

of the bill and a member of the Subcommittee on Federal Workforce.

Mr. LYNCH. Mr. Speaker, I thank the ranking member for yielding.

First of all, I want to say that as the ranking Democrat on the Subcommittee on Federal Workforce, I rise in strong support of Mr. FARENTHOLD's measure here, H.R. 2860, the OPM Inspector General Act, legislation that will enhance oversight of the background check process for the issuance of government security clearances.

At the outset as well, I would like to thank the subcommittee chairman, Mr. FARENTHOLD, for working in a bipartisan manner to sponsor H.R. 2860. I would also like to thank our full committee chairman, Mr. ISSA, and ranking member, Mr. CUMMINGS, the gentleman from Maryland, for their hard work and their leadership on this legislation as well.

Recent events involving Edward Snowden and his leaking of classified information and as well Aaron Alexis and the tragic shooting at the Washington Navy Yard have called attention to the need to reexamine and improve the Federal Government's background investigation and security clearance process.

H.R. 2860 is a key component of our examinations. This legislation provides the Inspector General of the Office of Personnel Management with the resources that he needs to assist Congress in our review and oversight of a process that is critical within our national security framework.

We rely heavily on our Inspectors General. They are at the front lines of investigating fraud, waste, and abuse in government programs. We as Members of the legislature rely heavily on them in getting accurate information.

In particular, H.R. 2860 would give the Office of Personnel Management the authority to access a portion of OPM's revolving fund to pay for audits, investigations, and oversight of the agency's revolving fund program, which includes the Federal Government's background investigations process, their leadership training, and personnel management solutions.

I think OPM Inspector General Patrick McFarland did a great job on this in making us aware of the necessity for this legislation. During a June 2013 Federal Workforce Subcommittee hearing, as has been noted, Mr. McFarland stated that his office was handicapped in its ability to conduct proper oversight of the OPM's revolving fund activities.

Under existing law, the Inspector General's oversight costs cannot be charged to the revolving fund. As a result, for fiscal year 2013, the Inspector General had only available \$3 million to conduct oversight of OPM's program involving \$2 billion.

Because of these limited resources, the OPM Inspector General was not able to thoroughly investigate issues regarding falsification of background investigations, conduct audits of the

revolving fund, or examine the fund's high-risk areas.

However, H.R. 2860, if enacted, would allow the OPM Inspector General's oversight costs to be paid from the revolving fund up to a maximum of one-third of 1 percent of OPM's revolving fund budget. Assuming a revolving budget of \$2 billion, the Inspector General may be authorized to receive up to a maximum of \$6.6 million to fund oversight costs.

□ 1430

Common sense indicates that giving the OPM Inspector General authority for this funding is a sensible and prudent investment. Moreover, if national security is implicated, the importance of preventing or mitigating national security threats is, of course, immeasurable.

Let me also add that this proposal was included in the President's fiscal year 2014 budget request, and the Senate passed, by unanimous consent, substantially similar legislation last October. In addition, a provision granting the OPM Inspector General access to the revolving fund was included in the omnibus appropriation bill released just last night. I would note, however, that that provision expires after 1 year.

So Mr. FARENTHOLD's legislation, which I have cosponsored, is incredibly important and should be adopted. I urge my colleagues on both sides of the aisle to join with myself and Mr. CUMMINGS and Mr. FARENTHOLD.

Mr. FARENTHOLD. Mr. Speaker, if I could inquire of the gentleman from Maryland if he has any additional speakers.

Mr. CUMMINGS. We have no additional speakers, Mr. Speaker.

Mr. FARENTHOLD. At this point, I would like to wrap it up and close.

Mr. Speaker, as the gentleman from Virginia and the gentleman from Maryland pointed out, this is a common-sense, good government bill that has strong national security implications and I am going to urge all my colleagues to support it.

Again, even though it was included in the omnibus that is coming through that is 1 year, this creates permanent law where we continue to do this necessary and appropriate oversight at a fraction of the percent of the cost of the budget, absolutely a phenomenal bill that we all need to get behind and support.

I reserve the balance of my time.

Mr. CUMMINGS. I yield myself such time as I may consume as I close.

