

118TH CONGRESS
2D SESSION

S. 3654

To amend the Presidential Transition Act of 1963 to require the timely appointment of agency transition officials, to ensure adequate performance and oversight of required transition-related preparation, to require new guidance for agencies and possible transition teams, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2024

Mr. PETERS (for himself and Ms. COLLINS) 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 timely appointment of agency transition officials, to ensure adequate performance and oversight of required transition-related preparation, to require new guidance for agencies and possible 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 “Agency Preparation
5 for Transitions Act of 2024”.

1 **SEC. 2. FEDERAL TRANSITION COORDINATOR.**

2 Section 4(c) of the Presidential Transition Act of
3 1963 (3 U.S.C. 102 note) is amended to read as follows:

4 “(c) FEDERAL TRANSITION COORDINATOR.—

5 “(1) DESIGNATION.—The Administrator shall
6 designate an employee of the General Services Ad-
7 ministration who is a senior career employee to the
8 position of Federal Transition Coordinator.

9 “(2) DUTIES OF THE FEDERAL TRANSITION CO-
10 ORDINATOR.—A Federal Transition Coordinator
11 shall be responsible for—

12 “(A) carrying out the duties and authori-
13 ties of the Administrator relating to Presi-
14 dential transitions under this Act, or any other
15 provision of law, except for determining the ap-
16 parent successful candidate under section 3(c);

17 “(B) serving as the Federal Transition Co-
18 ordinator with responsibility for coordinating
19 transition planning across agencies, including
20 through the agency transition directors council
21 established under subsection (e);

22 “(C) ensuring agencies comply with all
23 statutory requirements relating to transition
24 planning and reporting;

25 “(D) acting as a liaison to eligible can-
26 didates;

1 “(E) regularly providing updates to agen-
2 cies not included on the agency transition direc-
3 tors council with information, including infor-
4 mation on briefing materials, key transition
5 milestones, and succession planning;

6 “(F) identifying best practices relating to
7 Presidential transitions for transition teams,
8 Federal agencies, and incumbent administra-
9 tions;

10 “(G) identifying—

11 “(i) the most significant challenges
12 for Federal agencies that are posed by
13 Presidential transitions; and

14 “(ii) ways to mitigate the risks associ-
15 ated with such challenges during subse-
16 quent Presidential transitions; and

17 “(H) other duties at the discretion of the
18 Administrator.

19 “(3) APPOINTMENT OF THE FEDERAL TRANSI-
20 TION COORDINATOR.—

21 “(A) IN GENERAL.—Not later than 2 years
22 before the date of each Presidential election, the
23 Administrator shall appoint a Federal Transi-
24 tion Coordinator.

1 “(B) NON-ELECTION PERIODS.—During
2 any period during which there is not an indi-
3 vidual serving as Federal Transition Coordi-
4 nator pursuant to an appointment in accord-
5 ance with subparagraph (A), the Administrator
6 shall designate an officer or employee to carry
7 out any transition responsibilities until the ap-
8 pointment of the next Federal Transition Coor-
9 dinator.

10 “(C) REPORTING TO CONGRESS.—The Ad-
11 ministrators shall report to Congress—

12 “(i) when the Administrator has ap-
13 pointed a new Federal Transition Coordi-
14 nator; and

15 “(ii) when the Administrator has des-
16 ignated an officer or employee to carry out
17 transition responsibilities under subpara-
18 graph (B).

19 “(4) RULE OF CONSTRUCTION.—Nothing in
20 this subsection shall be construed to prohibit the Ad-
21 ministrators from revoking an existing designation of
22 an individual serving as Federal Transition Coordi-
23 nator and designating a new individual to serve as
24 the Federal Transition Coordinator.”.

