

**Calendar No. 548**

118TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 118-235

STRENGTHENING OVERSIGHT OF FEDERAL  
RECORDS ACT OF 2024

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 4042

TO AMEND TITLE 44, UNITED STATES CODE, TO  
REFORM THE MANAGEMENT OF FEDERAL RECORDS, AND  
FOR OTHER PURPOSES



NOVEMBER 12, 2024.—Ordered to be printed

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**STRENGTHENING OVERSIGHT OF FEDERAL RECORDS ACT  
OF 2024**

NOVEMBER 12, 2024.—Ordered to be printed

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

**R E P O R T**

[To accompany S. 4042]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4042) to amend title 44, United States Code, to reform the management of Federal records, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

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**I. PURPOSE AND SUMMARY**

S. 4042, the *Strengthening Oversight of Federal Records Act of 2024*, would modernize the Federal Records Act and add additional accountability measures for violations of federal recordkeeping laws. Specifically, the bill clarifies that federal employees must preserve any records sent using ephemeral messaging apps, incorporates records management into federal employee performance reviews, expands the scope of violations that the U.S. National Archives and Records Administration (NARA) must refer to the U.S.

Department of Justice (DOJ), codifies and expands NARA's existing electronic record preservation program, and creates an advisory committee on use of emerging technology for records management.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

The Federal Records Act (FRA) governs the management of government records, including the criteria for the creation, preservation, disposal, and removal of federal records.<sup>1</sup> The FRA also provides mechanisms for recovering records that are wrongly altered, destroyed, or removed.<sup>2</sup> The FRA defines records as follows:

Records includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data in them.<sup>3</sup>

The FRA requires the Archivist of the United States to develop guidance and regulations for recordkeeping practices and entrusts agency heads with implementing recordkeeping requirements.<sup>4</sup> The FRA gives agencies the ability to dispose of records with insufficient historical or informational value, with the permission of the Archivist. As such, agencies partner with NARA to create records schedules that determine how long a category of records must be preserved.<sup>5</sup> In 2014, Congress passed the *Presidential and Federal Records Act Amendments of 2014* to update the law to account for electronic records.<sup>6</sup> However, the emergence of new technologies and circumstances necessitates additional reforms. Appropriately preserving the records of the United States is vital to maintaining an accurate historical record, ensuring transparency of decision making, and enabling robust oversight.

Rapidly emerging technology, including the proliferation of electronic records, has challenged and exposed gaps in the FRA.<sup>7</sup> Ephemeral messaging apps such as WhatsApp and Signal allow users to automatically delete messages and present serious challenges to proper records management.<sup>8</sup> NARA has established programs to address electronic records, such as the Capstone program which automatically archives certain senior officials' emails—a program this bill would codify and expand.<sup>9</sup> Additionally, as of June 30, 2024, NARA no longer accepts paper records from agencies, further cementing the transition to electronic records.<sup>10</sup>

<sup>1</sup> 44 U.S.C. ch. 31 § 3101 *et seq.*

<sup>2</sup> 44 U.S.C. § 3106.

<sup>3</sup> 44 U.S.C. § 3301(a)(1)(A).

<sup>4</sup> 44 U.S.C. chs. 29 and 31.

<sup>5</sup> 44 U.S.C. § 3303 and § 3303a.

<sup>6</sup> Pub. L. 113–187.

<sup>7</sup> Congressional Research Service, *Retaining and Preserving Federal Records in a Digital Environment: Background and Issues for Congress* (July 2013) (available at: <https://crsreports.congress.gov/product/pdf/R/R43165/4>).

<sup>8</sup> National Archives and Records Administration, *Bulletin 2015–02* (July 2015).

<sup>9</sup> National Archives and Records Administration, *Bulletin 2013–02* (Aug 2013).

<sup>10</sup> Memorandum from Office of Management and Budget and NARA to Heads of Executive Departments and Agencies Regarding an Update to the Transition to Electronic Records (December 23, 2022).