Mr. Speaker, I take this moment to thank Mr. FARENTHOLD, to thank Mr. LYNCH and certainly our chairman, Chairman ISSA, for this bipartisan effort. It just makes sense. There are certain things that happen that we see in government that need correcting, and this is one of those things. The fact that we have now put a spotlight on it and, through a bipartisan effort, have put together legislation that should pass this House unanimously, it just shows what can be done.

So it is a great piece of legislation. It is a very practical piece of legislation, and it is one that is needed. With that, I would urge all of our colleagues to vote in favor of this legislation, and I yield back the balance of my time.

Mr. FARENTHOLD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. FARENTHOLD) that the House suspend the rules and pass the bill, H.R. 2860.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CUMMINGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

PRESIDENTIAL AND FEDERAL RECORDS ACT AMENDMENTS OF 2014

Mr. FARENTHOLD. Mr. Speaker, I move to suspend the rules and pass the bill (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, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Presidential and Federal Records Act Amendments of 2014”.

(b) TABLE OF CONTENTS.—The table of contents for 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.
- Sec. 10. Disclosure requirement for official business conducted using non-official electronic messaging account.

SEC. 2. PRESIDENTIAL RECORDS.

(a) PROCEDURES FOR CONSIDERATION OF CLAIMS OF CONSTITUTIONALLY BASED PRIVILEGE AGAINST DISCLOSURE.—

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

“§2208. Claims of constitutionally based privilege against disclosure

“(a)(1) When the Archivist determines under this chapter to make available to the

public any Presidential record that has not previously been made available to the public, the Archivist shall—

“(A) promptly provide notice of such determination to—

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

“(ii) the incumbent President; and

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

“(2) The notice under paragraph (1)—

“(A) shall be in writing; and

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

“(3)(A) Upon the expiration of the 60-day period (excepting Saturdays, Sundays, and legal public holidays) beginning on the date the Archivist provides notice under paragraph (1)(A), the Archivist shall make available to the public the Presidential record covered by the notice, except any record (or reasonably segregable part of a record) with respect to which the Archivist receives from a former President or the incumbent President notification of a claim of constitutionally based privilege against disclosure under subsection (b).

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

“(C) Notwithstanding subparagraphs (A) and (B), if the 60-day period under subparagraph (A), or any extension of that period under subparagraph (B), would otherwise expire during the 6-month period after the incumbent President first takes office, then that 60-day period or extension, respectively, shall expire at the end of that 6-month period.

“(b)(1) For purposes of this section, the decision to assert any claim of constitutionally based privilege against disclosure of a Presidential record (or reasonably segregable part of a record) must be made personally by a former President or the incumbent President, as applicable.

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

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

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

“(B) If the incumbent President upholds the claim of privilege asserted by the former President, the Archivist shall not make the Presidential record (or reasonably segregable part of a record) subject to the claim publicly available unless—

“(i) the incumbent President withdraws the decision upholding the claim of privilege asserted by the former President; or

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

“(C) If the incumbent President determines not to uphold the claim of privilege asserted by the former President, or fails to make the determination under paragraph (1) before the end of the period specified in subparagraph (A), the Archivist shall release the Presidential record subject to the claim at the end of the 90-day period beginning on the date on which the Archivist received notification of the claim, unless otherwise directed by a court order in an action initiated by the former President under section 2204(e) of this title or by a court order in another action in any Federal court.

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

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

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

“(e) The Archivist shall adjust any otherwise applicable time period under this section as necessary to comply with the return date of any congressional subpoena, judicial subpoena, or judicial process.”

(2) CONFORMING AMENDMENTS.—(A) Section 2204(d) of title 44, United States Code, is amended by inserting “, except section 2208,” after “chapter”.

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

(i) in the matter preceding paragraph (1), by striking “section 2204” and inserting “sections 2204 and 2208 of this title”; and

(ii) in paragraph (2)(A), by striking “subpena” and inserting “subpoena”.

(C) Section 2207 of title 44, United States Code, is amended in the second sentence by inserting “, except section 2208,” after “chapter”.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 22 of title 44, United States Code, is amended by adding at the end the following:

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

(4) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (2)(C) shall be construed to—

(A) affect the requirement of section 2207 of title 44, United States Code, that Vice Presidential records shall be subject to chapter 22 of that title in the same manner as Presidential records; or

(B) affect any claim of constitutionally based privilege by a President or former President with respect to a Vice Presidential record.

