

PRESIDENTIAL LIBRARY DONATION REFORM ACT OF 2007

MARCH 9, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1254]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 1254) to amend title 44, United States Code, to require information on contributors to Presidential library fundraising organizations, 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. 1254, the “Presidential Library Donations Reform Act of 2007,” was introduced March 1, 2007, by Reps. Henry A. Waxman, John Duncan, Wm. Lacy Clay, Todd Russell Platts, and Rahm Emanuel. The legislation requires organizations that raise funds for presidential libraries and their affiliated facilities to disclose information about their donors to Congress and the National Archives and Records Administration (NARA). It further requires NARA to make that information available to the public in a searchable format. Under existing law, these organizations can raise unlimited amounts of money from undisclosed donors, even while the president remains in office. This bill brings transparency to the presidential library fundraising process.

## BACKGROUND AND NEED FOR LEGISLATION

The presidential library system was created in 1939, when President Franklin Roosevelt proposed the creation of a federally maintained repository to house his presidential papers and other historical materials. He raised private funds for the construction of a library facility and then turned the facility and his papers over to the federal government for operation by NARA. This system was put into law in 1955, when the Presidential Libraries Act established a policy for creating federally maintained presidential libraries that are built with private funds. The Act requires foundations or other organizations to raise money and build the libraries. Once they are built, the libraries are then turned over to NARA to be managed as federal facilities.

Amendments to the Presidential Libraries Act in 1986 established new requirements for presidential libraries, including new financial obligations for the private foundations that build the libraries. Out of concern for the growing cost to taxpayers of library maintenance, the amendments required that the foundation provide an operating endowment to NARA when the foundation transfers possession of the facility. That endowment was set at 20% of the cost of the building for libraries of 70,000 square feet or less, and for larger facilities this percentage increases in accordance with the size of the facility. The Consolidated Appropriations Act of 2003 increased the required endowment to at least 40% of the cost of the building for future presidents.<sup>1</sup>

Presidential libraries often include various facilities in addition to the library, such as museums, conference centers, or classrooms. These presidential facilities can be large and the costs for development and construction can be substantial. Press accounts indicate that the George H.W. Bush library cost \$83 million to build, the Clinton library cost \$165 million to build, and George W. Bush hopes to raise \$500 million for his library and think tank in

<sup>1</sup>Pub. L. 108–7. The new requirements apply to “any President who takes the oath of office as President for the first time on or after July 1, 2002.”

Texas.<sup>2</sup> All of this money is raised privately, through a foundation or other organization dedicated to the purpose.

These fundraising efforts are unrestricted. They can begin long before a president leaves office, there are no limits on how much can be raised from a single source, and there is no requirement that donations to these libraries be disclosed publicly. Observers and members of Congress have regularly noted the possible influence that anonymous donors could exert on a sitting president. At a hearing on presidential library fundraising held by the Committee on February 28, 2007, witnesses described the potential for abuse that comes with these large fundraising campaigns. 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.

H.R. 1254 requires presidential library fundraising organizations to disclose information about their contributors. The bill requires that all organizations established for the purpose of raising funds for presidential libraries or their related facilities report on a quarterly basis all contributions of \$200 or more. These organizations are required to disclose information about their contributors while the president is in office and during the period before the federal government has taken possession of the library. The bill sets a minimum reporting period of four years after the end of a president's term.

H.R. 1254 requires presidential library fundraising organizations to disclose to Congress and NARA the amount and date of each contribution, the name and address of the contributor, and if the contributor is an individual, the occupation of the contributor. Under the bill, NARA is required to make the information available to the public through a free, searchable, and downloadable database on the Internet.

H.R. 1254 makes it illegal for either a contributor or an organization raising funds for a presidential library to knowingly submit false material information or to omit material information regarding a contribution. It also makes it illegal to make a contribution in the name of another person or for a person to knowingly permit his or her name to be used to make such a contribution. And finally, the bill makes it illegal to knowingly accept a contribution made by one person in the name of another person. The bill establishes penalties for each of these actions.

The bill applies to organizations raising funds for presidential libraries that are established before, on, or after the date of enactment of the bill, but it applies only to contributions (monetary or in-kind) made after the date of enactment.

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<sup>2</sup>See W library in Record Book, \$500 M Center Would be Priciest for a Prez, New York Daily News (Nov. 27, 2006); Bush's Dream Library, National Journal (Dec. 2, 2006); House Bill Could Force Library Donors Out of Shadows, The Hill (Nov. 29, 2006).

