



The Presidential Libraries Act and the Establishment of Presidential Libraries

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Summary

The Presidential Libraries Act (P.L. 84-373; 69 Stat. 695), as originally enacted in 1955, sought to create a system of government “preservation and administration ... of papers and other historical materials of any President or former President of the United States.” Pursuant to the law, the General Services Administration’s (GSA’s) Administrator could, among other actions,

accept ... the papers and other historical materials of any President or former President of the United States, or of any other official or former official of the Government, and other papers relating to and contemporary with any President or former President of the United States.
(P.L. 84-373)

Amid concerns about growing costs of the libraries, the act was substantially amended in 1986 (P.L. 99-323; 100 Stat. 495) to “shift the burden of on-going building operations costs of future libraries from the taxpayer to endowment funds.”

Through the National Archives and Records Administration (NARA), the federal government currently operates and maintains 13 presidential libraries, and it may soon assume responsibility for a new facility for the records of former President George W. Bush. The libraries, which primarily serve as archival repositories and museums in which the records and memorabilia of the former Presidents are held and made available to researchers, are privately constructed on behalf of former Presidents. Upon completion, and with approval from both the Archivist of the United States and Congress, the land, buildings, and sometimes other amenities for the library may be deeded to or otherwise placed under the control of the federal government.

Among some concerns associated with the construction and maintenance of presidential libraries is the role of the private organizations that build and, sometimes, continue to inhabit the buildings. The private organizations, commonly referred to as presidential library foundations, support the construction of the libraries and sometimes provide funding for the exhibitions displayed within the library or its museum. Each library and foundation has a unique partnership. Such a relationship, however, may also lead to difficulties over which exhibits are displayed at the libraries as well as concerns over which spaces are publicly owned and which are privately owned.

Moreover, some presidential library scholars have raised concerns over whether library exhibits, which are often funded by the library foundations, present a balanced version of each President’s administration or if they tend to portray the President in an inaccurate or, at least, more favorable, light.

This report details the legislative history of the Presidential Libraries Act. The report then provides information on existing library facilities and their locations. It also analyzes legislative options for the act, including increasing endowment requirements for the library foundations and clearly delineating the relationship between NARA and the libraries’ supporting organizations. Congress, for example, might consider consolidating the libraries into one centralized location or could attempt to create standards for the historical exhibits at the libraries.

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Introduction

The Presidential Libraries Act (P.L. 84-373; 69 Stat. 695),¹ as originally enacted in 1955, sought to create a system of government “preservation and administration . . . of papers and other historical materials of any President or former President of the United States.” Pursuant to the law, the General Services Administration’s (GSA’s) Administrator could, among other actions,

accept . . . the papers and other historical materials of any President or former President of the United States, or of any other official or former official of the Government, and other papers relating to and contemporary with any President or former President of the United States. (P.L. 84-373)

As the presidential library system continued to grow after the 1955 act, funding and construction issues became a policy concern. Amid the concerns about growing costs of the libraries, the act was substantially amended in 1986 (P.L. 99-323; 100 Stat. 495) to “shift the burden of on-going building operations costs of future libraries from the taxpayer to endowment funds.”²

Today, presidential libraries are funded through a combination of congressional appropriations and private sources.³ In general, funds for archiving and management of a President’s papers are appropriated to the National Archives and Records Administration (NARA), while funds raised by private organizations support facility construction, programming, and other activities related to a President’s legacy. Under the act, the Archivist of the United States has the authority to accept and take title to land, facilities, and equipment for a library—or to enter into an agreement with certain public or private entities to use their land, facilities, and equipment.⁴ Prior to accepting title to the property or entering into the agreement, the Archivist must submit a report to Congress that includes, among other information, estimates of the costs and funding requirements of the proposed library. Congress then has 60 days of continuous session to disapprove of the acquisition or agreement. If Congress does not act, NARA may take title to the property or enter into the agreement for use of the property, so long as the statutorily required endowment for maintenance and similar costs contains sufficient funding.⁵ Congress most recently updated funding requirements in 2008.

Through NARA, the federal government currently operates and maintains 13 presidential libraries, and may soon assume responsibility for a new facility for the records of former President George W. Bush. **Table 1** includes all of the current NARA presidential library facilities.

¹ The act is currently codified at 44 U.S.C. § 2112.

² U.S. Congress, House Committee on Government Operations, *Reduction of Costs of Presidential Libraries*, to accompany H.R. 1349, 99th Cong., 1st sess., May 15, 1985, H.Rept. 99-125 (Washington: GPO, 1985), pp. 1-2.

³ For additional information on presidential libraries and presidential records, see CRS Report R40238, *Presidential Records: Issues for the 111th Congress*, by Wendy R. Ginsberg; and CRS Report R40209, *Fundraising for Presidential Libraries: Legislative and Policy Issues in the 111th Congress*, by R. Sam Garrett.

⁴ 44 U.S.C. § 2112(a).

⁵ 44 U.S.C. § 2112(g).

Table I. Presidential Library Facilities and Locations

Facility Name	Location
Herbert Hoover Presidential Library and Museum	West Branch, Iowa
Franklin D. Roosevelt Presidential Library and Museum	Hyde Park, New York
Harry S. Truman Library and Museum	Independence, Missouri
Dwight D. Eisenhower Presidential Library and Museum	Abilene, Kansas
John F. Kennedy Presidential Library and Museum	Boston, Massachusetts
Lyndon Baines Johnson Library and Museum	Austin, Texas
Nixon Presidential Library and Museum	Yorba Linda, California
Gerald R. Ford Presidential Library and Museum	Ann Arbor, Michigan
Jimmy Carter Library and Museum	Atlanta, Georgia
Ronald Reagan Presidential Library and Museum	Simi Valley, California
George Bush Presidential Library and Museum	College Station, Texas
William J. Clinton Presidential Library and Museum	Little Rock, Arkansas
George W. Bush Presidential Library ⁶	Lewisville, Texas

Source: Hebert Hoover Presidential Library and Museum, <http://www.hoover.archives.gov/>; Franklin D. Roosevelt Presidential Library and Museum, <http://www.fdrlibrary.marist.edu/>; Harry S. Truman Library and Museum, <http://www.trumanlibrary.org/>; Dwight D. Eisenhower Presidential Library and Museum, <http://www.eisenhower.archives.gov/>; John F. Kennedy Presidential Library and Museum, <http://www.jfklibrary.org/JFK+Library+and+Museum/General+Information/Visit+Directions+and+Public+Accessibility.htm>; Lyndon Baines Johnson Library and Museum, <http://www.lbjlibrary.org/>; Nixon Presidential Library and Museum, <http://www.nixonlibrary.gov/index.php>; Gerald R. Ford Presidential Library and Museum, <http://www.fordlibrarymuseum.gov/>; Jimmy Carter Library and Museum, <http://www.jimmycarterlibrary.gov/>; Ronald Reagan Presidential Library and Museum, <http://www.reagan.utexas.edu/>; George Bush Presidential Library and Museum, <http://bushlibrary.tamu.edu/>; William J. Clinton Presidential Library and Museum, <http://www.clintonlibrary.gov/>; and George W. Bush Presidential Library, <http://www.georgewbushlibrary.gov/>.

The libraries, which primarily serve as archival depositories for presidential records and memorabilia, are privately constructed on behalf of former Presidents. Upon completion, the land, buildings, and sometimes other library amenities are deeded to or otherwise placed under the control of the federal government.

Among some concerns associated with the construction and maintenance of presidential libraries is the role of the private organizations that build and, sometimes, continue to inhabit the library buildings. The private organizations, commonly referred to as presidential library foundations, support the construction of the libraries and sometimes the exhibitions displayed within the library or its museum. This close association with the library may create an amicable public-private partnership at library facilities. Such a relationship, however, may also render unclear

⁶ The repository for the George W. Bush materials is under construction at Southern Methodist University in Dallas, Texas. The presidential papers of former President George W. Bush are currently stored at a NARA facility in Lewisville, Texas. The Lewisville facility is included as one of the 13 presidential libraries maintained by NARA. See George W. Bush Presidential Library, <http://www.georgewbushlibrary.gov/>. This facility will be replaced by the one that is under construction as part of the George W. Bush Presidential Center on the Southern Methodist University Campus. For more information on the George W. Bush Presidential Center, see Southern Methodist University, “SMU: Home of the George W. Bush Presidential Center,” <http://smu.edu/bushlibrary/index.asp>.

which portions of the library and its exhibitions are funded by government appropriations and which portions are not.

Moreover, some presidential library scholars have raised concerns over whether library exhibits present a balanced version of each President's administration or if they tend to portray the President in an inaccurate or, at least, more favorable, light. The concerns of these scholars have grown as presidential libraries began to share their materials with K-12 schools as educational programming.⁷

Although there have not been recent modifications to the Presidential Libraries Act, there is legislation pending in the 111th Congress that seeks to make library foundation fundraising more transparent. For example, H.R. 36 would require library fundraising organizations to file quarterly reports itemizing contributions totaling at least \$200.⁸ Under the bill, the reports would be filed with NARA, the House Committee on Oversight and Government Reform, and the Senate Committee on Homeland Security and Governmental Affairs.⁹ The House passed the Presidential Library Donation Act of 2009 (H.R. 36) on January 7, 2009. On January 8, 2009, H.R. 36 was referred to the Senate Committee on Homeland Security and Governmental Affairs. No further action has been taken on this bill. The bill is substantially similar to H.R. 1254, which was passed by the House during the 110th Congress. The Senate Committee on Homeland Security and Governmental Affairs reported an amended version of H.R. 1254, but the measure did not receive floor consideration.