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

(1) in paragraph (1)—

(A) by striking “memorandums” and inserting “memoranda”; and

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

(C) by inserting “, whether in analog, digital, or any other form” after “mechanical recordings”; and

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

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

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

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

(3) by redesignating subsection (f) as subsection (g); and

(4) by inserting after subsection (e) the following new subsection:

“(f) During a President’s term of office, the Archivist may maintain and preserve Presidential records on behalf of the President,

including records in digital or electronic form. The President shall remain exclusively responsible for custody, control, and access to such Presidential records. The Archivist may not disclose any such records, except under direction of the President, until the conclusion of a President’s term of office, if a President serves consecutive terms upon the conclusion of the last term, or such other period provided for under section 2204 of this title.”; and

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

(d) RESTRICTIONS ON ACCESS TO PRESIDENTIAL RECORDS.—Section 2204 of title 44, United States Code, is amended by adding at the end the following new subsection:

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

(e) DISCLOSURE REQUIREMENT FOR OFFICIAL BUSINESS CONDUCTED USING NON-OFFICIAL ELECTRONIC MESSAGING ACCOUNT.—

(1) AMENDMENT.—Chapter 22 of title 44, United States Code, as amended by subsection (a)(1), is further amended by adding at the end the following new section:

“§ 2209. 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 Presidential 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 Presidential record; or

“(2) forwards a complete copy of the Presidential record to an official electronic messaging account of the officer or employee within five days after the original creation or transmission of the Presidential 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.

“(c) DEFINITIONS.—In this section:

“(1) ELECTRONIC MESSAGES.—The term ‘electronic messages’ means electronic mail and other electronic messaging systems that are used for purposes of communicating between individuals.

“(2) ELECTRONIC MESSAGING ACCOUNT.—The term ‘electronic messaging account’ means any account that sends electronic messages.

“(3) EXECUTIVE AGENCY.—The term ‘executive agency’ has the meaning given that term in section 105 of title 5.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 22 of title 44, United States Code, as amended by subsection (a)(3), is further amended by adding at the end the following new item:

“2209. Disclosure requirement for official business conducted using non-official electronic messaging accounts.”

SEC. 3. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

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

“§2107. Acceptance of records for historical preservation

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

“(1) accept for deposit with the National Archives of the United States the records of a Federal agency, the Congress, the Architect of the Capitol, or the Supreme Court determined by the Archivist to have sufficient historical or other value to warrant their continued preservation by the United States Government;

“(2) direct and effect the transfer of records of a Federal agency determined by the Archivist to have sufficient historical or other value to warrant their continued preservation by the United States Government to the National Archives of the United States, as soon as practicable, and at a time mutually agreed upon by the Archivist and the head of that Federal agency not later than thirty years after such records were created or received by that agency, unless the head of such agency has certified in writing to the Archivist that such records must be retained in the custody of such agency for use in the conduct of the regular business of the agency;

“(3) direct and effect, with the approval of the head of the originating Federal agency, or if the existence of the agency has been terminated, with the approval of the head of that agency's successor in function, if any, the transfer of records, deposited or approved for deposit with the National Archives of the United States to public or educational institutions or associations; title to the records to remain vested in the United States unless otherwise authorized by Congress; and

“(4) transfer materials from private sources authorized to be received by the Archivist by section 2111 of this title.

“(b) EARLY TRANSFER OF RECORDS.—The Archivist—

“(1) in consultation with the head of the originating Federal agency, is authorized to accept a copy of the records described in subsection (a)(2) that have been in existence for less than thirty years; and

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

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

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

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

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

“§2111. Material accepted for deposit

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

“(1) the papers and other historical materials of a President or former President of the United States, or other official or former official of the Government, and other papers relating to and contemporary with a President or former President of the United States, subject to restrictions agreeable to the Archivist as to their use; and

“(2) recorded information (as such term is defined in section 3301(a)(2) of this title) from private sources that are appropriate for preservation by the Government as evidence of its organization, functions, policies, decisions, procedures, and transactions.

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

(c) PRESERVATION OF AUDIO AND VISUAL RECORDS.—

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

“§2114. Preservation of audio and visual records

“The Archivist may make and preserve audio and visual records, including motion-picture films, still photographs, and sound recordings, in analog, digital, or any other form, pertaining to and illustrative of the historical development of the United States Government and its activities, and provide for preparing, editing, titling, scoring, processing, duplicating, reproducing, exhibiting, and releasing for non-profit educational purposes, motion-picture films, still photographs, and sound recordings in the Archivist's custody.”

