

113TH CONGRESS
1ST SESSION

H. R. 1233

To amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2013

Mr. CUMMINGS introduced the following bill; which was referred to the
Committee on Oversight and Government Reform

A BILL

To amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Presidential and Federal Records Act Amendments of
6 2013”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Presidential records.
- Sec. 3. National Archives and Records Administration.
- Sec. 4. Records management by Federal agencies.
- Sec. 5. Disposal of records.
- Sec. 6. Procedures to prevent unauthorized removal of classified records from
National Archives.
- Sec. 7. Repeal of provisions related to the National Study Commission on
Records and Documents of Federal Officials.
- Sec. 8. Pronoun amendments.
- Sec. 9. Records management by the Archivist.

3 **SEC. 2. PRESIDENTIAL RECORDS.**

4 (a) PROCEDURES FOR CONSIDERATION OF CLAIMS
5 OF CONSTITUTIONALLY BASED PRIVILEGE AGAINST DIS-
6 CLOSURE.—

7 (1) AMENDMENT.—Chapter 22 of title 44,
8 United States Code, is amended by adding at the
9 end the following:

10 **“§ 2208. Claims of constitutionally based privilege**
11 **against disclosure**

12 “(a)(1) When the Archivist determines under this
13 chapter to make available to the public any Presidential
14 record that has not previously been made available to the
15 public, the Archivist shall—

16 “(A) promptly provide notice of such deter-
17 mination to—

18 “(i) the former President during whose
19 term of office the record was created; and

20 “(ii) the incumbent President; and

1 “(B) make the notice available to the public.

2 “(2) The notice under paragraph (1)—

3 “(A) shall be in writing; and

4 “(B) shall include such information as may be
5 prescribed in regulations issued by the Archivist.

6 “(3)(A) Upon the expiration of the 60-day period (ex-
7 cepting Saturdays, Sundays, and legal public holidays) be-
8 ginning on the date the Archivist provides notice under
9 paragraph (1)(A), the Archivist shall make available to the
10 public the Presidential record covered by the notice, except
11 any record (or reasonably segregable part of a record) with
12 respect to which the Archivist receives from a former
13 President or the incumbent President notification of a
14 claim of constitutionally based privilege against disclosure
15 under subsection (b).

16 “(B) A former President or the incumbent President
17 may extend the period under subparagraph (A) once for
18 not more than 30 additional days (excepting Saturdays,
19 Sundays, and legal public holidays) by filing with the Ar-
20 chivist a statement that such an extension is necessary
21 to allow an adequate review of the record.

22 “(C) Notwithstanding subparagraphs (A) and (B), if
23 the 60-day period under subparagraph (A), or any exten-
24 sion of that period under subparagraph (B), would other-
25 wise expire during the 6-month period after the incumbent

1 President first takes office, then that 60-day period or ex-
2 tension, respectively, shall expire at the end of that 6-
3 month period.

4 “(b)(1) For purposes of this section, the decision to
5 assert any claim of constitutionally based privilege against
6 disclosure of a Presidential record (or reasonably seg-
7 regable part of a record) must be made personally by a
8 former President or the incumbent President, as applica-
9 ble.

10 “(2) A former President or the incumbent President
11 shall notify the Archivist, the Committee on Oversight and
12 Government Reform of the House of Representatives, and
13 the Committee on Homeland Security and Governmental
14 Affairs of the Senate of a privilege claim under paragraph
15 (1) on the same day that the claim is asserted under such
16 paragraph.

17 “(c)(1) If a claim of constitutionally based privilege
18 against disclosure of a Presidential record (or reasonably
19 segregable part of a record) is asserted under subsection
20 (b) by a former President, the Archivist shall consult with
21 the incumbent President, as soon as practicable during the
22 period specified in paragraph (2)(A), to determine whether
23 the incumbent President will uphold the claim asserted by
24 the former President.

1 “(2)(A) Not later than the end of the 30-day period
2 beginning on the date of which the Archivist receives noti-
3 fication from a former President of the assertion of a
4 claim of constitutionally based privilege against disclosure,
5 the Archivist shall provide notice to the former President
6 and the public of the decision of the incumbent President
7 under paragraph (1) regarding the claim.

