

116TH CONGRESS  
1ST SESSION

# S. 338

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

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2019

Ms. WARREN (for herself, Mr. CARPER, Mr. UDALL, Mr. MARKEY, Ms. KLOBUCHAR, Mrs. FEINSTEIN, Ms. HIRONO, Mr. BLUMENTHAL, Mr. COONS, Mrs. MURRAY, Mrs. GILLIBRAND, Mr. VAN HOLLEN, Ms. HARRIS, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## 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 Re-  
6           form of the House of Representatives a report with 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 team member ob-

1 tains as part of the employment of the member  
2 that such member knows or reasonably should  
3 know has not been made available to the gen-  
4 eral public; and

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

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

13 “(ii) is not authorized by the appro-  
14 priate government agency or official to be  
15 released to the public; and”;

16 (B) in subsection (g)—

17 (i) in paragraph (1), by striking “No-  
18 vember” and inserting “October”; and

19 (ii) by adding at the end the fol-  
20 lowing:

21 “(3) ETHICS PLAN.—

22 “(A) IN GENERAL.—Each memorandum of  
23 understanding under paragraph (1) shall in-  
24 clude an agreement that the eligible candidate  
25 will implement and enforce an ethics plan to

1 guide the conduct of the transition beginning on  
2 the date on which the eligible candidate be-  
3 comes the President-elect.

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

6 “(i) a description of the ethics re-  
7 quirements that will apply to all transition  
8 team members including any specific re-  
9 quirement for transition team members  
10 who will have access to nonpublic or classi-  
11 fied information;

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

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

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

22 “(bb) persons registered  
23 under the Foreign Agents Reg-  
24 istration Act (22 U.S.C. 611 et

1 seq.), foreign nationals, and other  
2 foreign agents; and

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

7 “(II) prohibit a transition team  
8 member with personal conflicts of in-  
9 terest described in section 208 of title  
10 18, United States Code, from working  
11 on particular matters involving spe-  
12 cific parties that affect the interests  
13 of such member; and

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

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

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

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

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

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

23           “(C) PUBLICLY AVAILABLE.—The transi-  
24 tion team shall make the ethics plan described  
25 in this paragraph publicly available on the

1 Internet website of the General Services Admin-  
2 istration the earlier of—

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

5 “(ii) October 1.”; and

6 (3) in section 6(b)—

7 (A) in paragraph (1)—

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

10 (ii) in subparagraph (B), by striking  
11 the period at the end and inserting a semi-  
12 colon; and

13 (iii) by adding at the end the fol-  
14 lowing:

15 “(C) a list of all positions each transition  
16 team member has held outside the Federal Gov-  
17 ernment for the previous 12-month period, in-  
18 cluding paid and unpaid positions;

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

22 “(E) a description of the role of the mem-  
23 ber on the transition team, including a list of  
24 any policy issues that the member expects to  
25 work on, and a list of agencies the member ex-

1           pects to interact with, while serving on the  
2           transition team;

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

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

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

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

16          “(3) The head of a Federal department or  
17          agency, or their designee, shall not permit access to  
18          the agency or employees of the agency that would  
19          not be provided to a member of the public for any  
20          transition team member who does not make the dis-  
21          closures listed under paragraph (1).”.

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