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

“2114. Preservation of audio and visual records.”

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

SEC. 4. RECORDS MANAGEMENT BY FEDERAL AGENCIES.

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

“§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.

“(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.”

SEC. 5. DISPOSAL OF RECORDS.

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

“§3301. Definition of records

“(a) RECORDS DEFINED.—

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

“(A) 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 United States Government or because of the informational value of data in them; and

“(B) does not include—

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

“(ii) duplicate copies of records preserved only for convenience.

“(2) RECORDED INFORMATION DEFINED.—For purposes of paragraph (1), the term ‘recorded information’ includes all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form.

“(b) DETERMINATION OF DEFINITION.—The Archivist's determination whether recorded information, regardless of whether it exists in physical, digital, or electronic form, is a record as defined in subsection (a) shall be binding on all Federal agencies.”

(b) REGULATIONS COVERING LISTS OF RECORDS FOR DISPOSAL, PROCEDURE FOR DISPOSAL, AND STANDARDS FOR REPRODUCTION.—Section 3302(3) of title 44, United States Code, is amended by striking “photographic or microphotographic processes” and inserting “photographic, microphotographic, or digital processes”.

(c) LISTS AND SCHEDULES OF RECORDS TO BE SUBMITTED TO THE ARCHIVIST BY HEAD OF EACH GOVERNMENT AGENCY.—Section 3303(1) of title 44, United States Code, is amended by striking “photographed or microphotographed” and inserting “photographed, microphotographed, or digitized”.

(d) EXAMINATION BY ARCHIVIST OF LISTS AND SCHEDULES OF RECORDS LACKING PRESERVATION VALUE; DISPOSAL OF RECORDS.—Section 3303a(c) of title 44, United States Code, is amended by striking “the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives” and inserting “the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate”.

(e) PHOTOGRAPHS OR MICROPHOTOGRAPHS OF RECORDS CONSIDERED AS ORIGINALS; CERTIFIED REPRODUCTIONS ADMISSIBLE IN EVIDENCE.—Section 3312 of title 44, United States Code, is amended—

(1) in the first sentence, by striking “Photographs or microphotographs of records” and inserting “Photographs, microphotographs of records, or digitized records”; and

(2) in the second sentence, by striking “photographs or microphotographs” and inserting “photographs, microphotographs, or digitized records”, each place it appears.

SEC. 6. PROCEDURES TO PREVENT UNAUTHORIZED REMOVAL OF CLASSIFIED RECORDS FROM NATIONAL ARCHIVES.

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

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

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

(3) An individual, other than covered personnel, may not review classified records while possessing any cellular phone, electronic personal communication device, or any other devices capable of photographing, recording, or transferring images or content.

(4) An individual seeking access to review classified records, as a precondition to such

access, must consent to a search of their belongings upon conclusion of their records review.

(5) All notes and other writings prepared by an individual, other than covered personnel, during the course of a review of classified records shall be retained by the National Archives and Records Administration in a secure facility until such notes and other writings are determined to be unclassified, are declassified, or are securely transferred to another secure facility.

(b) DEFINITIONS.—In this section:

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

(A) who has an appropriate and necessary reason for accessing classified records, as determined by the Archivist; and

(B) who is either—

(i) an officer or employee of the United States Government with appropriate security clearances; or

(ii) any personnel with appropriate security clearances of a Federal contractor authorized in writing to act for purposes of this section by an officer or employee of the United States Government.

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

SEC. 7. REPEAL OF PROVISIONS RELATED TO THE NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS.

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

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

SEC. 8. PRONOUN AMENDMENTS.

Title 44, United States Code, is amended—

(1) in section 2116(c), by striking “his” and inserting “the Archivist’s”;

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

(3) in section 2203—

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

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

(C) in subsection (c)—

(i) in the matter preceding paragraph (1)—

(I) by striking “his” and inserting “the President’s”; and

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

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

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

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

(F) in subsection (g), as so redesignated, by striking “he” and inserting “the Archivist”;

(4) in section 2204—

(A) in subsection (a)—

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

(ii) in paragraph (5), by striking “his” and inserting “the President’s”; and

(B) in subsection (b)—

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

(ii) in paragraph (3)—

(I) by striking “his” the first place it appears and inserting “the Archivist’s”; and