8 “(B) If the incumbent President upholds the claim
9 of privilege asserted by the former President, the Archivist
10 shall not make the Presidential record (or reasonably seg-
11 regable part of a record) subject to the claim publicly
12 available unless—

13 “(i) the incumbent President withdraws the de-
14 cision upholding the claim of privilege asserted by
15 the former President; or

16 “(ii) the Archivist is otherwise directed by a
17 final court order that is not subject to appeal.

18 “(C) If the incumbent President determines not to
19 uphold the claim of privilege asserted by the former Presi-
20 dent, or fails to make the determination under paragraph
21 (1) before the end of the period specified in subparagraph
22 (A), the Archivist shall release the Presidential record sub-
23 ject to the claim at the end of the 90-day period beginning
24 on the date on which the Archivist received notification
25 of the claim, unless otherwise directed by a court order

1 in an action initiated by the former President under sec-
2 tion 2204(e) of this title or by a court order in another
3 action in any Federal court.

4 “(d) The Archivist shall not make publicly available
5 a Presidential record (or reasonably segregable part of a
6 record) that is subject to a privilege claim asserted by the
7 incumbent President unless—

8 “(1) the incumbent President withdraws the
9 privilege claim; or

10 “(2) the Archivist is otherwise directed by a
11 final court order that is not subject to appeal.

12 “(e) The Archivist shall adjust any otherwise applica-
13 ble time period under this section as necessary to comply
14 with the return date of any congressional subpoena, judi-
15 cial subpoena, or judicial process.”.

16 (2) CONFORMING AMENDMENTS.—(A) Section
17 2204(d) of title 44, United States Code, is amended
18 by inserting “, except section 2208,” after “chap-
19 ter”.

20 (B) Section 2205 of title 44, United States
21 Code, is amended—

22 (i) in the matter preceding paragraph (1),
23 by striking “section 2204” and inserting “sec-
24 tions 2204 and 2208 of this title”; and

1 (ii) in paragraph (2)(A), by striking “sub-
2 pena” and inserting “subpoena”.

3 (C) Section 2207 of title 44, United States
4 Code, is amended in the second sentence by insert-
5 ing “, except section 2208,” after “chapter”.

6 (3) CLERICAL AMENDMENT.—The table of sec-
7 tions at the beginning of chapter 22 of title 44,
8 United States Code, is amended by adding at the
9 end the following:

“2208. Claims of constitutionally based privilege against disclosure.”.

10 (4) RULE OF CONSTRUCTION.—Nothing in the
11 amendment made by paragraph (2)(C) shall be con-
12 strued to—

13 (A) affect the requirement of section 2207
14 of title 44, United States Code, that Vice Presi-
15 dential records shall be subject to chapter 22 of
16 that title in the same manner as Presidential
17 records; or

18 (B) affect any claim of constitutionally
19 based privilege by a President or former Presi-
20 dent with respect to a Vice Presidential record.

21 (b) DEFINITIONS.—Section 2201 of title 44, United
22 States Code, is amended—

23 (1) in paragraph (1)—

24 (A) by striking “memorandums” and in-
25 serting “memoranda”;

1 (B) by striking “audio, audiovisual” and
2 inserting “audio and visual records”; and

3 (C) by inserting “, whether in analog, dig-
4 ital, or any other form” after “mechanical
5 recordations”; and

6 (2) in paragraph (2), by striking “advise and
7 assist” and inserting “advise or assist”.

8 (c) MANAGEMENT AND CUSTODY OF PRESIDENTIAL
9 RECORDS.—Section 2203 of title 44, United States Code,
10 is amended—

11 (1) in subsection (a), by striking “maintained”
12 and inserting “preserved and maintained”;

13 (2) in subsection (b), by striking “advise and
14 assist” and inserting “advise or assist”;

15 (3) by redesignating subsection (f) as sub-
16 section (g);

17 (4) by inserting after subsection (e) the fol-
18 lowing new subsection:

19 “(f) During a President’s term of office, the Archivist
20 may maintain and preserve Presidential records on behalf
21 of the President, including records in digital or electronic
22 form. The President shall remain exclusively responsible
23 for custody, control, and access to such Presidential
24 records. The Archivist may not disclose any such records,
25 except under direction of the President, until the conclu-

1 sion of a President’s term of office, if a President serves
 2 consecutive terms upon the conclusion of the last term,
 3 or such other period provided for under section 2204 of
 4 this title.”; and

5 (5) in subsection (g)(1), as so redesignated, by
 6 striking “Act” and inserting “chapter”.