## LEGISLATIVE HISTORY

H.R. 1254, legislation to require disclosure of donations to presidential libraries, was introduced on March 1, 2007, and referred to the Committee on Oversight and Government Reform. H.R. 1254 is similar to legislation introduced by Rep. Duncan in the 107th Congress, H.R. 577, which the House approved by a vote of 392–3.

The Committee held a hearing on March 1, 2007, on the issue of public disclosure of donations to presidential libraries. The witnesses were Sharon Fawcett, Assistant Archivist for Presidential Records, National Archives and Records Administration; Celia Viggo Wexler, Vice President for Advocacy, Common Cause; and Sheila Krumholz, Executive Director, Center for Responsive Politics.

The Committee held a markup to consider H.R. 1254 on March 8, 2007, and ordered the bill to be reported by voice vote.

## SECTION-BY-SECTION

*Section 1. Short title*

This section provides that the short title of H.R. 1254 is the “Presidential Library Donation Reform Act of 2007.”

*Section 2. Presidential libraries*

Subsection 2(a) adds a new subsection (h) to section 2112 of title 44, United States Code.

Subsection h(1) requires presidential library fundraising organizations to submit, on a quarterly basis, information about every contributor who gave the organization contributions totaling \$200 or more during the quarterly period. Subsection h(2) establishes that those reports should be made to NARA, the Committee on Oversight and Government Reform in the House of Representatives, and the Committee on Homeland Security and Governmental Affairs in the Senate and requires that information to be provided by April 15, July 15, October 15, and January 15.

Subsection h(2)(C) establishes that reporting will continue until the latter of either the Archivist accepting, taking title to, or entering into an agreement to use any land or facility for the archival depository or four years passing since the end of a president’s term.

Subsection h(3)(A) defines a presidential library fundraising organization as any organization established for the purpose of raising funds for creating, maintaining, expanding or conducting activities at a presidential archival depository or related facilities. Subsection h(3)(B) establishes that the presidential library fundraising organizations must submit the amount of each contribution, the name and address of the donor, the date of the contribution, and, if the donor is an individual, the occupation of the donor.

Subsection h(4) requires the Archivist to make the information submitted publicly available in a free, searchable, sortable, downloadable database.

Subsection (h)(5) prohibits a contributor from knowingly and willfully submitting false material information or omitting material information with respect to the contribution.

Subsection (h)(6) prohibits an organization receiving contributions for a presidential library from knowingly and willfully submitting false material information, or omitting material informa-

tion, regarding contributions required to be disclosed under this bill.

Subsection (h)(7) prohibits any person from knowingly and willfully making a contribution to a presidential library in the name of another person or permitting his or her name to be used to make such a contribution. This subsection also prohibits the acceptance of contributions made by one person in the name of another person.

Subsection (h)(8) authorizes NARA to promulgate regulations to implement the provisions of subsection (h).

Section 2(b) provides that the bill covers organizations that were established to raise funds for a presidential library before, on or after the date of enactment of this bill are covered. It also provides that the requirement to disclose information about contributions applies only to contributions made after the date of the bill's enactment.

#### EXPLANATION OF AMENDMENTS

No amendments to this bill were accepted by the Committee.

#### COMMITTEE CONSIDERATION

On Thursday, March 8, 2007, the Committee ordered the bill reported to the House by a voice vote.

#### ROLLCALL VOTES

No rollcall votes were taken on this legislation.

#### 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 provides for disclosure of donations to presidential library fundraising organizations. 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.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed

by H.R. 1254. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

#### 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 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. 1255 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) 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. 1255. 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. 1254 from the Director of Congressional Budget Office:

MARCH 9, 2007.

Hon. HENRY A. WAXMAN,  
*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. 1254, the Presidential Library Donation Reform Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Matthew Pickford (for federal costs), and Paige Piper/Bach (for the private-sector impact).

Sincerely,

PETER R. ORZSAG.

Enclosure.

*H.R. 1254—Presidential Library Donation Reform Act of 2007*

H.R. 1254 would require any organization that raises funds for a Presidential library to disclose the sources and amounts of such funds. The legislation would apply to donations totaling \$200 or greater per quarter while the current President is in office and during the period before the federal government takes possession of the library (with a minimum reporting period of four years after a President's term). Additionally, H.R. 1254 would require fund-raising organizations to provide this information to the National Archives and Records Administration (NARA) and the Congress. The bill would direct NARA to make this information public in a free searchable database. Finally, H.R. 1254 would establish criminal penalties, including fines, for violations of its provisions.