(II) by striking “his designee” and inserting “the Archivist’s designee”;

(5) in section 2205—

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

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

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

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

(8) in section 2905(a)—

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

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

(9) in section 3103, by striking “he” and inserting “the head of such agency”;

(10) in section 3104—

(A) by striking “his” the first place it appears and inserting “such official’s”; and

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

(11) in section 3105, by striking “he” and inserting “the head of such agency”;

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

(13) in section 3303a—

(A) in subsection (a)—

(i) by striking “him” and inserting “the Archivist”, each place it appears; and

(ii) by striking “he” and inserting “the Archivist”;

(B) in subsection (c), by striking “he” and inserting “the Archivist”;

(C) in subsection (e), by striking “his” and inserting “the Archivist’s”; and

(D) in subsection (f), by striking “he” and inserting “the Archivist”.

SEC. 9. RECORDS MANAGEMENT BY THE ARCHIVIST.

(a) OBJECTIVES OF RECORDS MANAGEMENT.—Section 2902 of title 44, United States Code, is amended—

(1) in paragraph (4), by striking “creation and of records maintenance and use” and inserting “creation, maintenance, transfer, and use”;

(2) in paragraph (6), by inserting after “Federal paperwork” the following: “and the transfer of records from Federal agencies to the National Archives of the United States in digital or electronic form to the greatest extent possible”; and

(3) in paragraph (7), by striking “the Administrator or”.

(b) RECORDS CENTERS AND CENTRALIZED MICROFILMING SERVICES.—

(1) AMENDMENT.—Section 2907 of title 44, United States Code, is amended—

(A) in the section heading by inserting “or digitization” after “microfilming”; and

(B) by inserting “or digitization” after “microfilming”.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 29 of title 44, United States Code, is amended in the item relating to section 2907 by inserting “or digitization” after “microfilming”.

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

(1) in subsection (b), by striking “The Administrator” and inserting “The Archivist”;

(2) in subsection (c)—

(A) in the matter preceding paragraph (1)—

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

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

(iii) by striking “and the Administrator”;

and

(iv) by striking “each”; and

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

(3) subsection (d) is amended to read as follows:

“(d) The Archivist shall promulgate regulations requiring all Federal agencies to transfer all digital or electronic records to the National Archives of the United States in digital or electronic form to the greatest extent possible.”.

(d) INSPECTION OF AGENCY RECORDS.—Section 2906 of title 44, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

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

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

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

(iv) by striking “solely”; and

(v) by inserting after “for the improvement of records management practices and programs” the following: “and for determining whether the records of Federal agencies have sufficient value to warrant continued preservation or lack sufficient value to justify continued preservation”;

(B) in paragraph (2)—

(i) by striking “the Administrator and”;

and

(ii) by striking the second sentence; and

(C) in paragraph (3)—

(i) in the matter preceding subparagraph (A)—

(I) by striking “the Administrator or”; and

(II) by striking “designee of either” and inserting “Archivist’s designee”; and

(ii) in subparagraph (A), by striking “the Administrator, the Archivist,” and inserting “the Archivist”; and

(2) in subsection (b)—

(A) by striking “the Administrator and”;

and

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

(e) REPORTS; CORRECTION OF VIOLATIONS.—

Section 2115 of title 44, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “their respective” and inserting “the”;

(B) by striking “and the Administrator”;

and

(C) by striking “each”; and

(2) in subsection (b)—

(A) by striking “either”;

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

(C) by striking “inaugurated” and inserting “demonstrably commenced”.

(f) RECORDS MANAGEMENT BY THE ARCHIVIST.—

(1) AMENDMENT.—The heading for chapter 29 of title 44, United States Code, is amended by striking “AND BY THE ADMINISTRATOR OF GENERAL SERVICES”.

(2) CONFORMING AMENDMENT.—The table of chapters at the beginning of title 44, United States Code, is amended in the item related to chapter 29 by striking “and by the Administrator of General Services”.

(g) ESTABLISHMENT OF PROGRAM OF MANAGEMENT.—Section 3102(2) of title 44, United States Code, is amended by striking “the Administrator of General Services and”.

SEC. 10. DISCLOSURE REQUIREMENT FOR OFFICIAL BUSINESS CONDUCTED USING NON-OFFICIAL ELECTRONIC MESSAGING ACCOUNT.