This report details the legislative history of the Presidential Libraries Act. It then provides information on existing library facilities and their locations. The report also discusses the private organizations that financially support their construction and, sometimes, their exhibitions. It then analyzes legislative options for the act, including changing endowment requirements; creating a single, centralized presidential library; or more clearly identifying the role of the libraries' supporting foundations. This report does not address the laws governing the collection, processing, and archiving of presidential records.¹⁰

Library Facilities and Location

Although there are 13 distinct presidential libraries, some traditions and patterns have emerged in their location and operation. For example, the first four presidential libraries—Roosevelt, Truman, Hoover, and Eisenhower—established two patterns: the facilities were located at what was considered to be the particular former President's hometown (birthplace or principal residence) and the libraries' buildings, grounds, and holdings were deeded to the federal government.

⁷ Sharon K. Fawcett, "Presidential Libraries: A View from the Center," *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 25.

⁸ For more information on H.R. 36 see CRS Report R40209, *Fundraising for Presidential Libraries: Legislative and Policy Issues in the 111th Congress*, by R. Sam Garrett.

⁹ The bill refers to reports being filed with "the Administration." Although the bill does not define that term, H.R. 36 would amend 44 U.S.C. § 2112, which defines "the Administration" as NARA.

¹⁰ For information on presidential records, see CRS Report R40238, *Presidential Records: Issues for the 111th Congress*, by Wendy R. Ginsberg.

Change in this practice first occurred with the Lyndon Baines Johnson Presidential Library, which was located on the campus of the University of Texas at Austin. The university could not legally deed its land to the federal government, so another provision of the PLA was relied upon to effect federal supervision of the facility. Rather than taking title to the presidential archival facility, the Archivist of the United States relied upon his authority to

make agreements, upon terms and conditions he considers proper, with a State, political subdivision, university, institution of higher learning, institute, or foundation to use as a Presidential archival depository land, buildings, and equipment of the State, subdivision, university or other organization, to be made available by it without transfer of title to the United States, and maintain, operate and protect the depository as a part of the national archives system.¹¹

Pursuant to this authority, an agreement or memorandum of understanding was executed regarding the federal supervision of the Johnson Presidential Library. The Gerald R. Ford Presidential Library was similarly not deeded to the federal government because of its location on the Ann Arbor campus of the University of Michigan. A separate Ford museum is located in the former President's hometown of Grand Rapids, Michigan. The museum, which shares the same director as the Ford library, is part of the NARA presidential library system.

The John Fitzgerald Kennedy, Jimmy Carter, Ronald Reagan, and William J. Clinton presidential libraries, while deeded to the federal government—in part or in whole¹²—are located in major cities in close proximity to respective presidential hometowns. The George W. Bush library is currently under construction on the campus of Southern Methodist University, the alma mater of his wife, Laura Bush.

In addition to funding the 13 “official” presidential libraries, Congress has occasionally provided specific funding for private facilities honoring former presidents. These libraries, which hold the documents of former Presidents who served prior to Franklin D. Roosevelt, may receive a direct line item in the annual appropriations process. For example, Congress appropriated \$1 million in 1996 for the Calvin Coolidge Memorial Foundation,¹³ \$500,000 in 1997 for the Rutherford B. Hayes home,¹⁴ \$3 million in 1999 for the Abraham Lincoln library,¹⁵ and \$365,000 in 2000 for the Ulysses S. Grant boyhood home.¹⁶ Such funds have been used to support construction, maintenance, or other projects. Because they are not part of the federal library system, however, facilities such as these are beyond the scope of this report.

¹¹ See 44 U.S.C. § 2112(a) (1982); and 44 U.S.C. § 2112(a)(1)(B)(i) (1988).

¹² The Ronald Reagan Presidential Library and the William J. Clinton Presidential Library each have more square footage than the federal government can accept without having to raise the endowment requirement for the buildings. Any square footage over 70,000 square feet statutorily requires a higher endowment percentage rate. Pursuant to statute, the endowment percentage increases with each square foot the edifice is in excess of the 70,000 cap. Parts of these libraries, therefore, are deeded to the federal government while other parts of the buildings are owned by the organizations that supported the buildings' construction. The foundations do not have to pay additional endowment fees if they maintain control of the additional square footage. The endowment calculations will be discussed in greater length later in this report.

¹³ See 110 Stat. 3009-258 for appropriations language and 110 Stat. 3868 for authorizing language.

¹⁴ 111 Stat. 1550.

¹⁵ 113 Stat. 1501A-143.

¹⁶ 114 Stat. 930.

All of the presidential libraries have also adapted to the Internet. A large number of the records available at the various libraries around the nation are now available online or in other electronic formats. The presidential libraries and their support foundations use the Internet for more than just giving researchers access to records: many libraries now offer virtual tours of their facilities online.¹⁷ Use of these electronic resources can make presidential records available to researchers anywhere in the country, rather than requiring researchers to visit the library facilities.

History of the Presidential Library

Starting with President George Washington and going through the first century and a half of the American republic, the papers of the President were regarded as personal property to be taken with a President when he left office.¹⁸ In many cases, records were given to the Library of Congress for archiving, but the Library did not have the staff or funding to “service these collected papers adequately and make them easy for the general researcher to use.”¹⁹ In other cases, the records were “burned, lost, purloined or destroyed. Impecunious heirs sought to sell them to the [g]overnment, and in the course of some of these transactions, some parts of the collections were withheld or separated out and passed on to relatives or sold to collectors.”²⁰ According to one scholar, the records of the Presidents are “a whole epoch of American history as seen from the office of the Chief Executive,” that may include “letters and memos ... on which great decisions and official acts were based.”²¹ As scholars, the general public, and Presidents themselves began to understand the value of these records, interest grew in creating standards for their preservation.

Franklin D. Roosevelt

After Franklin D. Roosevelt established the Executive Office of the President (EOP) in 1939, the maintenance and archiving of presidential records became a more pertinent issue to him. President Roosevelt sought to return presidential papers to the public realm and create a “rich deposit of historical source materials for his particular era in American history”²² through a new type of institution: the presidential library. When President Roosevelt advanced the concept of the presidential library in 1938,²³ two prototype libraries were already in existence—the Rutherford B. Hayes Memorial Library and the Hoover Institution on War, Revolution, and Peace.

¹⁷ The Lyndon Baines Johnson Library and Museum, for example, has an online photo archive available on its website that allows users to enter a search term and find a variety of archived presidential photographs. See Lyndon Baines Johnson Library and Museum, “Online Photo Archive Search,” <http://www.lbjlibrary.org/collections/photo-archive.html>. The Ronald Reagan Presidential Foundation hosts a virtual online tour of the Ronald Reagan Library and Museum on its website. See The Ronald Reagan Presidential Foundation and Library, “Reagan Library Video Tour,” <http://www.reaganfoundation.org/reagan-library-video-tour.aspx>.

¹⁸ See Waldo Gifford Leland, “The Creation of the Franklin D. Roosevelt Library: A Personal Narrative,” *American Archivist*, vol. 18 (January 1955), p. 13. Certain papers from the presidencies of George Washington, Thomas Jefferson, and Andrew Jackson were maintained at the Library of Congress, but no laws existed that required outgoing Presidents to maintain these records.

¹⁹ David Demarest Lloyd, “Presidential Papers and Presidential Libraries,” *Manuscripts*, vol. 8 (Fall 1955), p. 5.

²⁰ *Id.*

²¹ *Id.*, p. 4.

²² *Id.*

²³ On December 10, 1938, Franklin D. Roosevelt told 18 people assembled at a luncheon his plans to donate to the (continued...)

In 1916, the state of Ohio completed the Hayes Memorial in Fremont, Ohio.²⁴ At that time, the library was maintained jointly by the state of Ohio and the Rutherford B. Hayes-Lucy Webb Hayes Foundation.²⁵ Today the repository, still run by Ohio and the foundation, is known as the Rutherford B. Hayes Library. In 1919, Herbert Hoover pledged \$50,000 to Stanford University in Palo Alto, California, to establish an institution that would serve as a repository of records of both Hoover's military and political careers, and would later hold President Hoover's personal materials.²⁶ The record-keeping repository and research institution was completed for \$600,000, and was named the Hoover Library on War, Revolution, and Peace.²⁷

President Roosevelt built upon these two models and developed the concept of a privately built, publicly maintained presidential library. In December 1938, he organized an executive committee to create a presidential library for his records and recruited Waldo Gifford Leland, a distinguished historian and leader in the archiving field, to be chairman of the committee.²⁸ Prior to the committee's first meeting, Mr. Leland outlined a roster of issues that would need to be addressed, including the following:

- Determining the functions and responsibilities of the executive committee
- Outlining the relationship of the proposed archive to the federal government
- Investigating the possible creation of new legislation to authorize federal participation or acquisition of the project
- Determining the types of and quantities of materials that should be kept in the future repository
- Determining space requirements in both architectural and structural terms for the repository
- Calculating the cost of the building and its equipment²⁹

(...continued)

federal government a plot of his mother's land five miles north of Poughkeepsie on which to store his documents, books, correspondence, pamphlets, pictures and other objects of both personal and historical interest. See Waldo Gifford Leland, "The Creation of the Franklin D. Roosevelt Library: A Personal Narrative," *American Archivist*, vol. 18 (January 1955), p. 11.