CBO estimates that implementing H.R. 1254 would cost \$1 million in 2008 and about \$5 million over the 2008–2012 period, assuming appropriation of the necessary amounts. Enacting the legislation could affect direct spending and receipts, but we estimate that any impact would not be significant.

Based on information from NARA, CBO estimates that requiring NARA to create an online searchable database of Presidential library donations would have an initial startup cost of \$1 million. In addition, CBO estimates that NARA would need \$800,000 annually to update and maintain the database after it is established. Thus, we estimate that the creation of a single comprehensive searchable database for library donations would cost about \$5 million over the 2008–2012 period, assuming appropriation of the necessary amounts.

H.R. 1254 would establish a new federal crime for violations of its provisions. CBO expects that H.R. 1254 would apply to a very small number of offenders; any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 1254 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, which are 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. 1254 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. 1254 would impose a private-sector mandate, as defined by UMRA, on organizations established for the purpose of raising funds for a Presidential library. The bill would require those organizations to submit quarterly reports to the Administration and certain Congressional committees detailing the sources and amounts of certain contributions it receives. The reports would have to be submitted for a period of time as determined by conditions in the bill. The cost for such organizations to report the mandated information would be minimal. CBO estimates, therefore, that the direct cost of the mandate would fall well below the an-

nual threshold established by UMRA for private-sector mandates (\$131 million in 2007, 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). This estimate was approved by Peter H. Fontaine, 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) \* \* \*

\* \* \* \* \*

*(h)(1) Any Presidential library fundraising organization shall submit on a quarterly basis, in accordance with paragraph (2), information 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) For purposes of paragraph (1)—*

*(A) the entities to which information shall be submitted under that paragraph are the Administration, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate;*

*(B) the dates by which information shall be submitted under that paragraph are April 15, July 15, October 15, and January 15 of each year and of the following year (for the fourth quarterly filing);*

*(C) the requirement to submit information under that paragraph shall continue until the later of the following occurs:*

*(i) The Archivist has accepted, taken title to, or entered into an agreement to use any land or facility for the archival depository.*

*(ii) The President whose archives are contained in the depository no longer holds the Office of President and a period of four years has expired (beginning on the date the President left the Office).*

*(3) In this subsection:*

*(A) 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.*

*(B) 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.*

(4) *The Archivist shall make available to the public through the Internet (or a successor technology readily available to the public) as soon as is practicable after each quarterly filing any information that is submitted under paragraph (1). The information shall be made available without a fee or other access charge, in a searchable, sortable, and downloadable database.*

(5)(A) *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.*

(B) *The penalties described in section 1001 of title 18, United States Code, shall apply with respect to a violation of subparagraph (A) in the same manner as a violation described in such section.*

(6)(A) *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).*

(B) *The penalties described in section 1001 of title 18, United States Code, shall apply with respect to a violation of subparagraph (A) in the same manner as a violation described in such section.*

(7)(A) *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) *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)).*

(8) *The Archivist shall promulgate regulations for the purpose of carrying out this subsection.*

#### ADDITIONAL VIEWS OF REPRESENTATIVE TOM DAVIS

Legislation to require the disclosure of donations to Presidential library fundraising organizations was first introduced in 1999 by Rep. John Duncan (R-TN) in an effort to disclose contributions made by private donors to presidential library fundraising organizations. Under Mr. Duncan's lead in the 107th Congress, this Committee and the House passed legislation on this issue with strong bipartisan support. During markup of H.R. 1254, I offered two amendments that were not included in the reported bill that I would like to take a moment to highlight.

First, I offered an amendment that would apply the disclosure provisions of this legislation to Presidents elected after the date of enactment of this act. My concern was that our efforts to advance meaningful reform to the system have become politicized—with Republicans championing the issue when a Democrat held the White House and Democrats championing the issue when a Republican held the White House. If the Committee was serious about enacting longstanding reforms into law, it should be willing to take the political bite out of the legislation by applying it to all future Presidents rather than turning this into a debate about the sitting President. Without this change, the legislation becomes more of an attack on the current President than a serious effort at reform.

The second amendment I offered would expand the scope of the legislation to include donations to congressional foundations. After all, much like donations to presidential libraries could be seen as backdoor attempts to curry favor with the President, donations to congressional foundations could be seen doing the same thing with the legislative branch. If we believe that the disclosure policy is important enough to impose upon the President of the United States, the United States Congress should be willing to live up to the same standard.

I believe that both of these reforms would improve the bill and I intend to continue to pursue these changes as the bill moves forward.

TOM DAVIS.

