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113TH CONGRESS *2d Session*	SENATE	REPORT 113–245

PRESIDENTIAL LIBRARY DONATION REFORM ACT OF 2014

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 2640

TO AMEND TITLE 44, UNITED STATES CODE, TO REQUIRE INFORMATION ON CONTRIBUTORS TO PRESIDENTIAL LIBRARY FUND-RAISING ORGANIZATIONS, AND FOR OTHER PURPOSES.

AUGUST 26, 2014.—Ordered to be printed
Filed, under authority of the order of the Senate of August 5 (legislative day, August 1), 2014

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Mr. CARPER, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2640]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2640) 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, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The Presidential Library Donation Reform Act of 2014 seeks to make the fundraising process for Presidential libraries more transparent by requiring public disclosure of the sources and amounts of certain donations made to help current and former Presidents establish libraries to house their records. Under existing law, current and former Presidents, through privately established foundations, are free to raise unlimited amounts of money from undisclosed sources to fund the construction and maintenance of their

Presidential libraries and related facilities. S. 2640 would bring transparency to the Presidential library fundraising process and enable taxpayers to know the sources of the funds used to construct facilities that the taxpayer will then be asked to support.

II. Background and Need for the Legislation

The Presidential library system formally began in 1939, when President Franklin D. Roosevelt developed the concept of a federally maintained Presidential library to house his Presidential papers and other historical materials. Friends of President Roosevelt formed a corporation to raise funds for the construction of a library located on the grounds of his family home in Hyde Park, New York. President Roosevelt's decision to create a library came from his belief that Presidential papers are an important part of the Nation's heritage and should be accessible to the public.[1] President Roosevelt's idea took, and today, the National Archives and Records Administration (NARA) administers a nationwide network of Presidential libraries housing the records of Presidents dating back to Herbert Hoover. The libraries are a valuable resource for historians, academics, researchers and the public.

The Presidential Libraries Act of 1955[2] established the basic policy for creating federally maintained Presidential libraries. To establish a Presidential library, friends, family members and associates of an incumbent President generally establish a private foundation or other organization to raise funds to obtain a site and to construct the facility. Once completed, the facility is turned over, along with an operating endowment, to NARA. NARA operates and maintains Presidential libraries using the operating endowment (described below) and federally appropriated funds. The libraries are typically located either in the former President's hometown or on a university campus. They house the official records and papers of former Presidents, as well as documentary materials of the President's family and associates. To address concerns about the increasing taxpayer cost of Presidential libraries, Congress amended the Presidential Libraries Act in 1986,[3] establishing certain reporting requirements for NARA, imposing architectural and design conditions, and setting fiscal limitations on future Presidential libraries, including a requirement that Presidential libraries enter the federal system with an operating endowment in tow, in order to reduce the ongoing cost to the taxpayer of maintaining the libraries.[4]

Over the years, Presidential libraries have evolved into multipurpose institutes that, in addition to housing the official papers of a former President, can include museums, conference facilities, and classrooms. The cost of these facilities can be substantial. Press accounts indicate that the Jimmy Carter Presidential library cost $26 million to build,[5] the George H.W. Bush library center cost $83 mil-

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[1] See *http://www.fdrlibrary.marist.edu/library/onedefinitelocality.html.*

[2] Public Law 84–373.

[3] Public Law 99–323.

[4] Even with the endowment, Presidential libraries still cost taxpayers tens of millions of dollars to operate each year. See National Archives and Records Administration, Fiscal Year 2014 Congressional Justification, at OE–12 (2013), available at *http://www.archives.gov/about/plans-reports/performance-budget/2014-performance-budget.pdf.*

[5] Peter Applebome, *Carter Center: More Than the Past (May 30, 1993),* available at *http://www.nytimes.com/1993/05/30/travel/carter-center-more-than-the-past.html.*

lion to build,[6] the William J. Clinton library center cost $165 million to build,[7] and George W. Bush raised more than $500 million for his library and foundation.[8] Even though President Barack Obama has over two years left in the White House, between $850,000 and $1.75 million has already been pledged to his Presidential library.[9]

Fund-raising for Presidential libraries often begins well before a President leaves office. Under current law, there are no limits on the amount of money Presidents and their associates may raise for a Presidential library, no constraints on when fund-raising may begin, no limits on the size of donations, and no requirement that any information about the donors or donations be disclosed to the public. Foreign governments, foreign individuals, and foreign corporations all may make donations to Presidential libraries if the libraries are willing to accept them.

This lack of limits and disclosure stands in marked contrast to the rules governing campaign contributions. Those seeking to raise money for the President's campaign organization live under a regime in which both the source and amounts of contributions are limited, and the identity of and amount given by contributors are made public.[10] The opaqueness of the sources of tens of millions of dollars in donations for the benefit of a President has led to bipartisan concerns of potential impropriety, a fear that donors may seek to use library donations as a means to secure special access or political favors.