(a) AMENDMENT.—Chapter 29 of title 44, United States Code is amended by adding at the end the following new section:

“§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 within five 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.

“(c) DEFINITIONS.—In this section:

“(1) ELECTRONIC MESSAGES.—The term ‘electronic messages’ means electronic mail and other electronic messaging systems that are used for purposes of communicating between individuals.

“(2) ELECTRONIC MESSAGING ACCOUNT.—The term ‘electronic messaging account’ means any account that sends electronic messages.

“(3) EXECUTIVE AGENCY.—The term ‘executive agency’ has the meaning given that term in section 105 of title 5.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 29 of title 44, United States Code, is amended by adding at the end the following new item:

“2911. Disclosure requirement for official business conducted using non-official electronic messaging accounts”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. FARENTHOLD) and the gentleman from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. FARENTHOLD. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FARENTHOLD. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, H.R. 1233 would codify the existing executive order that requires former Presidents to appeal to incumbent Presidents to keep certain Presidential documents privileged under the Presidential Records Act.

This bill would lock into statute a process established by President Ronald Reagan in 1989, restored by President Obama in 2009, and used without controversy by four of the last five Presidents.

The bill would ensure greater transparency for the privilege extension requests by former Presidents and help prevent abuses of the system.

The bill does not expand the limits of executive privilege, nor would it give former Presidents custodial rights over their administration's Presidential records. Let me say that again to make perfectly clear, Mr. Speaker. The bill does not expand the limits of the executive privilege, nor does it give former Presidents custodial rights over their administrations' Presidential records.

What the bill does is shift the focus from the technology used to capture and store information to the information

itself. Historically, Federal recordkeeping has taken a medium-focused approach to keeping records. In a world where technological advances rapidly and equipment and software become obsolete in months instead of years, making agencies focus their efforts on preserving all information rather than the information in certain forms ensures a more robust historical record, and does so without constant legislative updating.

H.R. 1233 would also create a framework to end the all-too-common practice of executive branch employees using personal email, IM, instant messages, and similar technologies to engage in official Federal business. Specifically, the bill requires official business done on personal accounts be forwarded to an official account within 5 days and authorizes negative personnel actions against individuals who intentionally violate this disclosure requirement.

The bill also phases out paper-focused relics of the current Federal recordkeeping law. The bill would change the so-called 30-year presumption, which lets Federal agencies hold on to their records for a 30-year period before turning them over to the National Archives, a rule which, in the current environment, all but guarantees the information will disappear as the technology used to store that information changes. Imagine delivering punch cards today to the National Archives. It would be a massive challenge to try to make that in a readable form today. Betamax tapes, we see technology change and the need for this to be updated. It would also make it much easier for agencies to turn over their records to the National Archives sooner.

This bill would also eliminate the so-called print-to-file rule, which actually encourages agencies to print out their electronic files and send the paper to the National Archives. Archaic rules like these actually stand in the way of effective recordkeeping.

I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

First of all, I want to begin by thanking Chairman ISSA for supporting this legislation and for making this a bipartisan effort. The Presidential and Federal Records Act Amendments is aimed at giving the American people access to the records Presidents create while they are in office.

Under the Presidential Records Act, a President has discretion to restrict access to his records for up to 12 years after he leaves office. After that time, a President can continue to restrict access to his records by arguing that the records are protected by executive privilege.

The Presidential Records Act does not currently include guidelines for the consideration of Presidential privilege claims. This bill would amend the law by adding procedures to ensure the timely release of Presidential records.

Under the bill, current and former Presidents would have up to 90 days to object to release of records or those records would be released. The Presidential and Federal Records Act also would require that any assertion of privilege by a former President be affirmed by the incumbent President or through a court order.

The bill we are considering today also makes clear that the right to assert the privilege is personal to current and former Presidents, and that they not be bequeathed to assistants, relatives, or decedents. Putting this language into statute will ensure that future Presidents are held to the standard first set by President Reagan.

The chairman of the Oversight Committee, Representative DARRELL ISSA, added an amendment during the committee markup of the bill to address the use of personal email by Federal employees. There is nothing currently in the Presidential Records Act or the Federal Records Act that prohibits employees from using personal email accounts to conduct official business. These acts simply require preservation of these records. This bill will continue to allow employees to use their personal email account when necessary, but it would require employees to copy their official email account or forward their email to their official account.