1 **SEC. 3. WHITE HOUSE TRANSITION COORDINATING COUN-**
2 **CIL.**

3 (a) IN GENERAL.—Section 4(d) of the Presidential
4 Transition Act of 1963 (3 U.S.C. 102 note) is amended—

5 (1) in paragraph (1), by striking “Not later
6 than 6 months before the date of a Presidential elec-
7 tion,” and all that follows and inserting “There is
8 established a White House transition coordinating
9 council for the purposes of facilitating the Presi-
10 dential transition. The White House transition co-
11 ordinating council shall, at a minimum, meet and
12 perform the duties provided for in this Act.”;

13 (2) in paragraph (2)—

14 (A) in subparagraph (B), by striking
15 “and” at the end;

16 (B) in subparagraph (C), by striking the
17 period at the end and inserting a semicolon;
18 and

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

20 “(D) oversee the transition process for of-
21 fices within the Executive Office of the Presi-
22 dent and ensure that such offices produce rel-
23 evant transition briefing materials for eligible
24 candidates;

25 “(E) during any year during which a Pres-
26 idential election is not being held, designate em-

1 employees within the Executive Office of the Presi-
2 dent who shall develop, in coordination with the
3 Archivist of the United States, a plan for em-
4 ployees serving in positions in the executive
5 branch to identify, on at least an annual basis,
6 Presidential records (as defined in section 2201
7 of title 44, United States Code), including elec-
8 tronic records, to be transferred to and main-
9 tained and preserved by the Archivist in the
10 event of a possible Presidential transition; and

11 “(F) not later than 180 days before the
12 date of each Presidential election, the employees
13 designated under subparagraph (E) shall sub-
14 mit to Congress the most recent plan developed
15 under subparagraph (E) through a written re-
16 port or a briefing with relevant committees.”;
17 and

18 (3) by adding at the end the following:

19 “(3) MEETING FREQUENCY.—The White House
20 transition coordinating council shall meet—

21 “(A) as soon as practicable during a year
22 during which a Presidential election is being
23 held, but not later than the day before the first
24 regular meeting of the agency transition direc-

1 tors council under subsection (e)(4)(B) during
2 such year; and

3 “(B) to host an exercise described in para-
4 graph (2)(C) as soon as is practicable after the
5 date on which the Administrator determines a
6 sole apparent successful candidate for the office
7 of the President, but not later than the date on
8 which the apparent successful candidate for the
9 office of President is inaugurated.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date that is 30 days
12 after the date of enactment of this Act.

13 **SEC. 4. MEMORANDUMS OF UNDERSTANDING.**

14 Section 4(g)(1) of the Presidential Transition Act of
15 1963 (3 U.S.C. 102 note) is amended by striking “shall
16 include, at a minimum,” and all that follows and inserting
17 the following: “shall include—

18 “(A) at a minimum—

19 “(i) the conditions of access to em-
20 ployees, facilities, and documents of agen-
21 cies by transition staff;

22 “(ii) the conditions of access to infor-
23 mation and briefing material critical to na-
24 tional security, which shall be established

1 in consultation with the relevant agencies;
2 and

3 “(iii) the conditions of access to any
4 interagency emergency preparedness and
5 response exercises under subsection
6 (d)(2)(C); and

7 “(B) a provision allowing access described
8 in subparagraph (A) to commence or continue
9 for the eligible candidate and the members of
10 the transition team of the eligible candidate
11 during the period beginning on the day after
12 date of the Presidential election and ending at
13 the time at which the Administrator determines
14 the apparent successful candidate under section
15 3(e).”.

16 **SEC. 5. FREQUENCY OF THE AGENCY TRANSITION DIREC-**
17 **TORS COUNCIL.**

18 Section 4(e)(4)(B) of the Presidential Transition Act
19 of 1963 (3 U.S.C. 102 note) is amended—

20 (1) by striking “6 months” and inserting “270
21 days”; and

22 (2) by striking “inaugurated,” and all that fol-
23 lows and inserting the following: “inaugurated, not
24 less than once per month, which shall include—

1 (3) in subparagraph (D), by striking “and” at
2 the end;

3 (4) in subparagraph (E), by striking the period
4 at the end and inserting a semicolon; and

5 (5) by adding at the end the following:

6 “(F) provide guidance to agencies on how
7 the agencies should engage with and provide in-
8 formation to apparent successful candidates,
9 should there be multiple apparent successful
10 candidates, as described in section 3(e)(2);

11 “(G) develop working groups and sub-
12 committees to address any emergencies that
13 arise during a Presidential transition; and

14 “(H) after the inauguration as President
15 of the apparent successful candidate for the of-
16 fice of President, working with the Federal
17 Transition Coordinator to identify lessons
18 learned from the Presidential transition.”.