Witnesses at a March 1, 2007 hearing conducted by the House Committee on Oversight and Government Reform supported the need for disclosure of presidential library donations. They argued that undisclosed contributions create a perception of impropriety and noted the benefits of disclosure to public confidence in the political process. Sheila Krumholz, the Executive Director of the Center for Responsive Politics testified:

> Herein lies the central concern: that those who donate money to presidential libraries will in return receive special access to, and favors from, the president and the federal government. To minimize the potential for that sort of payback, and to build trust among a citizenry that already questions the ethics of elected officials, public disclosure of contributions to presidential library projects seems both appropriate and wise.[11]

The Presidential Library Donation Reform Act of 2014 brings transparency to the Presidential library fundraising process by requiring presidential fundraising organizations to disclose to NARA,

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[6] Fred A. Bernstein, *Who Should Pay for Presidential Posterity?* (June 10, 2004), available at *http://www.nytimes.com/2004/06/10/garden/who-should-pay-for-presidential-posterity.html.*

[7] Maria Newman, *Thousands Attend Dedication of Clinton's Presidential Library* (November 18, 2004), available at *http://www.nytimes.com/2004/11/18/politics/18cnd-clin.html.*

[8] The Bush library itself cost approximately $250 million to build. See Zeke J. Miller, *Bush Raises More Than $500 Million For Library* (April 10, 2013), available at *http://swampland.time.com/2013/04/10/bush-raises-more-than-500-million-for-library/.*

[9] Howard Koplowitz, *Obama Presidential Library: Where Should It Be? Chicago, Hawaii, New York Are Main Contenders* (August 9, 2014), available at *http://www.ibtimes.com/obama-presidential-library-where-should-it-be-chicago-hawaii-new-york-are-main-contenders-1653992.*

[10] See Federal Election Campaign Act, 2 U.S.C. §§ 431, et. seq.

[11] Statement of Sheila Krumholz, Executive Director of the Center for Responsive Politics, House Oversight and Government Reform Hearing, Reform to the Presidential Library Donation Disclosure Process, at 36, (February 28, 2007).

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 a 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.

S. 2640 would also institute criminal penalties for presidential fundraising organizations that knowingly submit false information with respect to a disclosure. Similar penalties would apply to individuals that knowingly submit false information to a presidential fundraising organization with respect to a contribution.

These commonsense reforms would bring transparency to the presidential library fundraising process, helping to eliminate even the appearance of impropriety. Ultimately, these reforms will enable taxpayers to know the sources of the funds used to construct facilities that the taxpayer will eventually support.

III. Legislative History

S. 2640, the Presidential Library Donation Reform Act of 2014, was introduced on July 22, 2014, by Senators Carper and Coburn and the bill was then referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered the bill at a July 30, 2014 business meeting and ordered the bill reported favorably by voice vote. Members present for the vote were Senators Carper, Levin, Pryor, Landrieu, McCaskill, Begich, Baldwin, Coburn, Johnson, and Ayotte.

IV. Section-by-Section Analysis of the Bill, as Reported

Section 1—Short title

Section 1 establishes the bill's short title as the "Presidential Library Donation Reform Act of 2014."

Section 2—Presidential libraries

Section 2(a) adds a new section (h) to 44 U.S.C. 2112 (part of the Presidential Libraries Act) to govern the disclosure of donations made to Presidential Libraries.

New Section 2112(h)(1) defines two terms. "Contribution" means a contribution or contributions made by an individual or entity to a Presidential library fundraising organization totaling not less than $200 (whether monetary or in-kind) in a single calendar quarter. "Presidential Library Fundraising Organization" means an organization established to raise funds to create, maintain, expand, or conduct activities at either a Presidential archival depository or any facility relating to a Presidential archival depository.

New Section 2112(h)(2) requires Presidential library fundraising organizations to submit quarterly reports to the Archivist of the United States with information about each contributor who gave the organization more than $200 that quarter. This information should be submitted in a searchable and sortable format and shall include: (1) the total value of each contribution, (2) the source of the contribution, (3) in the case of individuals, the occupation of the source, and (4) the date of each contribution. The Archivist must

then publish this information within 30 days of receiving it on a website that is free for the public to access and that is searchable, sortable, and downloadable. This reporting requirement expires on the later of the 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 for the Presidential library.

New Section 2112(h)(3) establishes legal penalties for any person or fundraising organization submitting false information with respect to a contribution that is made to a Presidential library fundraising organization.

New Section 2112(h)(4) makes it unlawful for any person to knowingly and willfully make a contribution in the name of another person; allow the name of a person to be used by another to make a contribution; or accept a contribution made by one person in the name of another. These provisions include prohibiting the making of a contribution through a corporation or other legal entity in order to conceal the identity of the person actually providing the contribution.

New Section 2112(h)(5) authorizes the Archivist to promulgate regulations necessary to carry out the new subsection.

Section 2(b) of the bill specifies that the disclosure requirements contained in the legislation apply only to contributions made after date of enactment.