²⁴ Thomas A. Smith, "Before Hyde Park: The Rutherford B. Hayes Library," *The American Archivist*, vol. 43, no. 4 (Fall 1980), p. 485. The Rutherford B. Hayes Presidential Library is part of the Rutherford B. Hayes Presidential Center. The library holds more than 70,000 books that include volumes on a variety of topics that go beyond the former President's administration records. Included in this collection are volumes on genealogy and local history of Fremont, Ohio. For more information about the center and the library, see Rutherford B. Hayes Presidential Center, "About the Library," <http://www.rbhayes.org/hayes/library/>.

²⁵ Thomas A. Smith, "Before Hyde Park: The Rutherford B. Hayes Library," *American Archivist*, vol. 43 (Fall 1980), pp. 485.

²⁶ Hoover Institution, Stanford University, "Library and Archives: History," <http://www.hoover.org/library-and-archives/history>.

²⁷ David Demarest Lloyd, "Presidential Papers and Presidential Libraries," *Manuscripts*, vol. 8 (Fall 1955), p. 15; President Hoover's presidential records were transferred to the Herbert Hoover Presidential Library in West Branch, Iowa, when that facility was completed and turned over to the government in 1964.

²⁸ Waldo Gifford Leland, "The Creation of the Franklin D. Roosevelt Library: A Personal Narrative," *American Archivist*, vol. 18 (January 1955), pp. 11-29. See also Donald R. McCoy, "The Beginning of the Franklin D. Roosevelt Library," *Prologue*, vol. 7 (Fall 1975), pp. 137-150.

²⁹ Waldo Gifford Leland, "The Creation of the Franklin D. Roosevelt Library: A Personal Narrative," *American Archivist*, vol. 18 (January 1955), p. 14.

At the initial organizational meeting on December 17, 1938, the seven-member committee determined its role should be strictly advisory, and should not involve raising funds for the construction or operation of the repository.³⁰ The members also concluded that “new legislation would have to be enacted ... to enable the [g]overnment to accept the gifts of collections, land, and building and to provide for their administration.” The executive committee then decided to create a larger 30-member National Advisory Committee, consisting of historians and scholars to help determine what should be included in the repository.³¹ In addition, the executive committee formalized the creation of a so-called Committee on Ways and Means—a group of 63 underwriters for the repository project. The Committee on Ways and Means made a collective guarantee of \$450,000 for the project.³² Finally, the executive committee created a corporation, the Franklin D. Roosevelt Library, Inc., which had the “power to solicit, accept, borrow, invest, and expend money, to transfer property to the United States provided that adequate legislation should have been enacted for the acceptance of such property and for its permanent care and maintenance.”³³

In 1939, Congress enacted chartering legislation for the Roosevelt library.³⁴ The Archivist of the United States, acting on behalf of the federal government, accepted the completed library edifice on July 4, 1940. The museum portion of the facility was opened to the public approximately a year later. Visitors to the museum were charged a quarter.³⁵ Library materials were available for research use by the public in the spring of 1946.

Harry S.³⁶ Truman

President Harry S. Truman also had concerns about the preservation of his records. In the aftermath of his 1948 election, Truman—following the Franklin D. Roosevelt Presidential Library model—oversaw the creation of a Missouri corporation in 1950 to collect donations and establish a presidential library on his behalf.³⁷ While the Truman Library Corporation was

³⁰ *Id.*, p. 15. The advisory committee itself was funded through a grant of \$1,500 provided by the Carnegie Corporation. Leland wrote that nearly \$800 of the \$1,500 grant was later refunded to the Carnegie Corporation because it was not used by the committee.

³¹ *Id.*, p. 16.

³² *Id.*

³³ *Id.*, p. 17-18. According to Leland, creating the corporation also provided a “hedge” if Congress did not enact legislation that would have allowed for the acquisition of the repository. If such legislation were not enacted, “the corporation would have been obliged to seek endowment or other permanent funding for the perpetual maintenance of the establishment.” More than 28,000 people contributed a total of \$400,000 to the library (p. 25). Construction costs totaled \$367,000 (p. 23).

³⁴ 53 Stat. 1052.

³⁵ *Id.*, p. 21. President Roosevelt was adamant that a variety of objects and gadgets associated with his life be displayed in the museum, despite Leland’s concern that too much space was allotted to the museum functions of the library. According to Leland, President Roosevelt responded by saying, “Well, you know, if people have to pay a quarter to get into the library they want to see something interesting inside.”

³⁶ Some editors argue that there is no period after the “S” in Harry S. Truman. This report follows the recommendation of the Harry S. Truman Library and Museum, which states that “S.” is correct. See Harry S. Truman Library and Museum, “Use of the Period After the ‘S’ in Harry S. Truman’s Name,” <http://www.trumanlibrary.org/speriod.htm>.

³⁷ Background information on the establishment of the Truman Presidential Library was provided by NARA. See also David D. Lloyd, “The Harry S. Truman Library,” *American Archivist*, vol. 18 (April 1955), pp. 107-110; and Philip C. Brooks, “The Harry S. Truman Library—Plans and Reality,” *American Archivist*, vol. 25 (January 1962), pp. 25-37.

endeavoring to raise funding for the construction of the archival edifice, however, Congress enacted the Presidential Libraries Act of 1955.

Legislative History of the Presidential Libraries Act

The Presidential Libraries Act (P.L. 84-373; 69 Stat. 695), as originally enacted in 1955, sought to create a system of government “preservation and administration ... of papers and other historical materials of any President or former President of the United States.”³⁸ Amid concerns about growing costs of the libraries, the act was substantially amended in 1986 (P.L. 99-323; 100 Stat. 495) to “shift the burden of on-going building operations costs of future libraries from the taxpayer to endowment funds.”³⁹

These two laws, in addition to several other amendments, currently shape how and where presidential records are collected, preserved, and administered. The following sections of the report detail the legislative history of the PLA.

The Presidential Libraries Act of 1955

On June 2, 1955, Representative Edward Herbert Rees of Kansas introduced H.J. Res 330 “To provide for the acceptance and maintenance of Presidential libraries and for other purposes.” On June 29, 1955, the House Committee on Government Operations favorably reported the bill with amendments.⁴⁰ According to the report, H.J. Res 330 sought to give the Administrator of the General Services Administration (GSA)⁴¹ the authority to accept for preservation the “papers and materials” of a President or former President of the United States, as well as papers relating to and contemporary with any President or former President of the United States, and of any other official or former official of the United States.”⁴²

The committee report detailed the need for a presidential library system, saying that the lack of a systematic arrangement for such documents “has resulted in irreparable loss or dispersion of important bodies of Presidential documents during the 166 years of our Nation’s existence.”⁴³ In addition, the report said the new law

would enable our Presidents and former Presidents to plan for the preservation of their papers at the place of their choice with the knowledge that the Government has made provisions to receive them in the archives of the Nation with adequate provisions for their

³⁸ U.S. Congress, House Committee on Government Operations, *Presidential Libraries*, report to accompany H.J. Res. 330, 84th Cong., 1st sess., June 29, 1955, H.Rept. 84-998 (Washington: GPO, 1955), pp. 1-2. This report details the legislative creation of the presidential library system.

³⁹ U.S. Congress, House Committee on Government Operations, *Reduction of costs of Presidential Libraries*, to accompany H.R. 1349, 99th Cong., 1st sess., May 15, 1985, H.Rept. 99-125 (Washington: GPO, 1985), pp. 1-2.

⁴⁰ U.S. Congress, House Committee on Government Operations, *Presidential Libraries*, report to accompany H.J. Res. 330, 84th Cong., 1st sess., June 29, 1955, H.Rept. 84-998 (Washington: GPO, 1955).

⁴¹ At the time the H.J. Res. 330 was being debated in Congress, the National Archives was under the aegis of the General Services Administration.

⁴² U.S. Congress, House Committee on Government Operations, *Presidential Libraries*, report to accompany H.J. Res. 330, 84th Cong., 1st sess., June 29, 1955, H.Rept. 84-998 (Washington: GPO, 1955), p. 2.

