113TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 113–118

PRESIDENTIAL LIBRARY DONATION REFORM ACT OF 2013

JUNE 20, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ISSA, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 1133]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 1133) to amend title 44, United States Code, to require information on contributors to Presidential library fundraising organizations, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 1133, the Presidential Library Donations Reform Act of 2013, was introduced on March 13, 2013, by Representative John

29–006

J. Duncan (R-TN) and cosponsored by Ranking Minority Member Cummings. The legislation requires presidential library fundraising organizations to disclose donor names and contribution amounts for donations received prior to the transfer of a library to the custody of the National Archives and Records Administration (NARA). The legislation also requires NARA to post the disclosures on its website in a searchable, sortable, and downloadable format. This legislation will bring transparency to the presidential library fundraising process.

BACKGROUND AND NEED FOR LEGISLATION

In 1940, President Franklin Roosevelt established the first presidential library as part of an informal effort to make the records of his administration accessible to the public. Ultimately, after raising private funds to construct a facility, President Roosevelt turned both the facility and his presidential papers over to the Federal Government. Using the Roosevelt library as a template, the Presidential Libraries Act of 1955 was subsequently signed into law, codifying the ability of the Federal Government to maintain presidential libraries constructed via private donations.

Amendments made in 1986 and 2003 further refined the process, which now requires fundraising organizations to turn over an operating endowment to help fund a portion of the cost of operating the facility after it has been turned over to the Government.[1] Today, NARA operates 13 presidential libraries covering every president from Herbert Hoover to George W. Bush, at a cumulative annual cost to the taxpayers of approximately $75 million.

While many early presidential libraries were fairly small and inexpensive, more recent libraries have required significant private fundraising efforts. Press reports have indicated that the William J. Clinton Presidential Center and Park, which opened in 2004, cost $165 million and that the George W. Bush Presidential Center, which opened in 2013, cost $250 million.

Under current law, the funds raised for libraries are unrestricted, can be raised while the President is still in office, and the source of the donations need not be disclosed. This reality has led to bipartisan concerns of potential impropriety, wherein library donations may be used as a way for donors to secure special access or political favors.

H.R. 1133 would change current law to require that presidential fundraising organizations disclose to NARA, on a quarterly basis, basic information about each donation greater than $200, including the source and date of the donation, in an electronic searchable and sortable format. This requirement would remain in place until the applicable President leaves office or such time as NARA assumes operational control of the facility—whichever occurs later. To provide public access to the data, NARA is then required to post the disclosure information in a searchable, sortable, and downloadable format on its website.

H.R. 1133 would also institute criminal penalties for presidential fundraising organizations that knowingly submit false information with respect to a disclosure. Similar penalties would apply to indi-

[1] 44 U.S.C. 2112.

viduals that knowingly submit false information to a presidential fundraising organization with respect to a contribution.

These commonsense reforms would help bring transparency and sunlight to the presidential library fundraising process, helping to eliminate even the appearance of impropriety. The reforms will also enable taxpayers to know the sources of the funds used to construct facilities that the taxpayer will then be asked to support.

LEGISLATIVE HISTORY

H.R. 1133, legislation to require the disclosure of donations to presidential library funding organizations, was introduced on March 13, 2013, and referred to the House Committee on Oversight and Government Reform.

H.R. 1133 is substantially similar to legislation approved by the House of Representatives in the 107th Congress (H.R. 577), the 110th Congress (H.R. 1254), and the 111th Congress (H.R. 36).

At a business meeting on March 20, 2013, the Committee considered H.R. 1133 and ordered the bill to be reported favorably to the House, by voice vote.

SECTION-BY-SECTION

Section 1. Short title

Sets short title as the, "Presidential Library Donation Reform Act of 2013".

Section 2. Presidential libraries

Adds a new subsection, (h), to section 2112 of title 44, United States Code, to govern the disclosure of donations made to Presidential Libraries.

Requires, on a quarterly basis, Presidential library fundraising organizations to submit to the Archivist of the United States information in "electronic searchable and sortable format" with respect to each contributor who gave that organization more than $200 in the applicable reporting period. Such information is defined to include: (1) the total value of each contribution, (2) the source of the contribution and the address of such entity, (3) in the case of individuals, the occupation of the source, and (4) the date of each contribution. Each submission is due not later than 15 days after the end of each calendar quarter.

Sets the reporting requirement to expire on the later of the applicable President's last day in office or the date on which the Archivist has accepted, taken title to, or entered into an agreement to use any land of facility as a Presidential archival depository for the applicable President.

Requires that the Archivist publish the submission data from each Presidential library fundraising organization within 30 days of its receipt on the National Archives and Records Administration website in a manner that is free to access and is searchable, sortable, and downloadable.

Establishes legal penalties for knowingly and willfully submitting false information with respect to a contribution to a Presidential library fundraising organization, and for such an entity to knowingly and willfully submit false material or omit material information to the Archivist.

Authorizes the Archivist to promulgate regulations necessary to carry out the new subsection. Specifies that the disclosure requirements contained in the legislation only apply to contributions made after date of enactment.

EXPLANATION OF AMENDMENTS

No amendments to H.R. 1133 were offered.

COMMITTEE CONSIDERATION

On March 20, 2013, the Committee met in open session and ordered reported favorably the bill, H.R. 1133, by voice vote, a quorum being present.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill requires presidential library fundraising organizations to disclose donor names and contribution amounts for donations received prior to the transfer of a library to the custody of the National Archives and Records Administration (NARA). As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 1133 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

H.R. 1133 requires the Archivist of the United States to accept, on a quarterly basis, presidential library fundraising organization financial disclosure reports and post the reports on the website of the National Archives and Records Administration, within 30 days of receipt, in a searchable, sortable, and downloadable format.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 1133 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1133. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1133 from the Director of Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 8, 2013.