This is a good government bill. Similar versions of this bill overwhelmingly passed the House in two previous Congresses. I urge my colleagues to support H.R. 1233 so the Senate can take it up quickly and so that it might be sent on to the President for his signature.

With that, I reserve the balance of my time.

Mr. FARENTHOLD. Mr. Speaker, I stand with Mr. CUMMINGS in supporting this good government bill that continues to preserve information from the Federal Government for historians and future generations, adapts to modern technology and closes the loophole with respect to private email accounts.

I am a huge supporter, happy we are working together in a bipartisan manner on these and other good government bills.

I continue to reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume as I close.

Again, I want to thank the gentleman for yielding. I want to thank our chairman and the members of our committee for making this happen.

Again, there are situations where we find the law needs clarification. This is one of those clarifying opportunities, and we have taken advantage of it in a bipartisan way. Again, I would urge all of our Members to vote in favor of this legislation.

With that, I yield back the balance of my time.

Mr. FARENTHOLD. Mr. Speaker, I join the gentleman from Maryland in urging my colleagues to support H.R. 1233, and I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. FARENTHOLD) that the House suspend the rules and pass the bill, H.R. 1233, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FARENTHOLD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 43 minutes p.m.), the House stood in recess.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HOLDING) at 5 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 2860, by the yeas and nays;

H.R. 1233, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The second electronic vote will be conducted as a 5-minute vote.

OPM IG ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 2860) to amend title 5, United States Code, to provide that the Inspector General of the Office of Personnel Management may use amounts in the revolving fund of the Office to fund audits, investigations, and oversight activities, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. FARENTHOLD) that the House suspend the rules and pass the bill.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 14, as follows:

[Roll No. 17]

YEAS—418

Aderholt	Diaz-Balart	Keating
Amash	Dingell	Kelly (IL)
Amodei	Doggett	Kelly (PA)
Andrews	Doyle	Kennedy
Bachmann	Duckworth	Kildee
Bachus	Duffy	Kilmer
Barber	Duncan (SC)	Kind
Barletta	Duncan (TN)	King (IA)
Barr	Edwards	King (NY)
Barrow (GA)	Ellison	Kinzinger (IL)
Barton	Ellmers	Kirkpatrick
Bass	Engel	Kline
Beatty	Enyart	Kuster
Becerra	Eshoo	Labrador
Benish	Esty	LaMalfa
Bentivoglio	Farenthold	Lamborn
Bera (CA)	Farr	Lance
Bilirakis	Fattah	Langevin
Bishop (GA)	Fincher	Lankford
Bishop (NY)	Fitzpatrick	Larsen (WA)
Bishop (UT)	Fleischmann	Larson (CT)
Black	Fleming	Latham
Blackburn	Flores	Latta
Blumenauer	Forbes	Lee (CA)
Bonamici	Fortenberry	Levin
Boustany	Poster	Lewis
Brady (PA)	Fox	Lipinski
Brady (TX)	Frankel (FL)	LoBiondo
Braley (IA)	Franks (AZ)	Loeb
Bridenstine	Frelinghuysen	Lofgren
Brooks (AL)	Fudge	Long
Brooks (IN)	Gallego	Lowenthal
Brown (GA)	Garamendi	Lowey
Brown (FL)	Garcia	Lucas
Brownley (CA)	Gardner	Luetkemeyer
Bucshon	Garrett	Lujan Grisham
Burgess	Gerlach	(NM)
Bustos	Gibbs	Lujan, Ben Ray
Butterfield	Gibson	(NM)
Byrne	Gingrey (GA)	Lummis
Calvert	Gohmert	Lynch
Camp	Goodlatte	Maffei
Campbell	Gosar	Maloney,
Cantor	Gowdy	Carolyn
Capito	Granger	Maloney, Sean
Capps	Graves (GA)	Marchant
Capuano	Graves (MO)	Marino
Cárdenas	Grayson	Massie
Carney	Green, Al	Matheson
Carson (IN)	Green, Gene	Matsui
Carter	Griffin (AR)	McAllister
Cartwright	Griffith (VA)	McCarthy (CA)
Cassidy	Grijalva	McCauley
Castor (FL)	Grimm	McClintock
Castro (TX)	Guthrie	McCollum
Chabot	Gutiérrez	McDermott
Chaffetz	Hahn	McGovern
Chu	Hall	McHenry
Cicilline	Hanabusa	McIntyre
Clark (MA)	Hanna	McKeon
Clarke (NY)	Harper	McKinley
Clay	Harris	McMorris
Clyburn	Hartzler	Rodgers
Coble	Hastings (FL)	McNerney
Coffman	Hastings (WA)	Meadows
Cohen	Heck (NV)	Meehan
Cole	Heck (WA)	Meeks
Collins (GA)	Hensarling	Meng
Collins (NY)	Herrera Beutler	Messer
Conaway	Higgins	Mica
Connolly	Himes	Michaud
Cook	Hinojosa	Miller (FL)
Cooper	Holding	Miller (MI)
Costa	Holt	Miller, Gary
Cotton	Honda	Miller, George
Courtney	Horsford	Moore
Cramer	Hoyer	Moran
Crawford	Hudson	Mullin
Crenshaw	Huelskamp	Mulvaney
Crowley	Huffman	Murphy (FL)
Cuellar	Huizenga (MI)	Murphy (PA)
Cummings	Hultgren	Nadler
Daines	Hunter	Napolitano
Davis (CA)	Hurt	Neal
Davis, Danny	Israel	Negrete McLeod
Davis, Rodney	Issa	Neugebauer
DeFazio	Jackson Lee	Noem
DeGette	Jeffries	Nolan
Delaney	Jenkins	Nugent
DeLauro	Johnson (GA)	Nunes
DelBene	Johnson (OH)	Nunnelee
Denham	Johnson, E. B.	O'Rourke
Dent	Johnson, Sam	Olson
DeSantis	Jordan	Owens
DesJarlais	Joyce	Palazzo
Deutch	Kaptur	Pascarella