⁴³ *Id.*

preservation, with proper safeguards for their administration, and with restrictions on their use that recognize and protect the President's rights.⁴⁴

The report also noted the bill's goal of "housing within one establishment ... all types of materials that help to explain the history of a President and his period." It also mentioned the bill's requirement to decentralize the collections, permitting each President or former President to decide where in the United States his records would be located, which the report said would be a "highly desirable objective at any time, particularly in this atomic age."⁴⁵

On July 5, 1955, the bill passed the House. On July 7, 1955, the bill was referred to the Senate Committee on Government Operations. The committee favorably reported the bill on July 28, 1955.⁴⁶ On August 2, the Senate passed H.J. Res 330 with technical amendments. That same day, the House agreed to the Senate amendments. On August 12, 1955, President Dwight D. Eisenhower signed the Presidential Libraries Act (PLA) into law (P.L. 84-373).

Pursuant to the new statute, the GSA Administrator could

- accept the papers and other historical materials of any President or former President of the United States, or of any other official or former official of the government, and other papers relating to and contemporary with any President or former President of the United States;⁴⁷
- accept and take title to, for and in the name of the United States, after a detailed report to Congress in each instance, land buildings, and equipment offered as a gift to the United States to be utilized as a presidential archival depository;
- enter into agreements, after a detailed report to Congress in each instance, with any state, political subdivision, university, institution of higher learning, institute, or foundation, to utilize as a presidential archival depository land, building, and equipment of any such state, subdivision, institution, or organization to be made available by it without transfer of title to the United States;⁴⁸
- maintain, operate, and protect such presidential archival depositories as part of the national archives system; and
- accept gifts or bequests of money or other property for the purpose of maintaining, operating, protecting, or improving any presidential archival depository.⁴⁹

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ U.S. Congress, Senate Committee on Government Operations, *Providing for the Acceptance and Maintenance of Presidential Libraries*, report to accompany H.J. Res. 330, 84th Cong., 1st sess., July 28, 1955, S.Rept. 84-1189 (Washington: GPO, 1955).

⁴⁷ The law stated that the Administrator should "accept for deposit ... documents, including motion-picture films, still pictures, and sound recordings, from private sources that are appropriate for preservation by the government as evidence of its organization, functions, policies, decisions, procedures, and transactions." 69 Stat. 695.

⁴⁸ This authority was transferred to the Archivist in the NARA Act. P.L. 98-497. Under it, the Archivist may "make agreements [with a foundation or other entity], upon terms and conditions the Archivist considers proper" 44 U.S.C. § 2112(a)(1)(B)(i). Thus, the Archivist may agree to use restrictions imposed by, for example, a foundation.

⁴⁹ 69 Stat. 695; P.L. 84-373. The authority to solicit and accept gifts or bequests was transferred to the Archivist in the NARA Act. P.L. 98-497. The trigger for the Archivist's authority to solicit and accept gifts or bequests is that he or she (continued...)

The authorities granted to the GSA Administrator were subject to strict congressional approval and oversight. Prior to entering into any agreement to accept an archival depository for presidential materials, the administrator was required to write a report to Congress about the agreement that included cost estimates for “maintaining, operating, and protecting” the depository.⁵⁰ The descriptive report was also to include any terms or conditions placed on the materials to be deposited in the archive.⁵¹

Once the administrator submitted the report, he would have to wait for the expiration of “sixty calendar days of continuous session of the Congress” before he could accept the title of any land or depository. The 60 days of continuous session were to provide Congress with “an opportunity to review proposals ... and to take action within 60 days disapproving any such proposal.”⁵²

The enactment of the PLA did not eliminate continued disagreements between the executive and legislative branches over the size of, the costs associated with, and the records to be included in presidential records depositories.

The Case of the Herbert Hoover Presidential Library

The acquisition of the Herbert Hoover Presidential Library involved unique context. Herbert Hoover preceded Franklin D. Roosevelt as President. No law governing the future of Hoover’s records or legacy, however, existed when Hoover left office. As noted earlier, however, in 1919, Hoover established the Hoover Library on War, Revolution, and Peace at Stanford University.⁵³ In 1960, former President Hoover took advantage of the Presidential Records Act and created the Herbert Hoover Presidential Library in West Branch, Iowa.

Interest in Revamping the PLA

In the 1980s, as the size and maintenance costs of presidential libraries increased, so, too, did congressional interest in finding non-federal funding sources that could supplement appropriated funds. According to a Senate report on the Presidential Libraries Act, the annual cost of maintaining the presidential library system had grown from \$63,745 in 1955 to \$15,734,000 in 1985.⁵⁴

(...continued)

“considers it to be in the public interest.” 44 U.S.C. § 2112(g)(1). This section seems to expressly authorize the Archivist to accept gifts on a continuing basis since it does not appear to have any temporal limitation and speaks to ongoing, post-construction actions taken in connection with a library.

⁵⁰ 69 Stat. 695; P.L. 84-373.

⁵¹ *Id.*

⁵² U.S. Congress, House Committee on Government Operations, *Presidential Libraries*, report to accompany H.J. Res. 330, 84th Cong., 1st sess., June 29, 1955, H.Rept. 84-998 (Washington: GPO, 1955), p. 5.

⁵³ Hoover Institution, Stanford University, “Library and Archives: History,” <http://www.hoover.org/library-and-archives/history>.

⁵⁴ *Id.* According to a 1982 Government Operations Committee Report (H.Rept. 97-732), much of the increasing costs for presidential libraries was “artificial—the result of the imposition of inappropriate space rental and unduly large service charges on the Archives by its parent agency, the General Services Administration.” For more information, see U.S. Congress, House Committee on Government Operations, *Presidential Libraries: Unexplored Funding Alternatives*, 97th Cong., 2nd sess., August 12, 1982, H.Rept. 97-732 (Washington: GPO, 1982), p. 2.

In the 96th and 97th Congresses, legislators introduced bills⁵⁵ that attempted to stop the construction of presidential libraries, and, instead, to create one, central location to serve as a depository for the records of all Presidents.

On March 24, 1981 (97th Congress), Senator Lawton Chiles introduced S. 1325, a bill that would have required the GSA Administrator and the Archivist of the United States to promulgate architecture and design standards for presidential archive depositories. These standards were to include limits on the size of a depository that was to be donated to the federal government. The Senate Committee on Governmental Affairs held a hearing and a markup on the bill. The bill, however, was not reported from committee. Senator Chiles introduced a bill identical to S. 1325 in the 98th Congress (S. 563). A companion bill (H.R. 5478) was introduced in the House on April 12, 1984. The Committee on Governmental Affairs favorably reported S. 563 on September 27, 1984. No further action was taken on S. 563. H.R. 5478 was not reported from committee.⁵⁶

On April 24, 1984 (98th Congress), Senator David L. Boren introduced legislation (H.R. 2567) that sought to authorize the GSA Administrator to create separate accounts within the National Archives Trust Fund.⁵⁷ These new accounts could be used to pay exclusively for the “maintenance of depository land, buildings, and equipment.” The bill would have allowed donors to the trust fund to limit the use of their donations for maintenance and utility costs. H.R. 2567 would have also prohibited the GSA Administrator from accepting any land or building donated as a presidential library unless the donation included an endowment large enough to cover maintenance and utility costs for the entity. The bill was not reported from committee.⁵⁸

Although many bills related to presidential record depositories were introduced in the 98th Congress, only one was enacted: S. 905, the National Archives and Records Administration Act of 1984. On October 19, 1984, Congress enacted S. 905 (P.L. 98-497), which gave the Archivist of the United States many of the responsibilities formerly assigned to the GSA Administrator. Included in this transition of duties were those delineated in the Presidential Libraries Act.

The Presidential Libraries Act of 1986 and Changes to the Endowment Formula

Like the 98th Congress, the 99th Congress included the introduction of several bills related to presidential libraries. Only the Presidential Libraries Act of 1986 (P.L. 99-323) was enacted.⁵⁹ The Presidential Libraries Act of 1986 was prompted by congressional concerns about the escalating “taxpayer costs associated with Presidential libraries” as well as a desire to “strengthen

⁵⁵ In the 96th Congress, see S. 2408; H.R. 7224; H.R. 7713. In the 97th Congress, see H.R. 3904 and H.R. 4671.

⁵⁶ Additional bills that included restrictions similar to those in S. 563 and H.R. 5478 were also introduced in the 97th Congress, including H.R. 2446; H.R. 5843; and H.R. 6335.

⁵⁷ The 1955 Presidential Libraries Act (84-373) also authorized the GSA Administrator to collect certain fees and deposit them in a National Archives Trust Fund to help defray each library’s operating costs. H.R. 2567 referred to the trust fund as the Presidential Library Trust Fund.

⁵⁸ H.R. 3138, introduced by Representative Glenn English, was similar to H.R. 2567. H.R. 3138 was modified and later incorporated into H.R. 5798, which passed both the House and Senate as different versions. After the bill went to conference, however, only the House agreed to the conference report. No further action was taken on the bill. Other bills that were introduced and not enacted in the 98th Congress included H.R. 3987; H.R. 4017; H.R. 4786; H.R. 5584; and S. 2490.