Recent high-profile violations of the FRA demonstrate the lack of adequate accountability mechanisms and highlight the need for reform. High level officials in both the Obama and Trump administrations failed to preserve electronic communications that were sent on personal e-mail and messaging accounts.<sup>11</sup> Additionally, the United States Secret Service deleted messages that were sent by officials, after they were requested by Congress and the Department of Homeland Security Inspector General, during an agency-wide reset of phones.<sup>12</sup>

The *Strengthening Oversight of Federal Records Act of 2024* aims to update and strengthen federal records law to address gaps in existing law and ensure greater accountability and transparency. The bill prohibits the use of non-official electronic messaging accounts unless messages are preserved, prevents the deletion of records by automatic mechanism, and codifies and expands NARA's Capstone program to categorize and preserve senior officials' electronic messages. The bill also ensures greater transparency of records schedules by requiring the Archivist to make any final list of schedules accessible on a public website. To ensure employee compliance, the bill requires agencies to incorporate records management requirements into employee performance reviews and mandates that departing employees certify their recordkeeping compliance before leaving agency employment. The bill also improves accountability measures by expanding the scope of records violations for which the agency heads must notify the Archivist, who must subsequently notify Congress. The bill also instructs the Archivist to work with the U.S. Attorney General to remedy repeated instances of non-compliance. Lastly, the bill creates an advisory committee to explore options for utilizing technology to process and digitize records more efficiently.

### III. LEGISLATIVE HISTORY

Senator Gary Peters (D–MI) introduced S. 4042, the *Strengthening Oversight of Federal Records Act of 2024*, with original co-sponsor Senator John Cornyn (R–TX), on March 21, 2024. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4042 at a business meeting on April 10, 2024. At the business meeting, Senator Peters offered a substitute amendment, and a modification to that amendment. The Peters substitute amendment, as modified, clarifies that a provision relating to remedying records violations applies to all records and changes the authorization of appropriations to a total of \$1 million for the federal advisory committee. The Committee adopted the modification to the Peters amendment, and the Peters sub-

<sup>11</sup>Department of State, Office of Inspector General, *Office of the Secretary: Evaluation of Email Records Management and Cybersecurity Requirements* (May 2016); *Clinton Broke Federal Rules with Email Server, Audit Finds*, NBC News (May 2016) (<https://www.nbcnews.com/news/us-news/clinton-broke-federal-rules-email-server-audit-finds-n580131>); American Oversight, *Top VA Officials Used Personal Email to Communicate with Mar-A-Lago Members* (May 2019) (<https://www.americanoversight.org/top-va-officials-used-personal-email-to-communicate-with-mar-a-lago-members>); *Watchdog Report Says Mike Pompeo 'Regularly' Used Personal Email While Director of CIA*, Newsweek (Oct. 21, 2020) (<https://www.newsweek.com/watchdog-report-says-mike-pompeo-regularly-used-personal-email-while-director-cia-1541163>).

<sup>12</sup>*U.S. Secret Service Members Erased Jan. 5–6 Texts After Messages Were Requested, Says Watchdog*, CBS News (July 15, 2022) (<https://www.cbsnews.com/news/secret-service-jan-6-text-messages-erase/>).

stitute amendment as modified, by unanimous consent, with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, Romney, Scott, Hawley, and Marshall present. The bill, as amended by the Peters amendment as modified, was ordered reported favorably by roll call vote of 10 yeas to 3 nays, with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Lankford, Scott, and Marshall voting in the affirmative, and with Senators Paul, Romney, and Hawley voting in the negative. Senators Carper and Johnson voted yea by proxy, for the record only.

Consistent with Committee Rule 3(G), the Committee reports the bill with a technical amendment by mutual agreement of the Chairman and Ranking Member.

#### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

##### *Section 1. Short title; Table of contents*

This section establishes the short title of the bill as the *Strengthening Oversight of Federal Records Act of 2024*. It also provides a table of contents for this Act.

#### TITLE I. FEDERAL RECORDS REFORM

##### *Section 101. Preservation of federal electronic records*

Subsection (a) updates the existing provision for use of non-official electronic messaging accounts, by prohibiting the use of non-official electronic messaging accounts unless they are sent on an application that automatically preserves records. It also prohibits deletion of such records, including by an automatic mechanism.