19 **SEC. 7. MEMBERSHIP OF AGENCY TRANSITION DIRECTORS**
20 **COUNCIL.**

21 (a) IN GENERAL.—Section 4(e) of the Presidential
22 Transition Act of 1963 (3 U.S.C. 102 note) is amended—

23 (1) in paragraph (3)—

24 (A) in subparagraph (B), by inserting “,
25 which shall include not less than 1 senior career

1 employee who shall oversee transition respon-
2 sibilities for the Executive Office of the Presi-
3 dent, including the production of relevant tran-
4 sition briefing materials for eligible candidates
5 from each office or component of the Executive
6 Office of the President” after “by the Presi-
7 dent”;

8 (B) in subparagraph (C), by striking “sec-
9 tion 901(b)(1)” and inserting “paragraph (1)
10 or (2) of section 901(b)”;

11 (C) in subparagraph (D)—

12 (i) by inserting “, as defined under
13 section 3502 of title 44, United States
14 Code, that is” after “any other agency”;
15 and

16 (ii) by striking “and” at the end;

17 (D) in subparagraph (E), by striking the
18 period at the end and inserting “; and”; and

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

20 “(F) the co-chairpersons of the council es-
21 tablished under paragraph (5)(A).”; and

22 (2) by adding at the end the following:

23 “(5) COUNCIL FOR NON-ATDC AGENCY TRANSI-
24 TION DIRECTORS.—

1 “(A) IN GENERAL.—The Co-Chairpersons
2 of the agency transition directors council shall
3 establish and operate a council for small and
4 independent agency transition directors (re-
5 ferred to in this paragraph as the ‘council’).

6 “(B) ADVISORY BODY.—The council shall
7 serve as the principle advisory body to the Co-
8 Chairpersons of the agency transition directors
9 council relating to the priorities, needs, and
10 functions of the council, as they relate to small
11 and independent agencies.

12 “(C) MEMBERS.—The council shall be
13 composed of the Agency Transition Directors
14 designated under subsection (f)(1)(A) from
15 each agency that does not have a representative
16 who is a member of the agency transition direc-
17 tors council.

18 “(D) CO-CHAIRPERSONS.—The Co-Chair-
19 persons of the agency transition directors coun-
20 cil shall select from among the council members
21 2 co-chairpersons of the council.

22 “(6) GUIDANCE.—The Federal Transition Co-
23 ordinator shall consult with the co-chairpersons of
24 the council established under paragraph (5)(A), to

1 provide relevant guidance and information to the
2 council on issues relating to Presidential transitions.

3 “(7) OMB REPRESENTATIVE ON THE AGENCY
4 TRANSITION DIRECTORS COUNCIL.—

5 “(A) IN GENERAL.—Not later than 1 year
6 before the date of a Presidential election, the
7 Director of the Office of Management and
8 Budget shall designate an employee of the Of-
9 fice of Management and Budget who is a senior
10 career employee to serve on the agency transi-
11 tion directors council, who shall work with the
12 Deputy Director for Management of the Office
13 of Management and Budget in carrying out the
14 transition duties of the Office of Management
15 and Budget.

16 “(B) LESSONS LEARNED.—After the inau-
17 guration as President of the apparent success-
18 ful candidate for the office of President, the
19 employee designated under subparagraph (A)
20 shall assist the Federal Transition Coordinator
21 by contributing any lessons learned by the Of-
22 fice of Management and Budget from the Presi-
23 dential transition.”.

24 (b) IMPLEMENTATION FOR 2024 ELECTION.—As
25 soon as is practicable after the date of enactment of this

1 Act, the Director of the Office of Management and Budget
2 shall designate an employee of the Office of Management
3 and Budget to serve on the agency transition directors
4 council in accordance with paragraph (7) of section 4(e)
5 of the Presidential Transition Act of 1963, as added by
6 subsection (a) of this section.