⁵⁹ The bills not enacted were H.R. 1236, H.R. 2113; H.R. 4320; H.R. 4890; S. 1047.

the role to be played by the Archivist of the United States in preserving, protecting and sharing our nation's heritage."⁶⁰

Introduced on February 28, 1985, by Representative Glenn English, the Presidential Libraries Act was favorably reported by the House Committee on Government Operations on May 15, 1985. In the House Report (H.Rept. 99-125), the committee wrote that the bill would "shift the burden of on-going building operations costs of future libraries from the taxpayer to endowment funds required to be provided by the same private parties who build and donate the library buildings."⁶¹ The report continued:

Without bowing to any illusions, the Committee hopes that this requirement will act as somewhat of a brake on grandiose plans which have caused some to refer to some existing Presidential libraries as "pyramids."⁶²

The bill passed the House on June 6, 1985, and was then sent to the Senate Committee on Government Operations. The Senate committee reported the bill on March 7, 1986.

On March 21, 1986, the Senate passed the bill with one substantive amendment, which limited library facilities to 70,000 square feet "unless additional endowment requirements" were met.⁶³ On May 13, 1986, the House agreed to the Senate's amendments. On May 27, 1986, President Ronald Reagan signed the bill into law. The act applies to "any Presidential archival depository created as a depository for the papers, documents, and other historical materials and Federal records pertaining to any President who takes the oath of office as President for the first time on or after January 20, 1985."⁶⁴

Among a variety of changes to the 1955 act, the 1986 amendments required that the Archivist could not accept and take title to, or enter into an agreement to use, any land, facility, or equipment for a library unless he or she determined the library's endowment is sufficient to cover at least 20% of the total costs of acquiring, constructing, and installing the facility and its equipment, plus either (1) 20% of the total costs of acquiring the land (or another measure of the land's value that is mutually agreed upon by the Archivist and donor) if the United States is taking title to the land, or (2) 20% of the total costs to the donor of any improvements to the land if the government is not taking title to it.⁶⁵ Similarly, the act required the endowment to have sufficient funding before changes or additions could be made to a library if they would result in increased operational costs. These requirements applied only to presidential depositories built for Presidents who took the oath of office for the first time after January 20, 1985.⁶⁶ Congress

⁶⁰ U.S. Congress, Senate Committee on Governmental Affairs, *Presidential Library Act of 1985*, report to accompany H.R. 1349, 99th Cong., 2nd sess., March 7, 1986, S.Rept. 99-257 (Washington: GPO, 1986), p. 2.

⁶¹ U.S. Congress, House Committee on Government Operations, *Reduction of Costs of Presidential Libraries*, report to accompany H.R. 1349, 99th Cong., 1st sess., May 15, 1985, H.Rept. 99-125 (Washington: GPO, 1985), pp. 1-2.

⁶² *Id.* p. 12.

⁶³ U.S. Congress, Senate Committee on Governmental Affairs, *Presidential Library Act of 1985*, report to accompany H.R. 1349, 99th Cong., 2nd sess., March 7, 1986, S.Rept. 99-257 (Washington: GPO, 1986), p. 4.

⁶⁴ P.L. 99-323; 100 Stat. 498.

⁶⁵ 100 Stat. 497; codified at 44 U.S.C. § 2112(g). The 20% (or other relevant amount) funding is deposited in a National Archives Trust Fund account. See 44 U.S.C. § 2112(g)(1). As later discussed, Congress increased the threshold to first 40% and then 60% for libraries built for Presidents who take the oath of office for the first time after July 1, 2002.

⁶⁶ P.L. 99-323, Sec. 4; 100 Stat. 498. The statute did not, therefore, apply to then-President Reagan. It currently applies to the presidential depository libraries of former Presidents George H.W. Bush and William J. Clinton—as well as the (continued...)

subsequently increased the 20% requirement to first 40% and then 60% for presidential depositories built for Presidents who take the oath of office for the first time after July 1, 2002, as discussed below.

In addition, the 1986 PLA also placed additional endowment requirements on facilities larger than 70,000 square feet.⁶⁷ Under the law, foundations may construct facilities larger than 70,000 square feet, but the endowment requirements for the library increases with each square foot the edifice is in excess of 70,000 square feet.⁶⁸ Specifically, the additional amount is equal to the total costs multiplied by the percentage determined by dividing the number of square feet that the library exceeds 70,000 by 70,000.⁶⁹

It is important to note that foundations may maintain control of certain portions of the library for their own use, and therefore a foundation and NARA, in some cases, concurrently occupy office space in a single presidential archival depository. The endowment percentages have historically been applied only to the portions of the library that were “NARA program space or usable space and was not applied to support space,” which excluded foundation-controlled space from the calculation.⁷⁰

While pursuing avenues for private funds in some circumstances during consideration of the 1986 PLA, Congress also drew a distinction between how different funding sources reflect different responsibilities. Although appropriated funds would still be largely responsible for archiving of materials, endowment funds would be relied on to support operations, maintenance, and programming. As the House Committee on Government Operations noted in 1985 while considering the legislation, endowment income “is intended to offset ... building operations costs and reduce ... the amount of appropriations required for building operations.”⁷¹ The Senate Governmental Affairs Committee concurred, noting that “income from the endowments is to be applied to functions beyond the ‘core’ archival responsibilities [which would be covered by

(...continued)

depository under construction for former President George W. Bush.

⁶⁷ The Senate Committee on Governmental Affairs explained, during consideration of the act, that “The purpose of the additional endowment requirement is effectively to eliminate added taxpayer costs that would be associated with the operation and maintenance of space exceeding 70,000 square feet. A facility of 70,000 square feet is adequate for a Presidential library. While larger facilities are not precluded, an additional endowment would be necessary.” U.S. Congress, Senate Committee on Governmental Affairs, 99th Cong., 2nd Sess., March 7, 1986, Rpt. 99-257 (Washington: GPO, 1986), pp. 2-3.

⁶⁸ According to NARA, no current presidential library facility has more than 70,000 square feet under federal government control or ownership.

⁶⁹ For example, assume a library is built for a President who first takes the oath of office before July 1, 2002, and, therefore, the relevant endowment percentage is 20%. The library is 100,000 square feet in area and the total relevant costs of the creating the library are \$200 million. The total endowment required for this library would be \$125.8 million. The first step in computing this amount is multiplying the total cost of the library’s creation (\$200 million) by 20%, which equals \$40 million. Next, the total cost of \$200 million is multiplied by 42.9% (which is determined by dividing 30,000—the number of square feet the building is more than the 70,000 cap—by 70,000), which equals \$85.8 million. These two amounts are then combined for an endowment requirement of \$125.8 million.

⁷⁰ National Archives and Records Administration, *Report on Alternative Models for Presidential Libraries Issued in Response to the Requirements of P.L. 110-404*, September 25, 2009, p. 34, <http://www.archives.gov/presidential-libraries/reports/report-for-congress.pdf>.

⁷¹ U.S. Congress, House Committee on Government Operations, *Reduction of Costs of Presidential Libraries*, report to accompany H.R. 1349, 99th Cong., 1st sess., May 15, 1985, H.Rept. 99-125 (Washington: GPO, 1985), p. 15.

appropriated funds]. The basic responsibility to preserve and care for Presidential records is a government responsibility.”

In addition, the law required the Archivist, the Secretary of the Smithsonian Institution, and the National Capital Planning Commission to study “the demand for, and the cost, and space and program requirements of” creating a museum of the Presidents.⁷² Specifically, the ad hoc coalition was to examine ways to create a museum of the Presidents without using federal funds. The 1986 NARA annual report included the coalition’s findings, which stated “there would be serious difficulties in establishing a full-scale museum with permanent collection for research and exhibition.”⁷³ The report did find “[m]ore optimism . . . for a modest exhibition program as part of a White House visitors center.”⁷⁴ Unless a full museum were created, however, the report said it would not be appropriate for the Smithsonian Institution or the National Archives to “administer the center.”⁷⁵ Such a museum has not been constructed.⁷⁶

Subsequent Amendments to the Endowment Requirement

There have been two significant amendments to the endowment requirement since the 1986 act. First, in 2003, Congress increased the endowment funding requirement from 20% of the total costs to 40% of such costs for libraries of Presidents who take the oath of office after July 1, 2002.⁷⁷ The 2003 act also gives the Archivist the authority to reduce the endowment funding requirement if he or she determines that the proposed library will have construction features or equipment that are expected to result in quantifiable long-term savings in operational costs to the U.S. government. The funding reduction cannot exceed 20% of the amount that would have otherwise been required. A similar reduction may be provided for endowment funding required for changes or additions to an existing library.⁷⁸

The second major amendment occurred in 2008, when Congress increased the 40% endowment threshold to 60%.⁷⁹ This requirement will apply to libraries for Presidents who take the oath of office after July 1, 2002. The 2008 act also required, among other things, the Archivist to report to Congress on alternative models for presidential libraries that would reduce costs to the government, improve record preservation, and reduce delays in public access to presidential records.⁸⁰ The report was produced in 2009.⁸¹

⁷² P.L. 99-323 Sec. 5; 100 Stat. 499.