Pastor (AZ)	Runyan	Thompson (PA)
Paulsen	Ryan (OH)	Thornberry
Pearce	Ryan (WI)	Tiberi
Pelosi	Salmon	Tierney
Perlmutter	Sánchez, Linda	Tipton
Perry	T.	Titus
Peters (CA)	Sanchez, Loretta	Tonko
Peters (MI)	Sanford	Tsongas
Peterson	Sarbanes	Turner
Petri	Scalise	Upton
Pingree (ME)	Schakowsky	Valadao
Pittenger	Schiff	Van Hollen
Pitts	Schneider	Vargas
Pocan	Schock	Veasey
Poe (TX)	Schrader	Vela
Polis	Schwartz	Velázquez
Pompeo	Schweikert	Visclosky
Posey	Scott (VA)	Wagner
Price (GA)	Scott, Austin	Walberg
Price (NC)	Scott, David	Walden
Quigley	Sensenbrenner	Walorski
Radel	Serrano	Walz
Rahall	Sessions	Wasserman
Rangel	Sewell (AL)	Schultz
Reed	Shea-Porter	Waters
Reichert	Sherman	Waxman
Renacci	Shimkus	Weber (TX)
Ribble	Shuster	Webster (FL)
Rice (SC)	Simpson	Welch
Richmond	Sinema	Westmoreland
Rigell	Slaughter	Whitfield
Roby	Smith (MO)	Williams
Roe (TN)	Smith (NE)	Wilson (FL)
Rogers (AL)	Smith (NJ)	Wilson (SC)
Rogers (KY)	Smith (TX)	Wittman
Rogers (MI)	Smith (WA)	Wolf
Rohrabacher	Southerland	Womack
Rokita	Speier	Woodall
Rooney	Stewart	Yarmuth
Ros-Lehtinen	Stivers	Yoder
Roskam	Stutzman	Yoho
Ross	Swalwell (CA)	Young (AK)
Rothfus	Takano	Young (IN)
Roybal-Allard	Terry	
Royce	Thompson (CA)	
Ruiz	Thompson (MS)	

NOT VOTING—14

Buchanan	Jones	Ruppersberger
Cleaver	Kingston	Rush
Conyers	McCarthy (NY)	Sires
Culberson	Pallone	Stockman
Gabbard	Payne	

□ 1727

Ms. DUCKWORTH and Mr. GRIJALVA changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRESIDENTIAL AND FEDERAL RECORDS ACT AMENDMENTS OF 2014

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (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, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. FARENTHOLD) that the House suspend the rules and pass the bill, as amended.

This will be a 5-minute vote.