Subsection (b) enhances the requirement to ensure there adequate and proper documentation of how agencies ensure records are captured appropriately.

Subsection (c) adds definitions for “complete data” and “readable” to the definitions section of 44 U.S.C. Chapter 29.

##### *Section 102. Whistleblower protections*

Subsection (a) includes a definition for “whistleblower protection” to match 5 U.S.C. 2302(c)(1).

Subsection (b) clarifies that these preservation requirements should not impair the ability of personnel to receive whistleblower protections.

##### *Section 103. Preservation of electronic messages of certain officials*

Subsection (a) codifies NARA’s Capstone program, which categorizes the electronic messages of senior officials as permanent records and requires the preservation of messages in accordance with guidelines from the Archivist. This section provides a list of officials whose electronic messages should be preserved, at minimum. It also requires agencies to report to the Archivist every five years about agency compliance with the preservation of senior agency officials’ electronic messages and requires agencies to make these reports publicly available.

Subsection (b) makes a conforming amendment to 44 U.S.C. Chapter 29 to add the Sec. 2913 created in subsection (a).

*Section 104. Proactive disclosure of record retention schedules*

Subsection (a) requires the Archivist to make any final list or schedule of records accessible to the public on the agency's website and directs agencies to submit to the Archivist each list or schedule that is in effect at the date of enactment.

Subsection (b) gives additional regulatory authority to NARA for procedures and standards of ease-of-use for public inspection of the online records created in subsection (a).

*Section 105. Certification regarding preservation of records*

Subsection (a) requires the head of each agency to develop a process for departing employees to certify that they have met their obligations under the Federal Records Act prior to separating from service.

Subsection (b) makes a conforming amendment to 44 U.S.C. Chapter 29 to add the Sec. 2914 created in subsection (a).

TITLE II. ADDITIONAL REFORMS TO PRESERVE AND PROTECT RECORDS  
AND GOVERNMENT INTEGRITY

*Section 201. Unlawful removal, destruction of records*

This section updates 44 U.S.C. 3106, in paragraph (1) it adds repeated non-compliance with federal record keeping obligations as a reason the head of an agency must notify the Archivist, and requires the Archivist to work with the agency head and Attorney General to remedy such repeated non-compliance.

In paragraph (2) it requires the Archivist to notify the Senate Committee on Homeland Security and the House Committee on Oversight and Accountability of such an agency notification.

In paragraph (3) it requires the Archivist to notify an agency head and coordinate with the agency if NARA becomes aware of a records violation. It also requires NARA to jointly refer the matter to the agency's Office of Inspector General.

*Section 202. Records management incorporation into performance plans*

This section requires the head of each agency, in consultation with the Director of the Office of Personnel Management and the Archivist, to incorporate records management requirements into employee performance plans.

*Section 203. Establishment of an Advisory Committee on Records Automation*

Subsection (a) establishes an "Advisory Committee on Records Automation."

Subsection (b) charges the Advisory Committee on Records Automation with exploring options for utilizing technology to process and digitize federal records more efficiently.

Subsection (c) gives the Advisory Committee on Records Automation the duty of providing advice and recommendations to the Archivist and agencies on matters regarding records automation.

Subsection (d) provides the composition of the Advisory Committee and how such positions are to be filled.

Subsection (e) provides the length of appointment and how to fill vacancies.

Subsection (f) provides how quickly and often the Advisory Committee must meet, plus its quorum requirements and rules of procedures.

Subsection (g) requires the advisory committee to submit a final report on its findings within two years, as well as interim reports as appropriate.

Subsection (h) gives the Advisory Committee certain powers, including the ability to secure information any Federal department or agency, use the U.S. Postal Service similar to a federal agency or department, and allows for the use of donations of service or property.

Subsection (i) clarifies that Advisory Committee members are not government employees (except if they have another job as a federal employee), with the exception that they may be reimbursed for travel expenses.

Subsection (j) terminates the Advisory Committee 90 days after it submits the final report defined in (g)(1).

Subsection (k) authorizes \$500,000 for the advisory committee, for each of Fiscal Years 2025 and 2026.