7 (d) RESTRICTIONS ON ACCESS TO PRESIDENTIAL
 8 RECORDS.—Section 2204 of title 44, United States Code,
 9 is amended by adding at the end the following new sub-
 10 section:

11 “(f) The Archivist shall not make available any origi-
 12 nal Presidential records to any individual claiming access
 13 to any Presidential record as a designated representative
 14 under section 2205(3) of this title if that individual has
 15 been convicted of a crime relating to the review, retention,
 16 removal, or destruction of records of the Archives.”.

17 **SEC. 3. NATIONAL ARCHIVES AND RECORDS ADMINISTRA-**
 18 **TION.**

19 (a) ACCEPTANCE OF RECORDS FOR HISTORICAL
 20 PRESERVATION.—Section 2107 of title 44, United States
 21 Code, is amended to read as follows:

22 **“§ 2107. Acceptance of records for historical preser-**
 23 **vation**

24 “(a) IN GENERAL.—When it appears to the Archivist
 25 to be in the public interest, the Archivist may—

1 “(1) accept for deposit with the National Ar-
2 chives of the United States the records of a Federal
3 agency, the Congress, the Architect of the Capitol,
4 or the Supreme Court determined by the Archivist
5 to have sufficient historical or other value to warrant
6 their continued preservation by the United States
7 Government;

8 “(2) direct and effect the transfer of records of
9 a Federal agency determined by the Archivist to
10 have sufficient historical or other value to warrant
11 their continued preservation by the United States
12 Government to the National Archives of the United
13 States, as soon as practicable, and at a time mutu-
14 ally agreed upon by the Archivist and the head of
15 that Federal agency not later than thirty years after
16 such records were created or received by that agen-
17 cy, unless the head of such agency has certified in
18 writing to the Archivist that such records must be
19 retained in the custody of such agency for use in the
20 conduct of the regular business of the agency;

21 “(3) direct and effect, with the approval of the
22 head of the originating Federal agency, or if the ex-
23 istence of the agency has been terminated, with the
24 approval of the head of that agency’s successor in
25 function, if any, the transfer of records, deposited or

1 approved for deposit with the National Archives of
2 the United States to public or educational institu-
3 tions or associations; title to the records to remain
4 vested in the United States unless otherwise author-
5 ized by Congress; and

6 “(4) transfer materials from private sources au-
7 thorized to be received by the Archivist by section
8 2111 of this title.

9 “(b) EARLY TRANSFER OF RECORDS.—The Archi-
10 vist—

11 “(1) in consultation with the head of the origi-
12 nating Federal agency, is authorized to accept for
13 deposit the records described in subsection (a)(2)
14 that have been in existence for less than thirty
15 years; and

16 “(2) may not disclose any such records until
17 the expiration of—

18 “(A) the thirty-year period described in
19 paragraph (1);

20 “(B) any longer period established by the
21 Archivist by order; or

22 “(C) any shorter period agreed to by the
23 originating Federal agency.”.

1 (b) MATERIAL ACCEPTED FOR DEPOSIT.—Section
2 2111 of title 44, United States Code, is amended to read
3 as follows:

4 **“§ 2111. Material accepted for deposit**

5 “(a) IN GENERAL.—When the Archivist considers it
6 to be in the public interest the Archivist may accept for
7 deposit—

8 “(1) the papers and other historical materials
9 of a President or former President of the United
10 States, or other official or former official of the Gov-
11 ernment, and other papers relating to and contem-
12 porary with a President or former President of the
13 United States, subject to restrictions agreeable to
14 the Archivist as to their use; and

15 “(2) recorded information (as such term is de-
16 fined in section 3301(a)(2) of this title) from private
17 sources that are appropriate for preservation by the
18 Government as evidence of its organization, func-
19 tions, policies, decisions, procedures, and trans-
20 actions.

21 “(b) EXCEPTION.—This section shall not apply in the
22 case of any Presidential records which are subject to the
23 provisions of chapter 22 of this title.”.