7 **SEC. 8. INTERIM AGENCY LEADERSHIP FOR TRANSITIONS.**

8 (a) IN GENERAL.—Section 4(f) of the Presidential
9 Transition Act of 1963 (3 U.S.C. 102 note) is amended—

10 (1) by redesignating paragraphs (1) and (2) as
11 subparagraphs (A) and (B), respectively, and adjust-
12 ing the margin accordingly;

13 (2) by inserting before subparagraph (A), as so
14 redesignated, the following:

15 “(1) ELECTION YEARS.—”;

16 (3) in paragraph (1)(A), as so designated—

17 (A) by striking “6 months” and inserting
18 “270 days”; and

19 (B) by inserting “, who shall serve as the
20 Agency Transition Director for the agency and
21 whose term as Agency Transition Director shall
22 last until not later than the date that is 90
23 days after the date of the inauguration as
24 President of the apparent successful candidate

1 for the office of President,” after “a senior ca-
2 reer employee of the agency”; and

3 (4) by adding at the end the following:

4 “(2) OVERSIGHT AND IMPLEMENTATION OF
5 TRANSITION IN NON-ELECTION YEARS.—

6 “(A) IN GENERAL.—Not later than 1 year
7 after the date of each inauguration day—

8 “(i) the head of each agency which
9 has a representative who serves on the
10 agency transition directors council shall
11 designate an employee of the agency who is
12 a senior career employee to serve as the
13 representative of the agency at the annual
14 meetings of the agency transition directors
15 council described in subsection (e)(4)(A);
16 and

17 “(ii) the head of each agency which
18 does not have a representative who serves
19 on the agency transition directors council
20 shall designate an employee of the agency
21 who is a senior career employee to oversee
22 issues relating to Presidential transitions.

23 “(B) DUTIES.—An employee designated by
24 the head of an agency under subparagraph (A)
25 shall serve as the official responsible for the

1 transition operations of the agency until the
2 date on which the head of the agency designates
3 an employee as an Agency Transition Director
4 under paragraph (1)(A) with respect to the
5 next Presidential election.

6 “(3) RULE OF CONSTRUCTION.—Nothing in
7 this subsection shall be construed to prohibit the
8 head of an agency from designating—

9 “(A) the individual who is serving as the
10 Agency Transition Director for the agency
11 under paragraph (1)(A) for purposes of para-
12 graph (2)(A); or

13 “(B) the individual who the head des-
14 ignated for purposes of paragraph (2)(A) as the
15 Agency Transition Director for the agency
16 under paragraph (1)(A).”.

17 (b) CONFORMING AMENDMENTS.—Section
18 3(c)(2)(B) of the Presidential Transition Act of 1963 (3
19 U.S.C. 102 note) is amended—

20 (1) by striking “the senior career employee of
21 each agency” and inserting “the Agency Transition
22 Director of each agency”; and

23 (2) by striking “subsection (f)(1)” and insert-
24 ing “subsection (f)(1)(A)”.

1 **SEC. 9. REPORTS ON POLITICAL APPOINTEES APPOINTED**
2 **TO NONPOLITICAL PERMANENT POSITIONS.**

3 Section 4(b) of the Edward “Ted” Kaufman and Mi-
4 chael Leavitt Presidential Transitions Improvements Act
5 of 2015 (5 U.S.C. 3101 note) is amended by adding at
6 the end the following:

7 “(3) PUBLICATION.—The Director of the Office
8 of Personnel Management shall make a version of
9 each report required under paragraph (1) and each
10 report required under paragraph (2) available to the
11 public, which may exclude information in accordance
12 with subsection (c).”.

13 **SEC. 10. REPORTS AND GUIDANCE BY TRANSITION OFFI-**
14 **CIALS.**

15 (a) IN GENERAL.—Section 4 of the Presidential
16 Transition Act of 1963 (3 U.S.C. 102 note) is amended—

17 (1) in subsection (i), in the subsection heading,
18 by inserting “BY THE PRESIDENT” after “RE-
19 PORTS”; and

20 (2) by adding at the end the following:

21 “(j) OTHER REPORTS REGARDING TRANSITIONS.—

22 “(1) DEFINITIONS.—In this subsection—

23 “(A) the term ‘incoming administration’
24 means the apparent successful candidate for the
25 office of President, the apparent successful can-
26 didate for the office of Vice President, a mem-

1 ber of the transition team, or any other em-
2 ployee or contractor of the apparent successful
3 candidate for the office of President or the ap-
4 parent successful candidate for the office of
5 Vice President who is performing duties relat-
6 ing to the Presidential transition; and

7 “(B) the term ‘outgoing administration’
8 means an individual who, during the period be-
9 ginning on the date of a Presidential election
10 and ending on the date of the inauguration with
11 respect to the Presidential election (unless the
12 individual serving as President on the date of
13 such Presidential election is inaugurated as
14 President at such inauguration), serves as the
15 President, the Vice President, or an officer or
16 employee in the executive branch of the Federal
17 Government.

