not later than
 10 10 days after the date on which the application was
 11 submitted; and

12 “(B) any individual provided a security clear-
 13 ance, not later than 10 days after the date on which
 14 the security clearance was provided.”;

15 (2) in section 4—

16 (A) in subsection (a)—

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

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

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

23 “(4) the term ‘nonpublic information’—

24 “(A) means information from the Federal
 25 Government that a transition member obtains

as part of the employment of the member that such member knows or reasonably should know has not been made available to the general public; and

“(B) includes information that a member of the transition team 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 government 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

1 the date on which the eligible candidate be-
2 comes the President-elect.

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

5 “(i) a description of the ethics re-
6 quirements that will apply to all members
7 of the transition team, including any spe-
8 cific requirement for transition team mem-
9 bers who will have access to nonpublic or
10 classified information;

11 “(ii) a description of how the transi-
12 tion team will—

13 “(I) address the role on the tran-
14 sition team of—

15 “(aa) lobbyists registered
16 under the Lobbying Disclosure
17 Act of 1995 (2 U.S.C. 1601 et
18 seq.) and individuals who were
19 former lobbyists registered under
20 that Act;

21 “(bb) persons registered
22 under the Foreign Agents Reg-
23 istration Act (22 U.S.C. 611 et
24 seq.), foreign nationals, and other
25 foreign agents; and

1 “(cc) transition team mem-
2 bers with sources of income or
3 clients that are not disclosed to
4 the public;

5 “(II) prohibit a transition team
6 member with conflicts of interest, in-
7 cluding conflicts, as described in sec-
8 tion 2635.402(a) and section
9 2635.502(a) of title 5, Code of Fed-
10 eral Regulations, related to current or
11 former employment, affiliations, cli-
12 ents, or investments, from working on
13 particular matters involving specific
14 parties that affect the interests of
15 such member; and

16 “(III) address how the covered
17 eligible candidate will address their
18 own conflicts of interest during a
19 Presidential term if the covered eligi-
20 ble candidate becomes the President-
21 elect;

22 “(iii) a Code of Ethical Conduct, to
23 which each member of the transition team
24 will sign and be subject to, that reflects
25 the content of the ethics plans under this

1 paragraph and at a minimum requires
2 transition team members to—

3 “(I) seek authorization from
4 transition team leaders or their des-
5 ignees before seeking, on behalf of the
6 transition, access to any nonpublic in-
7 formation;

8 “(II) keep confidential any non-
9 public information provided in the
10 course of the duties of the member
11 with the transition and exclusively use
12 such information for the purposes of
13 the transition; and

14 “(III) not use any nonpublic in-
15 formation provided in the course of
16 transition duties, in any manner, for
17 personal or private gain for the mem-
18 ber or any other party at any time
19 during or after the transition; and

20 “(iv) a description of how the transi-
21 tion team will enforce the Code of Ethical
22 Conduct, including the names of the mem-
23 bers of the transition team responsible for
24 enforcement, oversight, and compliance.

1 “(C) PUBLICLY AVAILABLE.—The transi-
2 tion team shall make the ethics plan described
3 in this paragraph publicly available on the
4 Internet website of the General Services Admin-
5 istration the earlier of—

6 “(i) the day on which the memo-
7 randum of understanding is completed; or

8 “(ii) October 1.”; and

9 (3) in section 6(b)—

10 (A) in paragraph (1)—

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

13 (ii) in subparagraph (B), by striking
14 the period at the end and inserting a semi-
15 colon; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(C) a list of all positions each transition
19 team member has held outside the Federal Gov-
20 ernment for the previous 12-month period, in-
21 cluding paid, unpaid and uncompensated posi-
22 tions;

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

1 “(E) a description of the role of the mem-
 2 ber on the transition team, including a list of
 3 any policy issues that the member expects to
 4 work on, and a list of agencies the member ex-
 5 pects to interact with, while serving on the
 6 transition team;

7 “(F) a list of any issues from which each
 8 transition team member will be recused while
 9 serving as a member of the transition team pur-
 10 suant to the transition team ethics plan out-
 11 lined in section 4(g)(3); and

12 “(G) an affirmation that the transition
 13 team member does not have a financial conflict
 14 of interest that precludes the member from
 15 working on the matters described in subpara-
 16 graph (E).”;

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

19 (C) by adding at the end the following:

20 “(3) The head of a Federal department or
 21 agency, or their designee, shall not permit access to
 22 the agency or employees of the agency that would
 23 not be provided to a member of the public for any

- 1 transition team member who does not make the dis-
- 2 closures listed under paragraph (1).”.

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