Hon. DARRELL ISSA,
Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1133, the Presidential Library Donation Reform Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1133—Presidential Library Donation Reform Act of 2013

H.R. 1133 would require an organization that raises funds for a Presidential library to disclose the sources and amounts of such funds. The legislation would apply to foundations that receive $200 or more per contributor per calendar quarter while the current President is in office and during the period before the federal government takes possession of the library or the President leaves office, whichever is later. Fund-raising organizations would be required to provide this information to the National Archives and Records Administration (NARA). The bill would then direct NARA to make the information available to the public in a free, online-searchable database. Finally, the legislation would establish criminal penalties, including fines, for violations of its provisions.

CBO estimates that implementing H.R. 1133 would cost $4 million over the 2014–2018 period, assuming appropriation of the necessary amounts. Enacting the legislation could affect direct spending and revenues; therefore, pay-as-you-go provisions apply to the bill. However, we estimate that any such impacts would not be significant.

Based on information from NARA, CBO estimates that NARA would spend about $1 million to establish the online database and around $600,000 annually thereafter to update and maintain it. We also estimate that any increases in federal spending for law enforcement, court proceedings, or prison operations related to criminal violations under H.R. 1133, which would be subject to appropriations, would be insignificant.

Because those prosecuted and convicted under H.R. 1133 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Collections of such fines are recorded in the budget as revenues, then deposited in the Crime Victims Fund, and later spent. CBO expects that any additional receipts and direct spending would be negligible because of the small number of cases involved.

H.R. 1133 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 1133 would impose a private-sector mandate, as defined by UMRA, by requiring organizations established for the purpose of raising funds for Presidential libraries or related facilities to submit information to NARA. The number of such organizations is small, and the cost to report the mandated information would be minimal. CBO estimates, therefore, that the direct cost of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates ($150 million in 2013, adjusted annually for inflation).

The CBO staff contacts for this estimate are Matthew Pickford (for federal costs) and Paige Piper/Bach (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 2112 OF TITLE 44, UNITED STATES CODE

§ 2112. Presidential archival depository

(a) * * *

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(h) PRESIDENTIAL LIBRARY FUNDRAISING ORGANIZATION REPORTING REQUIREMENT.—

(1) REPORTING REQUIREMENT.—Not later than 15 days after the end of a calendar quarter and until the end of the requirement period described in paragraph (2), each Presidential library fundraising organization shall submit to the Archivist information for that quarter in an electronic searchable and sortable format with respect to every contributor who gave the organization a contribution or contributions (whether monetary or in-kind) totaling $200 or more for the quarterly period.

(2) DURATION OF REPORTING REQUIREMENT.—The requirement to submit information under paragraph (1) shall continue until the later of the following occurs:

(A) The Archivist has accepted, taken title to, or entered into an agreement to use any land or facility for the Presidential archival depository for the President for whom the Presidential library fundraising organization was established.

(B) The President whose archives are contained in the deposit no longer holds the Office of President.

(3) INFORMATION REQUIRED TO BE PUBLISHED.—The Archivist shall publish on the website of the National Archives and Records Administration, within 30 days after each quarterly filing, any information that is submitted under paragraph (1), without a fee or other access charge, in a searchable, sortable, and downloadable database.

(4) SUBMISSION OF FALSE MATERIAL INFORMATION PROHIBITED.—

(A) INDIVIDUAL.—

(i) PROHIBITION.—It shall be unlawful for any person who makes a contribution described in paragraph (1) to knowingly and willfully submit false material information or omit material information with respect to the contribution to an organization described in such paragraph.

(ii) PENALTY.—The penalties described in section 1001 of title 18, United States Code, shall apply with respect to a violation of clause (i) in the same manner as a violation described in such section.

(B) ORGANIZATION.—

(i) PROHIBITION.—It shall be unlawful for any Presidential library fundraising organization to knowingly and willfully submit false material information or omit material information under paragraph (1).

(ii) PENALTY.—The penalties described in section 1001 of title 18, United States Code, shall apply with

respect to a violation of clause (i) in the same manner as a violation described in such section.

(5) PROHIBITION ON CONTRIBUTION.—

(A) IN GENERAL.—It shall be unlawful for a person to knowingly and willfully—

(i) make a contribution described in paragraph (1) in the name of another person;

(ii) permit his or her name to be used to effect a contribution described in paragraph (1); or

(iii) accept a contribution described in paragraph (1) that is made by one person in the name of another person.

(B) PENALTY.—The penalties set forth in section 309(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)) shall apply to a violation of subparagraph (A) in the same manner as if such violation were a violation of section 316(b)(3) of such Act (2 U.S.C. 441b(b)(3)).

(6) REGULATIONS REQUIRED.—The Archivist shall promulgate regulations for the purpose of carrying out this subsection.

(7) DEFINITIONS.—In this subsection:

(A) INFORMATION.—The term "information" means the following:

(i) The amount or value of each contribution made by a contributor referred to in paragraph (1) in the quarter covered by the submission.

(ii) The source of each such contribution, and the address of the entity or individual that is the source of the contribution.

(iii) If the source of such a contribution is an individual, the occupation of the individual.

(iv) The date of each such contribution.

(B) PRESIDENTIAL LIBRARY FUNDRAISING ORGANIZATION.—The term "Presidential library fundraising organization" means an organization that is established for the purpose of raising funds for creating, maintaining, expanding, or conducting activities at—

(i) a Presidential archival depository; or

(ii) any facilities relating to a Presidential archival depository.

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