Subsection (l) gives the Advisory Committee an exemption from the requirements of the Federal Advisory Committee Act.

#### *Section 204. Regulations*

This section requires the Archivist to issue regulations for documenting required metadata.

### V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

## VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

<b>S. 4042, Strengthening Oversight of Federal Records Act of 2024</b>			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on April 10, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	5	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply? Yes	
<b>Mandate Effects</b>			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 4042 would amend the rules related to the management of federal records. Specifically, the bill would:

- Clarify the role of the National Archives and Records Administration (NARA) in collecting and preserving federal records,
- Prohibit the use of nonofficial electronic messaging accounts by executive branch employees for official business without proper records management procedures in place for those accounts,
- Require federal agencies to establish policies under which employees leaving federal service certify that the employee has complied with recordkeeping requirements,
- Require the Office of Personnel Management to develop criteria that incorporates records management into employee performance reviews, and
- Authorize the appropriation of \$500,000 for both 2025 and 2026 to establish an advisory committee on records automation.

The Federal Records Act (FRA) governs the collection, retention, and preservation of federal agency records. The FRA also governs how federal records are to be destroyed or provided to NARA for permanent archiving. Under the FRA, each agency is required to make and preserve records of its activities and to have appropriate systems to manage and preserve those records. That act also requires NARA to oversee and issue guidance on managing federal records, including email messages.

Using information from NARA and selected agencies, CBO expects most of the provisions of the bill would clarify current activities to manage federal records and expand reporting requirements. There would be some administrative costs governmentwide to implement the bill. Based on the costs of similar activities, CBO estimates that costs of additional records management and reporting requirements would be about \$4 million over the 2025–2029 period. Including the authorized amounts for the advisory committee, CBO

estimates that implementing the bill would cost \$5 million over the 2025–2029 period. Any related spending would be subject to the availability of appropriated funds.

Enacting S. 4042 also could affect direct spending by some agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to reflect changes in operating costs.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,  
*Director, Congressional Budget Office.*

#### VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

### UNITED STATES CODE

\* \* \* \* \*

### TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

\* \* \* \* \*

#### PART III—EMPLOYEES

\* \* \* \* \*

#### Subpart C—Employee Performance

\* \* \* \* \*

#### CHAPTER 43—PERFORMANCE APPRAISAL

\* \* \* \* \*

#### Subchapter I—General Provisions

\* \* \* \* \*

#### SEC. 4302. ESTABLISHMENT OF PERFORMANCE APPRAISAL SYSTEMS

(a) \* \* \*

(b) \* \* \*

(c) *The head of each agency, in consultation with the Director of the Officer of Personnel Management and the Archivist of the United States, shall develop criteria that incorporates records management requirements that should be included in employees' performance standards and reviews.*

[(c)] (d) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*
- (4) \* \* \*
- (5) \* \* \*
- (6) \* \* \*

[(d)] (e) In accordance with regulations which the Office shall prescribe

\* \* \* \* \*

### TITLE 44—PUBLIC PRINTING AND DOCUMENTS

\* \* \* \* \*

#### CHAPTER 22—PRESIDENTIAL RECORDS

\* \* \* \* \*

##### SEC. 2206. REGULATIONS

(a) The Archivist shall promulgate in accordance with section 553 of title 5, United States Code, regulations necessary to carry out the provisions of this chapter. Such regulations shall include—

(1) provisions for advance public notice and description of any Presidential records scheduled for disposal pursuant to section [2203(f)(3)] 2203(g)(4);

(2) \* \* \*

(3) provisions for notice by the Archivist to the former President when the disclosure of particular documents may adversely affect any rights and privileges which the former President may have; [and]

(4) provisions for establishing procedures for consultation between the Archivist and appropriate Federal agencies regarding materials which may be subject to section 552(b)(7) of title 5, United States Code [.]; and

(5) provisions for establishing procedures for documenting required metadata.

(b) The Archivist shall issue, and shall regularly update, implementation guidance with respect to the regulations described in subsection (a)(5).