⁷³ National Archives and Records Administration, *Annual Report for the Year Ended September 30, 1986*, (Washington: GPO, 1986), p. 37.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ The Smithsonian Institution’s National Museum of American History—located on the National Mall in Washington, D.C.—contains a permanent exhibition entitled “The American Presidency: A Glorious Burden,” which “explores the personal, public, ceremonial and executive actions of the 43 men” who have served as President. The exhibit contains “[m]ore than 900 objects, including [items] from the Smithsonian’s vast presidential collections.” Smithsonian National Museum of American History, “The American Presidency: A Glorious Burden,” <http://americanhistory.si.edu/exhibitions/exhibition.cfm?key=38&exkey=87>. An online version of the exhibition is available on the Smithsonian’s website at <http://americanhistory.si.edu/presidency/>.

⁷⁷ Consolidated Appropriations Resolution, 2003, P.L. 108-7, Div. J, Title V, § 513, 117 Stat. 462.

⁷⁸ *Id.*, codified at 44 U.S.C. § 2112(g)(5)(C),(D).

⁷⁹ Presidential Historical Records Preservation Act of 2008, P.L. 110-404, § 6, *codified at* 44 U.S.C. § 2112(g)(5)(B).

⁸⁰ *See id.*

Presidential Library Foundations

Private organizations typically raise funds to support facility construction, programming, and other activities related to a President's legacy. These entities are commonly referred to as presidential library foundations, and they play key roles in raising private funds to support the endowments necessary for NARA to take possession of a library facility.

The library foundations are separate legal entities from the libraries. It appears that all of the currently operating presidential library foundations are structured as tax-exempt public charities⁸² described in § 501(c)(3) of the Internal Revenue Code (IRC).⁸³ As such, they are subject to regulation under the federal tax laws. Among other things, § 501(c)(3) status requires that the earnings of library foundations not be used to benefit any person having a personal and private interest in the organizations' activities, and they are limited in the amount and types of political activities they may engage in.⁸⁴ Additionally, federal law may impose other requirements or restrictions on their activities. For example, the tax laws look unfavorably upon transactions of § 501(c)(3) organizations that provide an economic benefit to a disqualified person (e.g., certain organizational insiders or related individuals), and if such a transaction occurs, the disqualified person and organization managers may be subject to a penalty tax.⁸⁵

Certain information about the library foundations' income and expenses is publicly available, although the identities of their donors generally do not have to be publicly disclosed. As § 501(c)(3) organizations, the library foundations are required to file with the IRS an annual information return (Form 990) that discloses information relating to the organizations' finances and operations. These returns are open to public inspection, along with the library foundations' application for exempt status and, if applicable, unrelated business income tax return.⁸⁶ However, while the organization must disclose donors who have contributed at least \$5,000 during the year to the IRS,⁸⁷ no identifying information about these donors is subject to public disclosure.

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⁸¹ National Archives and Records Administration, *Report on Alternative Models for Presidential Libraries Issued in Response to the Requirements of P.L. 110-404*, Washington, DC, September 25, 2009, available at <http://www.archives.gov/presidential-libraries/reports/report-for-congress.pdf>.

⁸² Presidential library foundations, despite being referred to as foundations, are public charities, and not private foundations, under the tax laws. Public charities receive broad public support, while private foundations have a small number of donors, who often have significant control over the organization. Due to fears of abuse, private foundations are subject to additional regulation that would not be applicable to the presidential library foundations.

⁸³ IRC § 501(c)(3) describes organizations "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition ... or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation ... and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

⁸⁴ IRC § 501(c)(3). For more information, see CRS Report 96-264, *Frequently Asked Questions About Tax-Exempt Organizations*, by Erika K. Lunder; CRS Report RL33377, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements*, by Erika K. Lunder; and CRS Report 96-809, *Lobbying Regulations on Non-Profit Organizations*, by Jack Maskell.

⁸⁵ IRC § 4958.

⁸⁶ IRC § 6104, *see also* IRC § 6652 (imposing penalties on an organization for failing to disclose).

⁸⁷ IRC § 6033; *see also* IRC § 6652 (imposing penalties on the failure to file).

While contributor information generally does not have to be disclosed, there are limited exceptions. In particular, under the Honest Leadership and Open Government Act of 2007 (HLOGA), registered lobbyists who contribute \$200 or more to library foundations (in the aggregate and over six-month reporting periods) must disclose the contributions in reports filed with the Clerk of the House and Secretary of the Senate.⁸⁸ These requirements also apply to organizations employing registered lobbyists and political action committees (PACs) maintained or controlled by lobbyists. It should also be noted that libraries may choose to publicize additional information about contributions.⁸⁹

Scholarship on Presidential Libraries

This section of the report reviews scholarship on the presidential libraries. Among the issues that scholars discuss in their work is the accuracy of the history presented in exhibitions at the presidential libraries, the wisdom of maintaining a federated system, and the costs and benefits of the close relationship between the presidential foundations and the federal libraries.

Library Exhibitions

As noted earlier in this report, private foundations often pay for the exhibits that are displayed in the presidential libraries and their accompanying museums. Private funding, therefore, supports the research and design of the exhibits that may inhabit areas that are owned and run by the federal government.

In 2002, one scholar wrote of an internal tension in the design of presidential libraries, which have become both archival depositories and history museums.⁹⁰ The scholar wrote,

While the libraries were built originally for housing the records, it is the museums today that seem to get the most attention, with more than one and a half million visitors annually walking through the exhibitions....⁹¹

It is difficult to ascertain the effectiveness of these libraries as tourist attraction, cultural center, and educational institution, but it is not difficult to understand that these rationales are

⁸⁸ 121 Stat. 743. HLOGA is devoted primarily to other lobbying and ethics issues. For additional discussion, see CRS Report RL34166, *Lobbying Law and Ethics Rules Changes in the 110th Congress*, by Jack Maskell; and CRS Report RL34377, *Honest Leadership and Open Government Act of 2007: The Role of the Clerk of the House and the Secretary of the Senate*, by Jacob R. Straus. On campaign finance provisions in HLOGA, see CRS Report RL34324, *Campaign Finance: Legislative Developments and Policy Issues in the 110th Congress*, by R. Sam Garrett and CRS Report R40091, *Campaign Finance: Potential Legislative and Policy Issues for the 111th Congress*, by R. Sam Garrett.

⁸⁹ A recent and prominent example concerns the William J. Clinton Foundation, which supports the William J. Clinton presidential library, among other activities. In December 2008, amid concerns about potential conflicts of interest surrounding then-Senator Hillary Rodham Clinton's nomination as Secretary of State, the foundation agreed to voluntarily disclose names and donation ranges of its contributors. On the relationship between the library and the foundation, and the disclosure agreement between the foundation and the Obama Presidential Transition Foundation, see William J. Clinton Foundation and Obama Presidential Transition Foundation, Memorandum of Understanding, December 12, 2008. A copy of the Memorandum of Understanding is available at http://www.washingtonpost.com/wp-srv/politics/documents/memorandum_of_understanding_clinton.pdf

⁹⁰ Richard Cox, "America's Pyramids: Presidents and Their Libraries," *Government Information Quarterly*, vol. 199 (2002), <http://arizona.openrepository.com/arizona/bitstream/10150/106274/1/AmericasPyramids.pdf>.

⁹¹ *Id.*, p. 46

a bit of an afterthought to their original purposes of creation—as repositories for the protection of the papers and their use by researchers and the public.⁹²

He continued by saying that the libraries had become “a system that is more useful for tourism, the local economy, and unbridled hero worship than any useful role in keeping Presidents accountable to Congress and the American people.”⁹³ The presidential libraries, therefore, can become “a system not providing sufficient oversight and impartial decisions.”⁹⁴

Another scholar wrote that the Reagan and Kennedy libraries, “as well as some other libraries in the system,” fail to meet the ethical standards of the National Council on Public History, which require “the historical truth insofar as it can be determined from the available sources.”⁹⁵ That same scholar argued that the libraries have become like temples that shape public memory.⁹⁶ The scholar also suggested that the libraries tend to morph presidential history into presidential myth.⁹⁷

In 2006, *The Public Historian*, a scholarly journal that focuses on public history, published an issue that focused on presidential libraries. Within the issue, several scholars—including a representative from NARA—expressed concerns about the practices at presidential libraries.

In the issue, scholar Benjamin Hufbauer, for example, described the dual nature of presidential libraries as follows:

Because federal presidential libraries are built and their operations are then partially supported by private foundations created by a president and his supporters, but are run by the federal government’s National Archives and Records Administration (NARA), the museum’s exhibits display a tension between history and “heritage.” The heritage industry, as Michael Kammen has written, advances “an impulse to remember what is attractive and flattering and to ignore all the rest.”⁹⁸

Mr. Hufbauer noted, for example, that the Reagan library’s “museum displays do not have ‘any coverage’ at all of the [Iran-Contra] scandal.”⁹⁹ The JFK Library Museum, he noted, “does not address in detail JFK’s numerous health problems and extramarital affairs, even though they have been thoroughly documented.”¹⁰⁰ The Nixon library does not mention that Gerald Ford pardoned President Nixon for his participation in the Watergate cover up.¹⁰¹

⁹² *Id.*, p. 57.

⁹³ *Id.*, p. 61.

⁹⁴ *Id.*

⁹⁵ Benjamin Hufbauer, *Presidential Temples: How Memorials and Libraries Shape Public Memory* (Lawrence, KS: University Press of Kansas, 2005), p. 124.