24 (c) PRESERVATION OF AUDIO AND VISUAL
25 RECORDS.—

1 (1) IN GENERAL.—Section 2114 of title 44,
2 United States Code, is amended to read as follows:

3 **“§ 2114. Preservation of audio and visual records**

4 “The Archivist may make and preserve audio and vis-
5 ual records, including motion-picture films, still photo-
6 graphs, and sound recordings, in analog, digital, or any
7 other form, pertaining to and illustrative of the historical
8 development of the United States Government and its ac-
9 tivities, and provide for preparing, editing, titling, scoring,
10 processing, duplicating, reproducing, exhibiting, and re-
11 leasing for non-profit educational purposes, motion-picture
12 films, still photographs, and sound recordings in the Ar-
13 chivist’s custody.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-
15 tions at the beginning of chapter 21 of title 44,
16 United States Code, is amended by striking the item
17 for section 2114 and inserting the following:

“2114. Preservation of audio and visual records.”.

18 (d) LEGAL STATUS OF REPRODUCTIONS; OFFICIAL
19 SEAL; FEES FOR COPIES AND REPRODUCTIONS.—Section
20 2116(a) of title 44, United States Code, is amended by
21 inserting “digital,” after “microphotographic,” each place
22 it appears.

23 **SEC. 4. RECORDS MANAGEMENT BY FEDERAL AGENCIES.**

24 Section 3106 of title 44, United States Code, is
25 amended to read as follows:

1 **“§ 3106. Unlawful removal, destruction of records**

2 “(a) FEDERAL AGENCY NOTIFICATION.—The head
3 of each Federal agency shall notify the Archivist of any
4 actual, impending, or threatened unlawful removal, defac-
5 ing, alteration, corruption, deletion, erasure, or other de-
6 struction of records in the custody of the agency, and with
7 the assistance of the Archivist shall initiate action through
8 the Attorney General for the recovery of records the head
9 of the Federal agency knows or has reason to believe have
10 been unlawfully removed from that agency, or from an-
11 other Federal agency whose records have been transferred
12 to the legal custody of that Federal agency.

13 “(b) ARCHIVIST NOTIFICATION.—In any case in
14 which the head of a Federal agency does not initiate an
15 action for such recovery or other redress within a reason-
16 able period of time after being notified of any such unlaw-
17 ful action described in subsection (a), or is participating
18 in, or believed to be participating in any such unlawful
19 action, the Archivist shall request the Attorney General
20 to initiate such an action, and shall notify the Congress
21 when such a request has been made.”.

22 **SEC. 5. DISPOSAL OF RECORDS.**

23 (a) DEFINITION OF RECORDS.—Section 3301 of title
24 44, United States Code, is amended to read as follows:

25 **“§ 3301. Definition of records**

26 “(a) RECORDS DEFINED.—

1 “(1) IN GENERAL.—As used in this chapter, the
2 term ‘records’—

3 “(A) includes all recorded information, re-
4 gardless of form or characteristics, made or re-
5 ceived by a Federal agency under Federal law
6 or in connection with the transaction of public
7 business and preserved or appropriate for pres-
8 ervation by that agency or its legitimate suc-
9 cessor as evidence of the organization, func-
10 tions, policies, decisions, procedures, operations,
11 or other activities of the United States Govern-
12 ment or because of the informational value of
13 data in them; and

14 “(B) does not include—

15 “(i) library and museum material
16 made or acquired and preserved solely for
17 reference or exhibition purposes; or

18 “(ii) duplicate copies of records pre-
19 served only for convenience.

20 “(2) RECORDED INFORMATION DEFINED.—For
21 purposes of paragraph (1), the term ‘recorded infor-
22 mation’ includes all traditional forms of records, re-
23 gardless of physical form or characteristics, includ-
24 ing information created, manipulated, commu-
25 nicated, or stored in digital or electronic form.

1 “(b) DETERMINATION OF DEFINITION.—The Archi-
2 vist’s determination whether recorded information, regard-
3 less of whether it exists in physical, digital, or electronic
4 form, is a record as defined in subsection (a) shall be bind-
5 ing on all Federal agencies.”.