\* \* \* \* \*

#### CHAPTER 29—RECORDS MANAGEMENT BY THE ARCHIVIST OF THE UNITED STATES AND BY THE ADMINISTRATOR OF GENERAL SERVICES

Sec.

2901. Definitions.

\* \* \* \* \*

2913. Preservation of electronic messages of senior officials.

2914. Certifications regarding preservation of records.

\* \* \* \* \*

**SEC. 2901. DEFINITIONS**

As used in this chapter, and chapters 21, 25, 31, and 33 of this title—

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*
- (4) \* \* \*
- (5) \* \* \*
- (6) \* \* \*
- (7) \* \* \*
- (8) \* \* \*
- (9) \* \* \*
- (10) \* \* \*
- (11) \* \* \*
- (12) \* \* \*
- (13) \* \* \*
- (14) \* \* \*

(15) the term “electronic messages” means electronic mail and other electronic messaging systems that are used for purposes of communicating between individuals; **[and]**

- (16) \* \* \*
- (a) \* \* \*
- (b) \* \* \*
- (c) \* \* \*

(d) ensuring the storage, retrieval, and disposition of records**[.]**;

(17) the term ‘complete copy’ means a copy of all of the contents of a record, including the metadata with respect to the record; and

(18) the term ‘readable’ means media that is retrievable and usable for as long as needed to conduct Government business and to transfer permanent email records to the National Archives and Records Administration.

**SEC. 2911. DISCLOSURE REQUIREMENT FOR OFFICIAL BUSINESS CONDUCTED USING NON-OFFICIAL ELECTRONIC MESSAGING ACCOUNTS**

**[(a) IN GENERAL.—An officer or employee of an executive agency may not create or send a record using a non-official electronic messaging account unless such officer or employee—**

**[(1) copies an official electronic messaging account of the officer or employee in the original creation or transmission of the record; or**

**[(2) forwards a complete copy of the record to an official electronic messaging account of the officer or employee not later than 20 days after the original creation or transmission of the record.]**

*(a) IN GENERAL.—An officer or employee of an executive agency shall not—*

*(1) destroy or delete any record created, sent, or received using a non-official electronic messaging account, including through any automatic mechanism, unless the record has been copied or forwarded to an official electronic messaging account of the officer or employee; or*

*(2) create, receive, or send a record using a non-official electronic messaging account unless—*

(A) the policies and procedures of the executive agency authorize such use by the officer or employee;

(B) the account is subject to records management controls to create and preserve readable records; and

(C) the officer or employee—

(i) copies an official electronic messaging account of the officer or employee in the original creation or transmission of the record; or

(ii) forwards a complete copy of the record to an official electronic messaging account of the officer or employee not later than 20 days after the original creation or transmission of the record.

(b) ADVERSE ACTIONS.—The intentional violation of subsection (a) (including any rules, regulations, or other implementing guidelines), as determined by the appropriate supervisor, shall be a basis for disciplinary action in accordance with subchapter I, II, or V of chapter 75 of title 5, as the case may be, *unless the violation involves a disclosure, as defined in section 2302(a)(2) of title 5.*

(c) DEFINITIONS.—In this section:

(1) ELECTRONIC MESSAGES.—The term “electronic messages” means electronic mail and other electronic messaging systems, *including social media and digital applications and platforms*, that are used for purposes of communicating between individuals.

\* \* \* \* \*

**SEC. 2913. PRESERVATION OF ELECTRONIC MESSAGES OF CERTAIN OFFICIALS**

(a) REGULATIONS REQUIRED.—

(1) IN GENERAL.—*The Archivist shall promulgate regulations governing Federal agency preservation of electronic messages of employees, which shall, at a minimum—*

(A) *require that the electronic messages of senior officers or senior employees of Federal agencies be designated as a permanent record, as defined in section 1220.18 of title 36, Code of Federal Regulations, or any successor thereto;*

(B) *require that the electronic messages of senior officers or senior employees of Federal agencies—*

(i) *be stored in accordance with guidelines prescribed by the Archivist; and*

(ii) *are readily accessible for retrieval through electronic searches;*

(C) *establish general categories of positions in Federal agencies that constitute senior officers and senior employees; and*