⁹⁶ *Id.*

⁹⁷ *Id.*, p. 8.

⁹⁸ Benjamin Hufbauer, “Spotlights and Shadows: Presidents and Their Administrations in Presidential Museum Exhibits,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 118.

⁹⁹ *Id.*, p. 124.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* Ms. Sharon K. Fawcett noted that NARA has requested changes to proposed exhibits to offer a more balanced history, but NARA does not “expect an exhibit in a presidential library to denigrate the president’s legacy.” Sharon K. Fawcett, “Presidential Libraries: A View from the Center,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 31.

Also in *The Public Historian*, Sharon K. Fawcett, who currently serves as NARA's Assistant Archivist at the Office of Presidential Libraries, cited a handbook on presidential libraries that required "exhibits in Presidential libraries ... be consistent with the dignity of the presidency and ... present historically accurate and balanced interpretations of the former President and major events."¹⁰² Ms. Fawcett continued:

The manual, now largely obsolete, offers no suggestions for achieving this important goal other than a requirement, not strictly enforced when funding for new exhibits shifted from the government to the foundations or other non-appropriated revenue sources, that exhibit plans be submitted to the assistant archivist for approval.¹⁰³

Ms. Fawcett, however, said that in all cases, "the library and the supporting foundation often work seamlessly together to provide a wide variety of public programming."¹⁰⁴

Scholar Larry J. Hackman argued in *The Public Historian*, that the Office of Presidential Libraries within NARA has not instituted "significant policies or guidelines" for the establishment of educational and public programs at the libraries, and the programs that are on display "do not appear to have received meaningful evaluation."¹⁰⁵ Mr. Hackman suggested that this lack of policy may be the result of NARA feeling that "it should not be held fully accountable if it cannot fund, or adequately control, the development of this major museum component of each library. Most of all, the Archives may fear that a more formal and extensive policy on exhibits would create high tension with influential individuals interested in such exhibits, especially in new libraries and those of living presidents."¹⁰⁶ Hackman argued for centralized policies and procedures for vetting permanent exhibits within the libraries.

Ms. Fawcett pointed out, however, that the supporting foundations could choose not to fund any exhibits that contain content with which they do not agree.¹⁰⁷ Later in the article Ms. Fawcett said NARA and, specifically, the Office of Presidential Libraries can offer "to those who view the exhibit a better understanding of what they are seeing by explaining that the exhibit is donated to the government by the president's foundation."¹⁰⁸

Although foundation-sponsored exhibits may prompt some concern, some libraries have partnered with their supporting foundation to create what Ms. Fawcett called "a remarkable program of temporary exhibits, scholarly conferences, and other public programs."¹⁰⁹

¹⁰² Sharon K. Fawcett, "Presidential Libraries: A View from the Center," *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 18. Ms. Fawcett's position at the NARA was noted in the article, but it is unclear whether she was writing as an official representative of the Archives.

¹⁰³ *Id.*

¹⁰⁴ *Id.*, p. 17.

¹⁰⁵ Larry J. Hackman, "Better Policies and Practices for Presidential Libraries," *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 172.

¹⁰⁶ *Id.*, p. 174.

¹⁰⁷ Sharon K. Fawcett, "Presidential Libraries: A View from the Center," *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 25.

¹⁰⁸ *Id.*, p. 31.

¹⁰⁹ *Id.*, p. 26. The National Archives also has the right to refuse any exhibit proposed or created by the foundation, but Ms. Fawcett notes that NARA has never rejected any exhibit. *Ibid.*, p. 30.

The Federated System

As discussed earlier in this report, the presidential library system is federated—not centralized—with each library in a different physical location. The reasons for this separation of libraries were varied. In a 1955 scholarly article on presidential papers and presidential libraries, one observer argued that keeping presidential libraries in the hometowns of the Presidents allows researchers to understand “first-hand, that Independence, Missouri or Abilene, Kansas does not leave the same mark upon the personality of a man as Hyde Park, New York or Fremont, Ohio.”¹¹⁰ And, as stated in the House report that accompanied the PLA, having such important records dispersed in various locations is a “highly desirable objective at any time, particularly in this atomic age.”¹¹¹

Since the 1955 enactment of the PLA, Members of Congress and scholars have debated whether the federated system is the most practical system for the presidential libraries. During the congressional debate surrounding the enactment of the PLA of 1986, for example, Senator Lawton Chiles feared the increasing size of the newer presidential libraries and thought that a single centralized library would prevent any attempts to build ever grander edifices.

At the same time, other Members of Congress argued that the architectural limitations on the library buildings penalized two-term presidents because “the final act that passed provided for no such distinctions” between one- and two-term presidents, “thereby essentially penalizing a two-term president whose records would require substantially more storage space.”¹¹² For example, Ms. Fawcett wrote in *The Public Historian* in 2006 that the William J. Clinton Presidential Library “has almost no space for the growth of collections through donations or to house all the papers expected from President Clinton’s active postpresidential life.”¹¹³ She continued: “Any substantial growth of the collections will require using off-site storage space.”

In the same 2006 edition of *The Public Historian*, Mr. Hackman argued that the federated system inhibits collaborative efforts among the presidential libraries—“beyond lending documents and artifacts.”¹¹⁴ Mr. Hackman stated that such collaboration “would make possible exhibits on important issues that cut across some or all presidencies, as most of them do, as well as offer an exhibit quality not ordinarily possible by a single library.”¹¹⁵ According to Mr. Hackman, the exhibits would then be more balanced because they would offer a wider variety of perspectives on the topic or event. Creating a centralized presidential library, therefore, could mitigate any concerns about the balance of historical views in creating museum and library exhibits.

¹¹⁰ David Demarest Lloyd, “Presidential Papers and Presidential Libraries,” *Manuscripts*, vol. 8 (Fall 1955), p. 8.

¹¹¹ U.S. Congress, House Committee on Government Operations, *Presidential Libraries*, report to accompany H.J. Res. 330, 84th Cong., 1st sess., June 29, 1955, H.Rept. 84-998 (Washington: GPO, 1955), p. 2.

¹¹² Sharon K. Fawcett, Assistant Archivist at the Office of Presidential Libraries in NARA, “Presidential Libraries: A View from the Center,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 23.

¹¹³ *Id.*

¹¹⁴ Larry J. Hackman, “Better Policies and Practices for Presidential Libraries,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 176.

¹¹⁵ *Id.*

Clarifying the Relationship Between the Foundation and the Federal Government

As noted earlier, most presidential libraries currently have a partnership with a nonprofit foundation that supported construction of the library building and may continue to support the library through such activities as funding exhibitions.¹¹⁶ The relationship between the foundation and the library is different at each facility. Some foundations have relationships that Mr. Hackman said “appear tense, even volatile at times,” while others are “smooth and settled.”¹¹⁷ Ms. Fawcett also noted that some foundations “support other institutions including associated schools of public affairs, policy, or service, and charitable causes of the former president.”¹¹⁸ Some libraries’ supporting foundations also maintain control of portions of the actual library facility and, in fact, inhabit the facility. According to Ms. Fawcett, for example, “[t]he foundation-operated portions of the libraries have increased to include many public spaces once operated by the government, especially event venue space that can generate revenue for the foundation.”¹¹⁹

Most major public and private museums now rely heavily on income from corporate and private use of event spaces. At the George H.W. Bush Library, the rotunda/lobby and museum store spaces are operated by the Bush Foundation. The Clinton Foundation owns the Great Hall, the off-site museum store, the café, and the verandas surrounding the Clinton Library. Libraries built before the amendments have also been reshaped by this new model. The Reagan Foundation owns the Air Force One Pavilion, which houses the plane that flew five presidents, and the museum store. The Nixon Foundation owns a stunning reproduction of the White House East Room. These public spaces were built to be available for a fee as event venues. Library foundations need these revenue sources to pay construction loans, to meet their commitments to provide continuing support for library programs, and in some cases, to support their other charitable endeavors.¹²⁰

Additionally, Fawcett added, “[w]ithout government support for their public programs and exhibits, the libraries are now much more dependent on their foundations for support.”¹²¹

In some cases, the library director, which is a government position, has concurrently served as the chief executive officer of the supporting foundation.¹²² Ms. Fawcett argued that this dual role “helps to align foundation and government goals for the library.”¹²³ On the other hand, Mr.

¹¹⁶ The Carter library is the only library that does not have a foundation that directly support its initiatives. The Carter library, however, does have a working relationship with the Carter Center, an educational research center at Emory University that is dedicated to working on human rights issues.

¹¹⁷ Larry J. Hackman, “Better Policies and Practices for Presidential Libraries,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 179.

¹¹⁸ Sharon K. Fawcett, “Presidential Libraries: A View from the Center,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 24.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Larry J. Hackman, “Better Policies and Practices for Presidential Libraries,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 176, and Sharon K. Fawcett, “Presidential Libraries: A View from the Center,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 21. Fawcett noted that the CEO positions, in these cases, were unpaid. The libraries in which this dual position was held were the Reagan and Truman libraries.

¹²³ Sharon K. Fawcett, “Presidential Libraries: A View from the Center,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 21.