6 (b) REGULATIONS COVERING LISTS OF RECORDS
7 FOR DISPOSAL, PROCEDURE FOR DISPOSAL, AND STAND-
8 ARDS FOR REPRODUCTION.—Section 3302(3) of title 44,
9 United States Code, is amended by striking “photographic
10 or microphotographic processes” and inserting “photo-
11 graphic, microphotographic, or digital processes”.

12 (c) LISTS AND SCHEDULES OF RECORDS TO BE
13 SUBMITTED TO THE ARCHIVIST BY HEAD OF EACH GOV-
14 ERNMENT AGENCY.—Section 3303(1) of title 44, United
15 States Code, is amended by striking “photographed or
16 microphotographed” and inserting “photographed, micro-
17 photographed, or digitized”.

18 (d) EXAMINATION BY ARCHIVIST OF LISTS AND
19 SCHEDULES OF RECORDS LACKING PRESERVATION
20 VALUE; DISPOSAL OF RECORDS.—Section 3303a(c) of
21 title 44, United States Code, is amended by striking “the
22 Committee on Rules and Administration of the Senate and
23 the Committee on House Oversight of the House of Rep-
24 resentatives” and inserting “the Committee on Oversight
25 and Government Reform of the House of Representatives

1 and the Committee on Homeland Security and Govern-
2 mental Affairs of the Senate”.

3 (e) PHOTOGRAPHS OR MICROPHOTOGRAPHS OF
4 RECORDS CONSIDERED AS ORIGINALS; CERTIFIED RE-
5 PRODUCTIONS ADMISSIBLE IN EVIDENCE.—Section 3312
6 of title 44, United States Code, is amended—

7 (1) in the first sentence, by striking “Photo-
8 graphs and microphotographs of records” and in-
9 serting “Photographs, microphotographs of records,
10 or digitized records”; and

11 (2) in the second sentence, by striking “photo-
12 graphs or microphotographs” and inserting “photo-
13 graphs, microphotographs, or digitized records”,
14 each place it appears.

15 **SEC. 6. PROCEDURES TO PREVENT UNAUTHORIZED RE-**
16 **MOVAL OF CLASSIFIED RECORDS FROM NA-**
17 **TIONAL ARCHIVES.**

18 (a) CLASSIFIED RECORDS.—Not later than 90 days
19 after the date of the enactment of this Act, the Archivist
20 shall prescribe internal procedures to prevent the unau-
21 thorized removal of classified records from the National
22 Archives and Records Administration or the destruction
23 or damage of such records, including when such records
24 are accessed or searched electronically. Such procedures
25 shall include, at a minimum, the following prohibitions:

1 (1) An individual, other than covered personnel,
2 may not view classified records in any room that is
3 not secure, except in the presence of National Ar-
4 chives and Records Administration personnel or
5 under video surveillance.

6 (2) An individual, other than covered personnel,
7 may not be left alone with classified records, unless
8 that individual is under video surveillance.

9 (3) An individual, other than covered personnel,
10 may not review classified records while possessing
11 any cellular phone, electronic personal communica-
12 tion device, or any other devices capable of
13 photographing, recording, or transferring images or
14 content.

15 (4) An individual seeking access to review clas-
16 sified records, as a precondition to such access, must
17 consent to a search of their belongings upon conclu-
18 sion of their records review.

19 (5) All notes and other writings prepared by an
20 individual, other than covered personnel, during the
21 course of a review of classified records shall be re-
22 tained by the National Archives and Records Admin-
23 istration in a secure facility until such notes and
24 other writings are determined to be unclassified, are

1 declassified, or are securely transferred to another
2 secure facility.

3 (b) DEFINITIONS.—In this section:

4 (1) COVERED PERSONNEL.—The term “covered
5 personnel” means any individual—

6 (A) who has an appropriate and necessary
7 reason for accessing classified records, as deter-
8 mined by the Archivist; and

9 (B) who is either—

10 (i) an officer or employee of the
11 United States Government with appro-
12 priate security clearances; or

13 (ii) any personnel with appropriate se-
14 curity clearances of a Federal contractor
15 authorized in writing to act for purposes of
16 this section by an officer or employee of
17 the United States Government.