(D) *allow for the culling of transitory messages, messages that are not records, and personal messages as appropriate.*

(2) SCOPE.—*The regulations promulgated under paragraph (1) shall, at a minimum, apply to electronic messages of—*

(A) *the head of each Federal agency;*

(B) *the principal assistant to the head of each Federal agency, including a member of the Armed Forces serving in a comparable position;*

(C) an officer or employee serving as a deputy, or equivalent position, of an officer, employee, or member described in subparagraph (A) or (B);

(D) an employee serving as a staff assistant to an officer, employee, or member described in subparagraph (A) or (B), including a special assistant, confidential assistant, military assistant, and aide;

(E) an officer or employee serving in a principal management position at a Federal agency, including the Chief Operating Officer, the Chief Information Officer, the Chief Knowledge Officer, the Chief Technology Officer, the Chief Financial Officer, and an equivalent of such an officer;

(F) the director, or equivalent position, of a significant program office of a Federal agency;

(G) a principal regional officer of a Federal agency, including a regional administrator, or equivalent position;

(H) an officer or employee serving in a position that routinely provides advice to or oversight of a Federal agency, including advice to or oversight of the activities of an officer, employee, or member described in subparagraph (A), (B), (C), (E), (F), or (G), including an officer or employee serving as a general counsel, chief of staff, or inspector general;

(I) an officer or employee appointed by the President, by and with the advice and consent of the Senate;

(J) any other officer or employee serving in a position that predominantly creates permanent records related to mission critical functions or policy decisions of a Federal agency or that are of historical significance; and

(K) any officer or employee serving in a position described in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), or (J) in an acting capacity.

(b) AGENCY REPORT TO ARCHIVIST.—

(1) IN GENERAL.—Not later than the date specified in paragraph (2), and every 5 years thereafter, the head of each Federal agency shall submit to the Archivist a report on the compliance of the Federal agency with subsection (a), including statistics on—

(A) the number of senior officers and senior employees of the Federal agency whose electronic messages are being stored as permanent records in accordance with guidelines prescribed by the Archivist;

(B) the volume of electronic messages of senior officers and senior employees of the Federal agency designated as a permanent record that are held by the Federal agency; and

(C) the volume of total electronic messages of officers and employees of the Federal agency that are held by the Federal agency.

(2) DEADLINE FOR INITIAL REPORTS.—The date specified in this paragraph is the earlier of—

(A) the date that is 210 days after the date on which the Archivist promulgates regulations under subsection (a); or

(B) the date that is 1 year after the date of enactment of this section.

(3) *PUBLIC AVAILABILITY.*—Not later than 30 days after submitting a report required under paragraph (1) to the Archivist, the head of a Federal agency shall make the report publicly available in an accessible electronic format on the website of the Federal agency.

**SEC. 2914. CERTIFICATION REGARDING PRESERVATION OF RECORDS**

The head of each Federal agency shall establish policies and procedures under which each employee of the Federal agency shall, prior to separating from service as an employee of the Federal agency, submit to the head of the Federal agency a certification indicating whether the employee has complied with the requirements under this chapter relating to the preservation of records.

\* \* \* \* \*

**CHAPTER 31—RECORDS MANAGEMENT BY FEDERAL AGENCIES**

\* \* \* \* \*

**SEC. 3105. SAFEGUARDS**

The head of each Federal agency shall establish safeguards [against] to ensure the adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Federal agency and to prevent the removal or loss of records the head of such agency determines to be necessary and required by regulations of the Archivist. Safeguards shall include making it known to officials and employees of the agency—

- (1) \* \* \*
- (2) \* \* \*

\* \* \* \* \*

**SEC. 3106. UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS**

[(a) **FEDERAL AGENCY NOTIFICATION.**—The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.]

(a) *FEDERAL AGENCY NOTIFICATION OF UNLAWFUL REMOVAL OR DESTRUCTION OF RECORDS.*—

(1) *IN GENERAL.*—The head of each Federal agency shall notify the Archivist if the head of the Federal agency knows or has reason to believe that there is—

(A) any actual, impending, or threatened unlawful failure to create or removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the Federal agency; or

(B) any other repeated non-compliance by any employee of the Federal agency with Federal record-keeping requirements that the head of the Federal agency has been unable to fully address.

