

Calendar No. 672

115TH CONGRESS
2^D SESSION

S. 3487

[Report No. 115–386]

To amend the Presidential Transition Act of 1963 to improve the orderly transfer of the executive power during Presidential transitions.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2018

Mr. JOHNSON introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

NOVEMBER 26, 2018

Reported by Mr. JOHNSON, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Presidential Transition Act of 1963 to improve the orderly transfer of the executive power during Presidential transitions.

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 “Presidential Transition
5 Enhancement Act of 2018”.

1 **SEC. 2. PRESIDENTIAL TRANSITION ENHANCEMENTS.**

2 (a) IN GENERAL.—Section 3 of the Presidential
3 Transition Act of 1963 (3 U.S.C. 102 note) is amended—

4 ~~(1) in subsection (a)(2), by inserting “, or in~~
5 ~~(1) in subsection (a)—~~

6 (A) *in the matter preceding paragraph (1),*
7 *by striking “upon request,” and all that follows*
8 *through “including” and inserting “upon re-*
9 *quest, to each President-elect, each Vice-Presi-*
10 *dent-elect, and, for up to 60 days after the date*
11 *of the inauguration of the President-elect and*
12 *Vice-President-elect, each President and Vice*
13 *President, for use in connection with the prep-*
14 *arations for the assumption of official duties as*
15 *President or Vice President necessary services*
16 *and facilities, including”; and*

17 (B) *in paragraph (2)—*

18 (i) *by inserting “, or an employee of a*
19 *committee of either House of Congress, a*
20 *joint committee of the Congress, or an indi-*
21 *vidual Member of Congress,” after “any*
22 *branch of the Government”; and*

23 (ii) *by inserting “, or in the case of*
24 *an employee in a position in the legislative*
25 *branch, with the consent of the supervising*

1 Member of Congress” after “with the con-
2 sent of the head of the agency”;

3 (2) by striking subsection (b) and inserting the
4 following:

5 “(b) The Administrator shall expend funds for the
6 provision of services and facilities under this section—

7 “(1) in connection with any obligation incurred
8 *by the President-elect or Vice-President-elect, or after*
9 *the inauguration of the President-elect as President*
10 *and the inauguration of the Vice-President-elect as*
11 *Vice President incurred by the President or Vice*
12 *President, during the period—*

13 “(A) beginning on the day after the date
14 of the general elections held to determine the
15 electors of the President and Vice President
16 under section 1 or 2 of title 3, United States
17 Code; and

18 “(B) ending on the date that is 60 days
19 after the date of ~~the inauguration of the Presi-~~
20 ~~dent-elect as President and the inauguration of~~
21 ~~the Vice-President-elect as Vice President; and~~
22 *such inauguration; and*

23 “(2) without regard to whether ~~the transition~~
24 ~~team~~ *the President-elect, Vice-President-elect, Presi-*
25 *dent, or Vice President* submits to the Administrator

1 a request for payment regarding services or facilities
2 before the end of such period.”;

3 (3) in subsection (h)(2)(B)(ii), by striking
4 “computers” and inserting “information tech-
5 nology”; and

6 (4) By adding at the end the following:

7 “(i) MEMORANDUMS OF UNDERSTANDING.—

8 “(1) IN GENERAL.—Not later than ~~August~~ *Sep-*
9 *tember* 1 of a year during which a Presidential elec-
10 tion occurs, the Administrator shall, to the max-
11 imum extent practicable, enter into a memorandum
12 of understanding with ~~the transition representative~~
13 ~~of~~ each eligible candidate, which shall include, at a
14 minimum, the conditions of access to employees, fa-
15 cilities, and documents of agencies by transition
16 staff.

17 “(2) EXISTING RESOURCES.—To the maximum
18 extent practicable, a memorandum of understanding
19 entered into under paragraph (1) shall be based on
20 memorandums of understanding relating to previous
21 Presidential transitions.

22 “(3) TRANSITION REPRESENTATIVE.—

23 “(A) DESIGNATION OF REPRESENTATIVE
24 FOR INQUIRIES.—Each memorandum of under-
25 standing entered into under this subsection

1 shall designate a representative of the eligible
2 candidate to whom the Administrator shall di-
3 rect any inquiries or legal instruments regard-
4 ing the records of the eligible candidate that are
5 in the custody of the Administrator.

6 “(B) CHANGE IN TRANSITION REPRESENT-
7 ATIVE.—The designation of a new individual as
8 the transition representative of an eligible can-
9 didate shall not require the execution of a new
10 memorandum of understanding under this sub-
11 section.

12 “(C) *TERMINATION OF DESIGNATION.*—*The*
13 *designation of a transition representative under*
14 *a memorandum of understanding shall termi-*
15 *nate—*

16 “(i) *not later than 180 days after the*
17 *date of the inauguration of the President-*
18 *elect as President and the inauguration of*
19 *the Vice-President-elect as Vice President; or*

20 “(ii) *before the date described in clause*
21 *(i), upon request of the President-elect or*
22 *the Vice-President-elect, or after such inau-*
23 *guration upon request of the President or*
24 *the Vice President.*

1 “(4) AMENDMENTS.—Any amendment to a
2 memorandum of understanding entered into under
3 this subsection shall be agreed to in writing.

4 “(5) PRIOR NOTIFICATION OF DEVIATION.—
5 Each party to a memorandum of understanding en-
6 tered into under this subsection shall provide written
7 notice, *except to the extent prohibited under another*
8 *provision of law*, not later than 3 days before taking
9 any action that deviates from the terms and condi-
10 tions agreed to in the memorandum of under-
11 standing.

12 “(6) DEFINITION.—In this subsection, the term
13 ‘eligible candidate’ has the meaning given that term
14 in subsection (h)(4).”.

15 (b) AGENCY TRANSITIONS.—Section 4 of the Presi-
16 dential Transition Act of 1963 (3 U.S.C. 102 note) is
17 amended—

18 (1) in subparagraphs (C) and (D) of subsection
19 (e)(3), by inserting “serving in a career position”
20 after “senior representative”; and

21 (2) by striking subsection (f)(2) and inserting
22 the following:

23 “(2) ACTING OFFICERS.—Not later than Sep-
24 tember 15 of a year during which a Presidential
25 election occurs, and in accordance with subchapter

1 III of chapter 33 of title 5, United States Code, the
2 head of each agency shall ensure that a succession
3 plan is in place for each senior noncareer position in
4 the agency.”.

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[Report No. 115-3861]

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