18 (2) RECORDS.—The term “records” has the
19 meaning given that term under section 3301 of title
20 44, United States Code.

21 **SEC. 7. REPEAL OF PROVISIONS RELATED TO THE NA-**
22 **TIONAL STUDY COMMISSION ON RECORDS**
23 **AND DOCUMENTS OF FEDERAL OFFICIALS.**

24 (a) IN GENERAL.—Sections 3315 through 3324 of
25 title 44, United States Code, are repealed.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 33 of title 44, United States
3 Code, is amended by striking the items relating to sections
4 3315 through 3324.

5 **SEC. 8. PRONOUN AMENDMENTS.**

6 Title 44, United States Code, is amended—

7 (1) in section 2116(c), by striking “his” and in-
8 serting “the Archivist’s”;

9 (2) in section 2201(2), by striking “his” and in-
10 serting “the President’s”, each place it appears;

11 (3) in section 2203—

12 (A) in subsection (a), by striking “his” and
13 inserting “the President’s”;

14 (B) in subsection (b), by striking “his”
15 and inserting “the President’s”;

16 (C) in subsection (c)—

17 (i) in the matter preceding paragraph

18 (1)—

19 (I) by striking “his” and insert-
20 ing “the President’s”; and

21 (II) by striking “those of his
22 Presidential records” and inserting
23 “those Presidential records of such
24 President”; and

1 (ii) in paragraph (2), by striking “he”
2 and inserting “the Archivist”;

3 (D) in subsection (d), by striking “he” and
4 inserting “the Archivist”;

5 (E) in subsection (e), by striking “he” and
6 inserting “the Archivist”; and

7 (F) in subsection (g), as so redesignated,
8 by striking “he” and inserting “the Archivist”;
9 (4) in section 2204—

10 (A) in subsection (a)—

11 (i) in the matter preceding paragraph
12 (1), by striking “his” and inserting “a
13 President’s”; and

14 (ii) in paragraph (5), by striking
15 “his” and inserting “the President’s”; and
16 (B) in subsection (b)—

17 (i) in paragraph (1)(B), by striking
18 “his” and inserting “the President’s”; and

19 (ii) in paragraph (3)—

20 (I) by striking “his” and insert-
21 ing “the Archivist’s”; and

22 (II) by striking “his designee”
23 and inserting “the Archivist’s des-
24 ignee”;

25 (5) in section 2205—

1 (A) in paragraph (2)(B), by striking “his”
2 and inserting “the incumbent President’s”; and

3 (B) in paragraph (3), by striking “his”
4 and inserting “the former President’s”;

5 (6) in section 2901(11), by striking “his” and
6 inserting “the Archivist’s”;

7 (7) in section 2904(c)(6), by striking “his” and
8 inserting “the Archivist’s”;

9 (8) in section 2905(a)—

10 (A) by striking “He” and inserting “The
11 Archivist”; and

12 (B) by striking “his” and inserting “the
13 Archivist’s”;

14 (9) in section 3103, by striking “he” and in-
15 serting “the head of such agency”;

16 (10) in section 3104—

17 (A) by striking “his” and inserting “such
18 official’s”; and

19 (B) by striking “him or his” and inserting
20 “such official or such official’s”;

21 (11) in section 3105, by striking “he” and in-
22 serting “the head of such agency”;

23 (12) in section 3302(1), by striking “him” and
24 inserting “the Archivist”; and

25 (13) in section 3303a—

- 1 (A) in subsection (a)—
2 (i) by striking “him” and inserting
3 “the Archivist”, each place it appears; and
4 (ii) by striking “he” and inserting
5 “the Archivist”;
6 (B) in subsection (c), by striking “he” and
7 inserting “the Archivist”;
8 (C) in subsection (e), by striking “his” and
9 inserting “the Archivist’s”; and
10 (D) in subsection (f), by striking “he” and
11 inserting “the Archivist”.

12 **SEC. 9. RECORDS MANAGEMENT BY THE ARCHIVIST.**

13 (a) OBJECTIVES OF RECORDS MANAGEMENT.—Sec-
14 tion 2902 of title 44, United States Code, is amended—

15 (1) in paragraph (4), by striking “creation and
16 of records maintenance and use” and inserting “cre-
17 ation, maintenance, transfer, and use”;

18 (2) in paragraph (6), by inserting after “Fed-
19 eral paperwork” the following: “and the transfer of
20 records from Federal agencies to the National Ar-
21 chives of the United States in digital or electronic
22 form to the greatest extent possible”; and

23 (3) in paragraph (7), by striking “the Adminis-
24 trator or”.