V. Evaluation of Regulatory Impact

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate the Committee has considered the regulatory impact of this bill. The legislation will not result in additional regulation, increased economic impact, adverse impact on personal privacy, or additional paperwork on any individuals or businesses. The Congressional Budget Office confirmed that S. 2640 contains no intergovernmental or private-sector mandates as defined in UMRA.

VI. Congressional Budget Office Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 13, 2014.

Hon. Tom Carper,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2640, the Presidential Library Donation Reform Act of 2014.

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.

S. 2640—Presidential Library Donation Reform Act of 2014

S. 2640 would require an organization that raises funds for a Presidential library to disclose the sources and amounts of such funds. Such organizations would have to identify any contributors

of $200 or more in a calendar quarter while the 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. Fundraising organizations would be required to provide this information to the National Archives and Records Administration (NARA). The bill would 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 S. 2640 would cost $4 million over the 2015–2019 period, assuming appropriation of the necessary amounts. Enacting the legislation could affect direct spending and revenues; therefore, pay-as-you-go provisions apply. However, we estimate that any such effects 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 S. 2640, which would be subject to appropriation, would be insignificant.

Because those prosecuted and convicted under S. 2640 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.

S. 2640 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.

S. 2640 would impose a private-sector mandate, as defined in UMRA, by requiring organizations established for the purpose of raising funds for Presidential libraries or their 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 ($152 million in 2014, adjusted annually for inflation).

On April 8, 2013, CBO transmitted a cost estimate for H.R. 1133, the Presidential Library Donation Reform Act of 2013, as ordered reported by the House Committee on Oversight and Government Reform on March 20, 2013. Both bills contain similar provisions, and their estimated costs are the same.

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 Peter H. Fontaine, Assistant Director for Budget Analysis.

VII. Changes in Existing Law Made by the Bill, as Reported

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the following changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in black brackets, new matter is printed

in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * * * *

TITLE 44—PUBLIC PRINTING AND DOCUMENTS

CHAPTER 21. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

* * * * * * *

§ 2112. Presidential archival depository

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(g) * * *

(h) PRESIDENTIAL LIBRARY FUNDRAISING ORGANIZATION REPORTING REQUIREMENT.—

(1) DEFINITIONS.—In this subsection:

(A) CONTRIBUTION.—The term "contribution" means a contribution or contributions made by an individual or entity to a Presidential library fundraising organization totaling not less than $200 (whether monetary or in kind) in a single calendar quarter.

(B) PRESIDENTIAL LIBRARY FUNDRAISING ORGANIZATION.—The term "Presidential library fundraising organization" means an organization established to raise funds to create, maintain, expand, or conduct activities at—

(i) a Presidential archival depository; or

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

(2) REPORTING REQUIREMENT.—

(A) IN GENERAL.—During the period beginning on the date of enactment of this subsection, and ending on the date described in subparagraph (B), and not later than 15 days after the end of each calendar quarter, each Presidential library fundraising organization shall submit to the Archivist, in a searchable and sortable electronic format, information on each contribution made during that quarter, which shall include—

(i) the amount or value of the contribution;

(ii) the source of the contribution, including the address of the individual or entity that is the source of the contribution;

(iii) if the source of the contribution is an individual, the occupation of the individual; and

(iv) the date of the contribution.

(B) DURATION OF REPORTING REQUIREMENT.—The date described in this subparagraph is the later of—

(i) the date on which the Archivist accepts, takes title to, or enters 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; and

(ii) the date on which the President whose archives are contained in the Presidential archival depository for whom the Presidential library fundraising organization was established no longer holds the Office of President.

(C) INFORMATION REQUIRED TO BE PUBLISHED.—Not later than 30 days after each submission under subparagraph (A), the Archivist shall publish the information submitted on the website of the National Archives and Records Administration, without a fee or other access charge, in a searchable, sortable, and downloadable format.

(3) PROHIBITION ON THE SUBMISSION OF FALSE MATERIAL INFORMATION.—

(A) INDIVIDUAL.—

(i) PROHIBITION.—It shall be unlawful for any person who makes a contribution to knowingly and willfully submit materially false information or omit material information with respect to the contribution.

(ii) PENALTY.—Any person who commits an offense described in clause (i) shall be punished as provided under section 1001 of title 18, United States Code.

(B) ORGANIZATION.—

(i) PROHIBITION.—It shall be unlawful for any Presidential library fundraising organization to knowingly and willfully submit materially false information or omit material information required to be submitted under paragraph (2)(A).

(ii) PENALTY.—Any Presidential library fundraising organization that commits an offense described in clause (i) shall be punished as provided under section 1001 of title 18, United States Code.

(4) PROHIBITION ON CERTAIN CONTRIBUTIONS.—

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

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

(ii) allow the name of the person to be used by another person to effect a contribution; or

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

(B) PENALTY.—Any person who commits an offense described in subparagraph (A) shall be punished as provided under section 309(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)) in the same manner as if the offense were a violation of section 316(b)(3) of such Act (2 U.S.C. 441b(b)(3)).

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

○