Hackman argued that “little information is made available about these organizations [t]he foundations—or even requested about them by the National Archives.”¹²⁴

Mr. Hackman argued that the relationships between the foundations and the libraries should be made more transparent—“to make certain that they operate effectively in the public’s interest.”¹²⁵ Moreover, Mr. Hackman noted that NARA’s Office of Presidential Libraries has historically “not gathered ... lists of the boards of directors of these organizations or their annual reports or the reports they are required to file under federal statutes.”¹²⁶ Mr. Hackman said it is in the interest of NARA to obtain and “report to the public information about the plans, activities, methods, and support of these organizations.”¹²⁷ To clarify the relationship between the foundations and NARA, Mr. Hackman outlined a series of desired characteristics for the partnership:

- Clarity in roles, goals, and priorities; responsibility; and authority in order to minimize friction and maximize success in the relationship between the presidential library and its nonprofit partners
- Collaboration in annual and long-term planning, resource development, and budgeting so that all resources are used to achieve maximum impact
- Dedication of financial support from the nonprofit partner to programs that address library priorities and that are highly unlikely to be supported from federal operations or library earned revenue
- Library coordination of programs supported by the partner where these programs related to basic library functions including exhibitions, education, and, when possible, other programs for the public
- Library participation in the planning and decision making of the nonprofit partner, ordinarily by having the library director serve as a member of the board of the nonprofit and as its coordinator of library-related programs¹²⁸

Analysis¹²⁹

The National Archives and Records Administration currently oversees 13 separate presidential libraries, which serve as repositories for presidential archival materials. Since enacted in 1955, the Presidential Libraries Act has provided for the preservation and administration of the historical materials of an outgoing President by authorizing the federal government to accept land, buildings, and other materials. A private nonprofit organization funded the construction of each presidential repository and provided the required endowment. Almost every library is associated with that nonprofit, which often supports library and presidential museum exhibitions. As this report has noted, the Presidential Libraries Act has placed various requirements on both

¹²⁴ Larry J. Hackman, “Better Policies and Practices for Presidential Libraries,” *The Public Historian*, vol. 28, no. 3 (Summer 2006), p. 170.

¹²⁵ *Id.*, p. 180.

¹²⁶ *Id.*, p. 181.

¹²⁷ *Id.*, p. 182.

¹²⁸ *Id.*

¹²⁹ This report does not consider possible legal issues that might arise from changing the location of the Presidential libraries or their relationships with their foundations.

libraries and foundations to assist in the preservation of presidential legacies. Congress has the authority to legislate the mission and operation of all of the presidential libraries. Congress may choose to clarify the best method of preserving a President's legacy—by creating accurate and balanced exhibits on the presidency and each administration or by providing a user-friendly repository of each president's records.

Congress may determine that the current operation of presidential libraries should continue, and that foundations should continue to fund and oversee the creation of public museum exhibits. NARA has final approval of all exhibit content, but the foundations, in many cases, have assumed control of creating the public exhibit portions of the libraries. Congress, however, may determine that NARA should play a more active role in the creation and display of library exhibitions. With greater control, NARA could coordinate exhibits among the 13 current libraries and, possibly, offer a more thorough and balanced treatment of the presidency as an institution as well as the historical context of each individual presidential administration.

Congress may also reconsider having a disparate collection of presidential libraries around the country. Congress could determine that having all historical presidential materials in one location is a less expensive and more accessible option than operating 13 or more distinct libraries. Congress would have to determine what to do with library buildings they currently own that would no longer be used as repositories.¹³⁰ Congress would also have to appropriate funding for the construction and use of a single facility. Moving all materials into a single facility could make the total collection of presidential materials more accessible to researchers. Such a change, however, could make materials from individual former Presidents less accessible to other researchers.

If a new single archive for presidential materials were constructed in Washington, D.C., then researchers living in California who had interest in materials on Richard Nixon may have to travel across the country instead of to Yorba Linda (the current location of the Richard Nixon Library) to access them—or a scholar living in Kansas may have to leave the Midwest to learn more about Dwight D. Eisenhower.

Moreover, keeping the presidential libraries in the hometowns of the presidents may, arguably, help scholars better understand the environmental and social factors that shaped a President's earlier years and influenced his decisions. If the libraries of former Presidents are no longer constructed in the hometowns of the Presidents themselves, as will occur with the future repository for George W. Bush, this argument is rendered invalid. Congress, therefore, may have an interest in requiring the construction of future presidential libraries in the hometown of the President. On the other hand, the location of presidential materials may become increasingly irrelevant as the records of earlier former Presidents are put online and a majority of the records of more recent Presidents are electronic, making all presidential records more accessible to researchers no matter their location.

¹³⁰ This is just one possible model for the presidential library system outlined in the following report: National Archives and Records Administration, *Report on Alternative Models for Presidential Libraries Issued in Response to the Requirements of P.L. 110-404*, Washington, DC, September 25, 2009, p. 43, <http://www.archives.gov/presidential-libraries/reports/report-for-congress.pdf>. Other models included requiring smaller presidential library facilities as records become increasingly electronic and require less storage space, prohibiting presidential libraries and museums from existing in the same building, or creating a presidential museum that could accompany a single, centralized presidential records archive.

One centralized presidential archive could eliminate the need to replicate certain resources that are essential to a records repository. For example, moving all presidential records into one facility run exclusively by NARA would eliminate the need for each individual presidential library to have a specialized facility to protect classified presidential documents.¹³¹ Currently, each presidential library has had to construct and maintain facilities for such sensitive materials. Other services that may currently be required in each library are technology services and security personnel. Moving the materials into a central library, however, could render them susceptible to destruction by a single fire, flood, or other disaster. Additionally, construction of a centralized library could influence the type of research that scholars conduct. Research may focus on the institution of the presidency, as a whole, rather than on the individual Presidents.

Congress may also be concerned about the relationship between the presidential libraries and the library foundations that provide financial support.¹³² Congress, of course, has the authority to legislate whether one person can or should concurrently hold a position in the federal government and an unpaid position within the supporting organization. Such an arrangement may make certain that the foundation and NARA have similar missions and ideas about the future of the entities. On the other hand, Congress may determine that one person holding a position in both the foundation and NARA may present a conflict of interest in which the person could advance private sector preferences over the interests of the federal government.

To reduce the public costs associated with presidential libraries, Congress has the authority to legislate the percentage of the required endowment to accompany the deeding of any presidential library facility. Congress may determine that the current required endowment to accompany the deeding over of a presidential library to the federal government (60%) should be raised, lowered, or maintained at its current level.

As this report has suggested, the federal presidential libraries and their private funding sources typically fulfill different roles. Because of the varied and unique relationships between the libraries and foundations, however, the precise division of labor and property is sometimes unclear. In addition, as noted previously, relatively little information about private funding sources must be publicly disclosed. If the various funding relationships among public and private sources are a concern, Congress could mandate public disclosure of additional information about funding, division of duties, or office space. H.R. 36 would require library fundraising organizations to file quarterly reports itemizing contributions totaling at least \$200. Under the bill, the reports would be filed with NARA, the House Committee on Oversight and Government Reform, and the Senate Committee on Homeland Security and Governmental Affairs. As noted earlier, H.R. 36 passed the House in January 2009 and was referred to the Senate Homeland Security and Governmental Affairs Committee. No further action has been taken on the bill.

NARA, in its report on presidential libraries, suggested a possible alternative to the current libraries system that would require foundations to provide the government with a library-only

¹³¹ This is just one possible model for the presidential library system outlined in the following report: National Archives and Records Administration, *Report on Alternative Models for Presidential Libraries Issued in Response to the Requirements of P.L. 110-404*, Washington, DC, September 25, 2009, p. 43.

¹³² For example, a 2009 NARA report on presidential libraries noted that the goals of the foundations “are not always aligned with NARA’s view of our stewardship responsibilities.” The report suggested that prior to accepting control of any new presidential library facilities, “a clearer understanding between the [f]oundation and the [g]overnment should be memorialized in agreement.” *Ibid.*, p. 33.

building and “no museum component.”¹³³ Any museum associated with the corresponding President could be placed “in the same general vicinity,” but the facility would be separate and distinct from the library.¹³⁴ Removing the foundation from the library facility could clarify to visitors what is privately owned space and what is publicly owned.

Finally, the presidential libraries and museums often charge visitors an admission fee. In some cases, this fee is then divided between the federal government and the foundation. This fee division, however, is not always made clear to visitors. In fact, in some libraries, the foundations pay the federal government for access to federal government-owned portions of the library facility. At the Reagan and Clinton libraries, for example, each foundation pays the federal government a per person fee after it holds events at which attendees are given free access to the library’s museum. In addition to collecting fees from foundations in certain circumstances, Congress has the authority to require NARA to clearly identify to visitors what portion of their fees go to the federal government and what portion does not. Congress also has the authority to enact legislation that would allow visitors to pay only for access to the areas of the library or museum that interest them. Regardless of ownership of that portion of the facility, the visitor would pay only for those parts of the facility he or she visited. Congress could, therefore, require visitors to pay separate fees for access to federal property and non-federal property.

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¹³³ *Ibid.*, 40.

¹³⁴ *Ibid.*