1 (b) RECORDS CENTERS AND CENTRALIZED MICRO-
2 FILMING SERVICES.—Section 2907 of title 44, United
3 States Code, is amended—

4 (1) in the subject heading by inserting “**or**
5 **digitization**” after “**microfilming**”; and

6 (2) by inserting “or digitization” after “micro-
7 filming”.

8 (c) GENERAL RESPONSIBILITIES FOR RECORDS
9 MANAGEMENT.—Section 2904 of title 44, United States
10 Code, is amended—

11 (1) in subsection (b), by striking “The Adminis-
12 trator” and inserting “The Archivist”;

13 (2) in subsection (c)—

14 (A) in the matter preceding paragraph

15 (1)—

16 (i) by striking “their” and inserting
17 “the”;

18 (ii) by striking “subsection (a) or (b),
19 respectively” and inserting “subsections
20 (a) and (b)”;

21 (iii) by striking “and the Adminis-
22 trator”; and

23 (iv) by striking “each”; and

24 (B) in paragraph (8), by striking “or the
25 Administrator (as the case may be)”; and

1 (3) subsection (d) is amended to read as fol-
2 lows:

3 “(d) The Archivist shall promulgate regulations re-
4 quiring all Federal agencies to transfer all digital or elec-
5 tronic records to the National Archives of the United
6 States in digital or electronic form to the greatest extent
7 possible.”.

8 (d) INSPECTION OF AGENCY RECORDS.—Section
9 2906(a)(1) of title 44, United States Code, is amended—
10 (1) in subsection (a)—

11 (A) in paragraph (1)—

12 (i) by striking “their respective” and
13 inserting “the”;

14 (ii) by striking “the Administrator of
15 General Services and”;

16 (iii) by striking “designee of either”
17 and inserting “the Archivist’s designee”;

18 (iv) by striking “solely”; and

19 (v) by inserting after “for the im-
20 provement of records management prac-
21 tices and programs” the following: “and
22 for determining whether the records of
23 Federal agencies have sufficient value to
24 warrant continued preservation or lack suf-

1 efficient value to justify continued preserva-
2 tion”;

3 (B) in paragraph (2)—

4 (i) by striking “the Administrator
5 and”; and

6 (ii) by striking the second sentence;
7 and

8 (C) in paragraph (3)—

9 (i) in the matter preceding subpara-
10 graph (A)—

11 (I) by striking “the Adminis-
12 trator or”; and

13 (II) by striking “designee of ei-
14 ther” and inserting “Archivist’s des-
15 ignee”; and

16 (ii) in subparagraph (A), by striking
17 “the Administrator, the Archivist,” and in-
18 serting “the Archivist”; and

19 (2) in subsection (b)—

20 (A) by striking “the Administrator and”;
21 and

22 (B) by striking “designee of either” and
23 inserting “Archivist’s designee”.

24 (e) REPORTS; CORRECTION OF VIOLATIONS.—Sec-
25 tion 2115 of title 44, United States Code, is amended—

1 (1) in subsection (a)—

2 (A) by striking “their respective” and in-
3 serting “the”;

4 (B) by striking “and the Administrator”;
5 and

6 (C) by striking “each”; and

7 (2) in subsection (b)—

8 (A) by striking “either”;

9 (B) by striking “or the Administrator”,
10 each place it appears; and

11 (C) by striking “inaugurated” and insert-
12 ing “demonstrably commenced”.

13 (f) RECORDS MANAGEMENT BY THE ARCHIVIST.—
14 The heading for chapter 29 of title 44, United States
15 Code, is amended by striking “**AND BY THE ADMIN-**
16 **ISTRATOR OF GENERAL SERVICES**”.

17 (g) ESTABLISHMENT OF PROGRAM OF MANAGE-
18 MENT.—Section 3102(2) of title 44, United States Code,
19 is amended by striking “the Administrator of General
20 Services and”.

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