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(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R. 1234

To amend title 44, United States Code, to require preservation of certain electronic records by Federal agencies, to require a certification and reports relating to Presidential records, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CUMMINGS introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 44, United States Code, to require preservation of certain electronic records by Federal agencies, to require a certification and reports relating to 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.**

4 This Act may be cited as the “Electronic Message
5 Preservation Act”.

1 **SEC. 2. RECORDS MANAGEMENT.**

2 (a) REQUIREMENT FOR PRESERVATION OF ELEC-
3 TRONIC MESSAGES.—

4 (1) IN GENERAL.—Chapter 29 of title 44,
5 United States Code, is amended by adding at the
6 end the following new section:

7 **“§ 2911. Preservation of electronic messages and**
8 **other records**

9 “(a) REGULATIONS REQUIRED.—Not later than 18
10 months after the date of the enactment of this section,
11 the Archivist shall promulgate regulations governing Fed-
12 eral agency preservation of electronic messages that are
13 determined to be records (as such term is defined under
14 section 3301 of this title). Such regulations shall, at a
15 minimum—

16 “(1) require the electronic capture, manage-
17 ment, and preservation of such electronic records in
18 accordance with the records disposition requirements
19 of chapter 33 of this title;

20 “(2) require that such electronic records are
21 readily accessible for retrieval through electronic
22 searches;

23 “(3) establish mandatory minimum functional
24 requirements for electronic records management sys-
25 tems to ensure compliance with the requirements in
26 paragraphs (1) and (2);

1 “(4) establish a process to certify that Federal
2 agencies’ electronic records management systems
3 meet the functional requirements established under
4 paragraph (3); and

5 “(5) include timelines for Federal agency com-
6 pliance with the regulations that ensure compliance
7 as expeditiously as practicable but not later than
8 four years after the date of the enactment of this
9 section.

10 “(b) COVERAGE OF OTHER ELECTRONIC
11 RECORDS.—To the extent practicable, the regulations pro-
12 mulgated under subsection (a) shall also include require-
13 ments for the capture, management, and preservation of
14 other electronic records.

15 “(c) COMPLIANCE BY FEDERAL AGENCIES.—Each
16 Federal agency shall comply with the regulations promul-
17 gated under subsection (a).

18 “(d) REVIEW OF REGULATIONS REQUIRED.—The
19 Archivist shall periodically review and, as necessary,
20 amend the regulations promulgated under subsection (a).

21 “(e) REPORTS ON IMPLEMENTATION OF REGULA-
22 TIONS.—

23 “(1) AGENCY REPORT TO ARCHIVIST.—Not
24 later than four years after the date of the enactment
25 of this section, the head of each Federal agency shall

1 submit to the Archivist a report on the agency's
2 compliance with the regulations promulgated under
3 this section.

4 “(2) ARCHIVIST REPORT TO CONGRESS.—Not
5 later than 90 days after receipt of all reports re-
6 quired by paragraph (1), the Archivist shall submit
7 to the Committee on Homeland Security and Gov-
8 ernmental Affairs of the Senate and the Committee
9 on Oversight and Government Reform of the House
10 of Representatives a report on Federal agency com-
11 pliance with the regulations promulgated under sub-
12 section (a).”.

13 (2) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of chapter 29 of title 44,
15 United States Code, is amended by adding after the
16 item relating to section 2910 the following new item:

“2911. Preservation of electronic messages and other records.”.

17 (b) DEFINITIONS.—Section 2901 of title 44, United
18 States Code, is amended—

19 (1) by striking “and” at the end of paragraph
20 (14); and

21 (2) by striking paragraph (15) and inserting
22 the following new paragraphs:

23 “(15) the term ‘electronic messages’ means
24 electronic mail and other electronic messaging sys-

1 tems that are used for purposes of communicating
2 between individuals; and

3 “(16) the term ‘electronic records management
4 system’ means software designed to manage elec-
5 tronic records, including by—

6 “(A) categorizing and locating records;

7 “(B) ensuring that records are retained as
8 long as necessary;

9 “(C) identifying records that are due for
10 disposition; and

11 “(D) ensuring the storage, retrieval, and
12 disposition of records.”.

13 **SEC. 3. PRESIDENTIAL RECORDS.**

14 (a) **ADDITIONAL REGULATIONS RELATING TO PRESI-**
15 **DENTIAL RECORDS.—**

16 (1) **IN GENERAL.**—Section 2206 of title 44,
17 United States Code, is amended—

18 (A) by striking “and” at the end of para-
19 graph (3);

20 (B) by striking the period at the end of
21 paragraph (4) and inserting “; and”; and

22 (C) by adding at the end the following:

23 “(5) provisions for establishing standards nec-
24 essary for the economical and efficient management

1 of electronic Presidential records during the Presi-
2 dent's term of office, including—

3 “(A) records management controls nec-
4 essary for the capture, management, and pres-
5 ervation of electronic messages;

6 “(B) records management controls nec-
7 essary to ensure that electronic messages are
8 readily accessible for retrieval through elec-
9 tronic searches; and

10 “(C) a process to certify the electronic
11 records management system to be used by the
12 President for the purposes of complying with
13 the requirements in subparagraphs (A) and
14 (B).”.

15 (2) DEFINITIONS.—Section 2201 of title 44,
16 United States Code, is amended by adding at the
17 end the following new paragraphs:

18 “(6) The term ‘electronic messages’ has the
19 meaning given that term under section 2901(15) of
20 this title.

21 “(7) The term ‘electronic records management
22 system’ has the meaning given that term under sec-
23 tion 2901(16) of this title.”.

24 (b) CERTIFICATION OF PRESIDENT'S MANAGEMENT
25 OF PRESIDENTIAL RECORDS.—

1 (1) CERTIFICATION REQUIRED.—Chapter 22 of
2 title 44, United States Code, is amended by adding
3 at the end the following new section:

4 **“§ 2208. Certification of the President’s management**
5 **of Presidential records**

6 “(a) ANNUAL CERTIFICATION.—The Archivist shall
7 annually certify whether the electronic records manage-
8 ment controls established by the President meet require-
9 ments under sections 2203(a) and 2206(5) of this title.

10 “(b) REPORT TO CONGRESS.—The Archivist shall re-
11 port annually to the Committee on Homeland Security and
12 Governmental Affairs of the Senate and the Committee
13 on Oversight and Government Reform of the House of
14 Representatives on the status of the certification.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions at the beginning of chapter 22 of title 44,
17 United States Code, as amended by subsection
18 (a)(4), is further amended by adding at the end the
19 following new item:

 “2208. Certification of the President’s management of Presidential records.”.

20 (c) REPORT TO CONGRESS.—Section 2203(f) of title
21 44, United States Code, is amended by adding at the end
22 the following:

23 “(4) One year following the conclusion of a Presi-
24 dent’s term of office, or if a President serves consecutive
25 terms one year following the conclusion of the last term,

1 the Archivist shall submit to the Committee on Homeland
2 Security and Governmental Affairs of the Senate and the
3 Committee on Oversight and Government Reform of the
4 House of Representatives a report on—

5 “(A) the volume and format of electronic Presi-
6 dential records deposited into that President’s Presi-
7 dential archival depository; and

8 “(B) whether the electronic records manage-
9 ment controls of that President met the require-
10 ments under sections 2203(a) and 2206(5) of this
11 title.”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect one year after the date of
14 the enactment of this Act.