

111TH CONGRESS
2^D SESSION

S. 3196

To amend the Presidential Transition Act of 1963 to provide that certain transition services shall be available to eligible candidates before the general election.

IN THE SENATE OF THE UNITED STATES

APRIL 13, 2010

Mr. KAUFMAN (for himself, Mr. VOINOVICH, Mr. AKAKA, and Mr. LIEBERMAN) 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 provide that certain transition services shall be available to eligible candidates before the general election.

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 “Pre-Election Presi-
5 dential Transition Act of 2010”.

1 **SEC. 2. CERTAIN PRESIDENTIAL TRANSITION SERVICES**
2 **MAY BE PROVIDED TO ELIGIBLE CAN-**
3 **DIDATES BEFORE GENERAL ELECTION.**

4 (a) IN GENERAL.—Section 3 of the Presidential
5 Transition Act of 1963 (3 U.S.C. 102 note) is amended
6 by adding at the end the following new subsection:

7 “(h)(1)(A) In the case of an eligible candidate, the
8 Administrator—

9 “(i) shall notify the candidate of the can-
10 didate’s right to receive the services and facili-
11 ties described in paragraph (2) and shall pro-
12 vide with such notice a description of the nature
13 and scope of each such service and facility; and

14 “(ii) upon notification by the candidate of
15 which such services and facilities such can-
16 didate will accept, shall, notwithstanding sub-
17 section (b), provide such services and facilities
18 to the candidate during the period beginning on
19 the date of the notification and ending on the
20 date of the general elections described in sub-
21 section (b)(1).

22 The Administrator shall also notify the candidate of
23 the services provided under sections 7601(c) and
24 8403(b) of the Intelligence Reform and Terrorism
25 Prevention Act of 2004.

1 “(B) The Administrator shall provide the notice
2 under subparagraph (A)(i) to each eligible can-
3 didate—

4 “(i) in the case of a candidate of a major
5 party (as defined in section 9002(6) of the In-
6 ternal Revenue Code of 1986), on one of the
7 first 3 business days following the last nomi-
8 nating convention for such major parties; and

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

13 “(C)(i) The Administrator shall, not later than
14 January 1 of 2012 and of every 4th year thereafter,
15 prepare a report summarizing modern presidential
16 transition activities, including a bibliography of rel-
17 evant resources.

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

23 “(2)(A) Except as provided in subparagraph (B), the
24 services and facilities described in this paragraph are the
25 services and facilities described in subsection (a) (other

1 than paragraphs (2), (3), (4), and (7) thereof), but only
2 to the extent that the use of the services and facilities is
3 for use in connection with the eligible candidate's prepara-
4 tions for the assumption of official duties as President or
5 Vice-President.

6 “(B) The Administrator—

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

10 “(ii) shall, as appropriate, ensure that any com-
11 puters or communications services provided to an eli-
12 gible candidate under this subsection are secure;

13 “(iii) shall offer information and other assist-
14 ance to eligible candidates on an equal basis and
15 without regard to political affiliation; and

16 “(iv) may modify the scope of any services to
17 be provided under this subsection to reflect that the
18 services are provided to eligible candidates rather
19 than the President-elect or Vice-President-elect, ex-
20 cept that any such modification must apply to all eli-
21 gible candidates.

22 “(C) An eligible candidate, or any person on behalf
23 of the candidate, shall not use any services or facilities
24 provided under this subsection other than for the purposes
25 described in subparagraph (A), and the candidate or the

1 candidate's campaign shall reimburse the Administrator
2 for any unauthorized use of such services or facilities.

3 “(3)(A) Notwithstanding any other provision of law,
4 an eligible candidate may establish a separate fund for the
5 payment of expenditures in connection with the eligible
6 candidate's preparations for the assumption of official du-
7 ties as President or Vice-President, including expenditures
8 in connection with any services or facilities provided under
9 this subsection (whether before such services or facilities
10 are available under this section or to supplement such
11 services or facilities when so provided). Such fund shall
12 be established and maintained in such manner as to qual-
13 ify such fund for purposes of section 501(c)(4) of the In-
14 ternal Revenue Code of 1986.

15 “(B)(i) The eligible candidate may—

16 “(I) transfer to any separate fund estab-
17 lished under subparagraph (A) contributions
18 (within the meaning of section 301(8) of the
19 Federal Election Campaign Act of 1971 (2
20 U.S.C. 431(8))) the candidate received for the
21 general election for President or Vice-President
22 or payments from the Presidential Election
23 Campaign Fund under chapter 95 of the Inter-
24 nal Revenue Code of 1986 the candidate re-
25 ceived for the general election; and

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

3 “(ii) Any expenditures from the separate fund
4 that are made from such contributions or payments
5 described in clause (i)(I) shall be treated as expendi-
6 tures (within the meaning of section 301(9) of such
7 Act (2 U.S.C. 431(9))) or qualified campaign ex-
8 penses (within the meaning of section 9002(11) of
9 such Code), whichever is applicable.

10 “(iii) An eligible candidate establishing a sepa-
11 rate fund under subparagraph (A) shall (as a condi-
12 tion for receiving services and facilities described in
13 paragraph (2)) comply with all requirements and
14 limitations of section 5 in soliciting or expending
15 amounts in the same manner as the President-elect
16 or Vice-President-elect, including reporting on the
17 transfer and expenditure of amounts described in
18 subparagraph (B)(i) in the disclosures required by
19 section 5.

20 “(4)(A) In this subsection, the term ‘eligible can-
21 didate’ means, with respect to any presidential election (as
22 defined in section 9002(10) of the Internal Revenue Code
23 of 1986)—

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

4 “(ii) any other candidate who has been deter-
5 mined by the Administrator to be among the prin-
6 ciple contenders for the general election to such of-
7 fices.