18 “(2) EXERCISES.—Not later than November 1
19 of each year during which a Presidential election is
20 held, the White House transition coordinating coun-
21 cil shall submit to Congress a report, which may
22 contain a classified annex, on the plans of the coun-
23 cil for hosting exercises described in subsection
24 (d)(2)(C), which shall include a summary of—

1 “(A) the topics to be covered by the exer-
2 cises;

3 “(B) scheduled dates for the exercises; and

4 “(C) plans for ensuring emergency pre-
5 paredness prior to a determination by the Ad-
6 ministrators that a single candidate for the of-
7 fice of President should be treated as the sole
8 apparent successful candidate in accordance
9 with section 3(c), including during any period
10 of multiple potential apparent successful can-
11 didates as described in section 3(c)(2), if appli-
12 cable.

13 “(3) GAO REPORTS.—

14 “(A) IN GENERAL.—Not later than 180
15 days after the date on which the Administrator
16 determines the sole apparent successful can-
17 didate for the office of President in accordance
18 with section 3(c) with respect to each Presi-
19 dential election, the Comptroller General of the
20 United States, in consultation with the agency
21 transition directors council, shall submit to
22 Congress a report on the Presidential transition
23 process and make a version of the report avail-
24 able to the public.

1 “(B) CONTENTS.—A report under sub-
2 paragraph (A) shall include—

3 “(i) a review of the efficiency, effec-
4 tiveness, and security of activities required
5 in this Act of the outgoing administration
6 and the incoming administration, includ-
7 ing—

8 “(I) briefings of members of the
9 incoming administration by members
10 of the outgoing administration;

11 “(II) migration of technology
12 platforms;

13 “(III) information-sharing be-
14 tween agencies or between the out-
15 going administration and the incom-
16 ing administration; and

17 “(IV) the services and facilities
18 provided by the Administrator to fa-
19 cilitate an efficient transfer of power
20 before and after the date of the appli-
21 cable Presidential election;

22 “(ii) the cost of the services and facili-
23 ties provided by the General Services Ad-
24 ministration, the National Archives and
25 Records Administration, the Office of Gov-

1 ernment Ethics, and the Department of
2 Justice to facilitate an efficient transfer of
3 power before and after the date of the ap-
4 plicable Presidential election;

5 “(iii) an assessment of the major chal-
6 lenges and achievements of service-pro-
7 viding agencies in the delivery of core tran-
8 sition services to agencies, the outgoing ad-
9 ministration, and the incoming administra-
10 tion;

11 “(iv) if the apparent successful can-
12 didate for the office of President is not
13 serving as President on the date of the ap-
14 plicable Presidential election, a description
15 of any known or reported delays in services
16 provided by any agency to the incoming
17 administration; and

18 “(v) recommendations, if any, for
19 changes to the Presidential transition proc-
20 ess.

21 “(4) NEW ADMINISTRATION.—

22 “(A) GUIDANCE.—Not later than 60 days
23 before the date of a Presidential election, the
24 Archivist of the United States shall develop
25 guidance for a President-elect and the transi-

1 tion team of the President-elect relating to com-
2 plying with chapters 22 and 31 of title 44,
3 United States Code, when creating documents
4 for use on or after inauguration day, which
5 shall include guidance for identifying and label-
6 ing all documents created before inauguration
7 day that the President-elect intends to use or
8 transfer after inauguration day.