(2) *REMEDY.*—With the assistance of the Archivist, the head of each Federal agency shall initiate action through the Attorney General for—

(A) fully recovering or restoring records unlawfully removed from the Federal agency, including records of another Federal agency that have been transferred to the legal custody of that Federal agency, or records that are defaced, altered, corrupted, deleted, erased, or destroyed, to the extent practicable; and

(B) remedying any other repeated non-compliance by any employee of the Federal agency with Federal record-keeping requirements.

(b) *ARCHIVIST NOTIFICATION.*—In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist [shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.] shall—

(1) request the Attorney General to initiate such an action;

(2) notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Accountability of the House of Representatives;

(3) include with the notification under paragraph (2) any relevant evidence, analysis, and supporting documentation pertinent to the incident; and

(4) in coordination with the Attorney General, make regular updates to the committees specified in paragraph (2) on the status of efforts to remedy the unlawful action or noncompliance.

(c) *OTHER RECORDKEEPING VIOLATIONS.*—

(1) *IN GENERAL.*—If the Archivist becomes aware of an alleged violation by an employee of a Federal agency of his or her recordkeeping obligations, the Archivist shall—

(A) notify the head of the Federal agency and coordinate with the Federal agency to determine whether a violation took place; and

(B) subject to paragraph (2), refer the matter to the head of the Federal agency for corrective action, as necessary.

(2) *AGENCIES WITH INSPECTORS GENERAL.*—If the Archivist makes a referral described in paragraph (1)(B) to a Federal agency that has an Inspector General (as defined in section 401 of title 5), the Archivist shall make a joint referral to the head of the Federal agency and to the Inspector General of the Federal agency.

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**CHAPTER 33—DISPOSAL OF RECORDS**

\* \* \* \* \*

**SEC. 3302. REGULATIONS COVERING LISTS OF RECORDS FOR DISPOSAL, PROCEDURE FOR DISPOSAL, AND STANDARDS FOR REPRODUCTION**

The Archivist shall promulgate regulations, not inconsistent with this chapter, establishing—

- (1) procedures for the compiling and submitting to the Archivist of lists and schedules of records proposed for disposal[.];
- (2) procedures for the disposal of records authorized for disposal[, and];
- (3) standards for the reproduction of records by photographic, microphotographic, or digital processes with a view to the disposal of the original records[.]; and
- (4) procedures and minimum standards of ease-of-use for public inspection and online maintenance of lists, schedules, and related materials pursuant to section 3303(b).

\* \* \* \* \*

**SEC. 3303. LISTS AND SCHEDULES OF RECORDS TO BE SUBMITTED TO THE ARCHIVIST BY HEAD OF EACH GOVERNMENT AGENCY**

**[The head]** (a) *The head* of each agency of the United States Government shall submit to the Archivist, under regulations promulgated as provided by section 3302 of this title—

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*

(b)(1) *For each list or schedule of records issued under subsection (a) that is approved by the Archivist, the Archivist shall—*

(A) *not later than 30 days after the date on which the Archivist approves the list or schedule, make the list or schedule available for public inspection;*

(B) *make available and maintain the list or schedule in an accessible electronic database on a website of the National Archives and Records Administration, including the relevant crosswalk and appraisal memo; and*

(C) *ensure the list or schedule, and all related materials, are organized in such fashion as to—*

(i) *facilitate public understanding of the operations of the records management program of the Federal agency; and*

(ii) *assist the Archivist in cataloging disposition authorities.*

(2) *Not later than 60 days after the date of enactment of the Strengthening Oversight of Federal Records Act of 2024, the head of each Federal agency shall submit to the Archivist each list or schedule of records issued under subsection (a) before such date of enactment that is in effect on such date of enactment, and all related materials, for immediate publication in the database described in paragraph (1).*

(3) *The database described in paragraph (1) shall be searchable and maintained as an open Government data asset, as defined in section 3502.*

\* \* \* \* \*