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

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

12 “(I) meets the requirements described in
13 article II, section 1, of the United States Con-
14 stitution for eligibility to the office of President;

15 “(II) has qualified to have his or her name
16 appear on the ballots of a sufficient number of
17 States such that the total number of electors
18 appointed in those States is greater than 50
19 percent of the total number of electors ap-
20 pointed in all of the States; and

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

1 “(ii) consider whether other national organiza-
2 tions have recognized the candidate as being among
3 the principal contenders for the general election to
4 such offices, including whether the Commission on
5 Presidential Debates has determined that the can-
6 didate is eligible to participate in the candidate de-
7 bates for the general election to such offices.”.

8 (b) ADMINISTRATOR REQUIRED TO PROVIDE TECH-
9 NOLOGY COORDINATION UPON REQUEST.—Section
10 3(a)(10) of the Presidential Transition Act of 1963 (3
11 U.S.C. 102 note) is amended to read as follows:

12 “(10) Notwithstanding subsection (b), consulta-
13 tion by the Administrator with any President-elect,
14 Vice-President-elect, or eligible candidate (as defined
15 in subsection (h)(4)) to develop a systems architec-
16 ture plan for the computer and communications sys-
17 tems of the candidate to coordinate a transition to
18 Federal systems if the candidate is elected.”.

19 (c) COORDINATION WITH OTHER TRANSITION SERV-
20 ICES.—

21 (1) SECURITY CLEARANCES.—Section 7601(c)
22 of the Intelligence Reform and Terrorism Prevention
23 Act of 2004 (50 U.S.C. 435b note) is amended—

24 (A) by striking paragraph (1) and insert-
25 ing:

1 “(1) DEFINITION.—In this section, the term
2 ‘eligible candidate’ has the meaning given such term
3 by section 3(h)(4) of the Presidential Transition Act
4 of 1963 (3 U.S.C. 102 note).”, and

5 (B) by striking “major party candidate” in
6 paragraph (2) and inserting “eligible can-
7 didate”.

8 (2) PRESIDENTIALLY APPOINTED POSITIONS.—
9 Section 8403(b)(2)(B) of such Act (5 U.S.C. 1101
10 note) is amended to read as follows:

11 “(B) OTHER CANDIDATES.—After making
12 transmittals under subparagraph (B), the Of-
13 fice of Personnel Management shall transmit
14 such electronic record to any other candidate
15 for President who is an eligible candidate de-
16 scribed in section 3(h)(4)(B) of the Presidential
17 Transition Act of 1963 (3 U.S.C. 102 note) and
18 may transmit such electronic record to any
19 other candidate for President.”.

20 (d) CONFORMING AMENDMENTS.—Section 3 of the
21 Presidential Transition Act of 1963 (3 U.S.C. 102 note)
22 is amended—

23 (1) in subsection (a)(8)(B), by striking “Presi-
24 dent-elect” and inserting “President-elect or eligible

1 candidate (as defined in subsection (h)(4)) for Presi-
2 dent”; and

3 (2) in subsection (e), by inserting “, or eligible
4 candidate (as defined in subsection (h)(4)) for Presi-
5 dent or Vice-President,” before “may designate”.

6 **SEC. 3. AUTHORIZATION OF TRANSITION ACTIVITIES BY**
7 **THE OUTGOING ADMINISTRATION.**

8 (a) IN GENERAL.—The President of the United
9 States, or the President’s delegate, may take such actions
10 as the President determines necessary and appropriate to
11 plan and coordinate activities by the Executive branch of
12 the Federal Government to facilitate an efficient transfer
13 of power to a successor President, including—

14 (1) the establishment and operation of a transi-
15 tion coordinating council comprised of—

16 (A) high-level officials of the Executive
17 branch selected by the President, which may in-
18 clude the Chief of Staff to the President, any
19 Cabinet officer, the Director of the Office of
20 Management and Budget, the Administrator of
21 the General Services Administration, and the
22 Director of the Office of Personnel Manage-
23 ment; and

24 (B) any other persons the President deter-
25 mines appropriate;

1 (2) the establishment and operation of an agency
2 transition directors council which includes career
3 employees designated to lead transition efforts within
4 Executive Departments or agencies;

5 (3) the development of guidance to Executive
6 Departments and agencies regarding briefing materials
7 for an incoming administration, and the development
8 of such materials; and

9 (4) the development of computer software, publications,
10 contingency plans, issue memoranda, memoranda of understanding,
11 training and exercises (including crisis training and exercises),
12 programs, lessons learned from previous transitions, and other
13 items appropriate for improving the effectiveness and efficiency
14 of a Presidential transition that may be disseminated to eligible
15 candidates (as defined in section 3(h)(4) of the Presidential
16 Transition Act of 1963, as added by section 2(a)) and to the
17 President-elect and Vice-President-elect.

18 Any information and other assistance to eligible candidates
19 under this subsection shall be offered on an equal
20 basis and without regard to political affiliation.

21 (b) REPORTS.—

22 (1) IN GENERAL.—The President of the United States,
23 or the President's delegate, shall provide to

1 the Committee on Oversight and Government Re-
2 form of the House of Representatives and the Com-
3 mittee on Homeland Security and Governmental Af-
4 fairs of the Senate reports describing the activities
5 undertaken by the President and the Executive De-
6 partments and agencies to prepare for the transfer
7 of power to a new President.

8 (2) TIMING.—The reports under paragraph (1)
9 shall be provided six months and three months be-
10 fore the date of the general election for the Office
11 of President of the United States.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as may be
14 necessary to carry out the provisions of this section.

○