9 “(B) REPORT.—Not later than 90 days
10 after the date of the inauguration as President
11 of an apparent successful candidate for the of-
12 fice of President who was not serving as Presi-
13 dent on the date of the most recent Presidential
14 election, the Archivist of the United States shall
15 publish a report on the status of the procedures
16 for transition management of the incoming ad-
17 ministration and the outgoing administration,
18 which shall include—

19 “(i) a description of the process of the
20 incoming administration for—

21 “(I) identifying documents cre-
22 ated on or before the date of the inau-
23 guration that are intended for use on
24 or after inauguration day and are

1 subject to chapter 22 of title 44,
2 United States Code; and

3 “(II) providing guidance to offi-
4 cers and employees of the incoming
5 administration on consistently labeling
6 and safely storing classified docu-
7 ments; and

8 “(ii) a description of the process of
9 the outgoing administration for identifying
10 Presidential records, as defined in section
11 2201 of title 44, United States Code, to be
12 preserved and maintained by the Archivist
13 of the United States.

14 “(5) LESSONS LEARNED.—Not later than 180
15 days after each inauguration day, the Federal Tran-
16 sition Coordinator shall report to Congress regard-
17 ing lessons learned from the transition period and
18 offer recommendations for improvements to the
19 Presidential transition process, which shall include—

20 “(A) lessons learned by Agency Transition
21 Directors and the agency transition directors
22 council with respect to the transition operations
23 of agencies;

24 “(B) an assessment of the major chal-
25 lenges and achievements of the Administrator

1 in providing core transition services to agencies,
2 the outgoing administration, and the incoming
3 administration; and

4 “(C) recommendations, if any, for changes
5 to the Presidential transition process.

6 “(k) GUIDANCE ON IT MANAGEMENT DURING THE
7 TRANSITION.—

8 “(1) GENERAL GUIDANCE.—Not later than 180
9 days before the date of each Presidential election,
10 the Federal Transition Coordinator, in consultation
11 with the Secretary of Homeland Security and the
12 Administrator of the Office of E-Government and
13 Information Technology, shall make publicly avail-
14 able in a manner that is accessible by any candidate
15 for the office of President or Vice-President informa-
16 tion regarding information technology management
17 during the Presidential transition, including—

18 “(A) information technology management
19 best practices to protect against cyber threats;

20 “(B) a description of technology platforms
21 that will be provided by the Administrator to el-
22 igible candidates, including at minimum—

23 “(i) email and video conferencing;

24 “(ii) file-sharing and document-shar-
25 ing software;

1 “(iii) personnel selection, vetting, and
2 documenting systems; and

3 “(iv) other technology required to fa-
4 cilitate virtual briefings, meetings, and
5 other interactions between transition team
6 members and with Federal agencies; and

7 “(C) a description of what, if any, tech-
8 nology platforms a candidate may be able to
9 transition into the incoming administration,
10 should the candidate become President.

11 “(2) GUIDANCE FOR ELIGIBLE CANDIDATES.—
12 After the date described in paragraph (1) and before
13 inauguration day, the Federal Transition Coordi-
14 nator, in consultation with the Secretary of Home-
15 land Security and the Administrator of the Office of
16 E-Government and Information Technology, may
17 provide additional information regarding information
18 technology management during the Presidential
19 transition to each eligible candidate.

20 “(3) SUBMISSION TO CONGRESS.—The Federal
21 Transition Coordinator shall submit to Congress any
22 information made publicly available or provided to
23 an eligible candidate under this subsection.”.

1 (b) ETHICS PLANS.—Section 4(g)(3)(B) of the Presi-
2 dential Transition Act of 1963 (3 U.S.C. 102 note) is
3 amended—

4 (1) by redesignating clauses (i), (ii), (iii), and
5 (iv) as clauses (ii), (iii), (iv), and (v), respectively;
6 and

7 (2) by inserting before clause (ii), as so redesi-
8 gnated, the following:

9 “(i) the name and title of a transition
10 team official whose responsibilities include
11 overseeing implementation of and compli-
12 ance with the ethics plan;”.

13 **SEC. 11. TECHNICAL AMENDMENT.**

14 Section 3(a)(8)(A)(ii)(III) of the Presidential Transi-
15 tion Act of 1963 (3 U.S.C. 102 note) is amended by strik-
16 ing “from the” and all that follows and inserting “from
17 the Government Accountability Office.”.

○