

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1582

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Electronic Message  
3 Preservation Act”.

4 **SEC. 2. PRESERVATION OF ELECTRONIC MESSAGES AND**  
5 **OTHER RECORDS.**

6 (a) REQUIREMENT FOR PRESERVATION OF ELEC-  
7 TRONIC MESSAGES.—Chapter 29 of title 44, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing new section:

10 **“§ 2912. Preservation of electronic messages and**  
11 **other records**

12 “(a) REGULATIONS REQUIRED.—The Archivist shall  
13 promulgate regulations governing Federal agency preser-  
14 vation of electronic messages that are determined to be  
15 records. Such regulations shall, at a 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;

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

23 “(3) include timelines for Federal agency imple-  
24 mentation of the regulations that ensure compliance  
25 as expeditiously as practicable.

1       “(b) ENSURING COMPLIANCE.—The Archivist shall  
2 promulgate regulations that—

3               “(1) establish mandatory minimum functional  
4 requirements for electronic records management sys-  
5 tems to ensure compliance with the requirements in  
6 paragraphs (1) and (2) of subsection (a); and

7               “(2) establish a process to ensure that the elec-  
8 tronic records management system of each Federal  
9 agency meets the functional requirements estab-  
10 lished under paragraph (1).

11       “(c) COVERAGE OF OTHER ELECTRONIC  
12 RECORDS.—To the extent practicable, the regulations pro-  
13 mulgated under subsections (a) and (b) shall also include  
14 requirements for the capture, management, and preserva-  
15 tion of other electronic records.

16       “(d) COMPLIANCE BY FEDERAL AGENCIES.—Each  
17 Federal agency shall comply with the regulations promul-  
18 gated under subsections (a) and (b).

19       “(e) REVIEW OF REGULATIONS REQUIRED.—The Ar-  
20 chivist shall periodically review and, as necessary, amend  
21 the regulations promulgated under subsections (a) and  
22 (b).”.

23       (b) DEADLINE FOR REGULATIONS.—

24               (1) PRESERVATION OF ELECTRONIC MES-  
25 SAGES.—Not later than 120 days after the date of

1 the enactment of this Act, the Archivist shall pro-  
2 mulgate the regulations required under section  
3 2912(a) of title 44, United States Code, as added by  
4 subsection (a).

5 (2) ENSURING COMPLIANCE.—Not later than 2  
6 years after the date of the enactment of this Act, the  
7 Archivist shall promulgate the regulations required  
8 under section 2912(b) of title 44, United States  
9 Code, as added by subsection (a).

10 (c) REPORTS ON IMPLEMENTATION OF REGULA-  
11 TIONS.—

12 (1) AGENCY REPORT TO ARCHIVIST.—Not later  
13 than 1 year after the date of the enactment of this  
14 Act, the head of each Federal agency shall submit  
15 to the Archivist a report on the agency's compliance  
16 with the regulations promulgated under section 2912  
17 of title 44, United States Code, as added by sub-  
18 section (a), and shall make the report publicly avail-  
19 able on the website of the agency.

20 (2) ARCHIVIST REPORT TO CONGRESS.—Not  
21 later than 90 days after receipt of all reports re-  
22 quired by paragraph (1), the Archivist shall submit  
23 to the Committee on Homeland Security and Gov-  
24 ernmental Affairs of the Senate and the Committee  
25 on Oversight and Reform of the House of Represent-

1 atives a report on Federal agency compliance with  
2 the regulations promulgated under section 2912(a)  
3 of title 44, United States Code, as added by sub-  
4 section (a), and shall make the report publicly avail-  
5 able on the website of the agency.

6 (3) FEDERAL AGENCY DEFINED.—In this sub-  
7 section, the term “Federal agency” has the meaning  
8 given that term in section 2901 of title 44, United  
9 States Code.

10 (d) CLERICAL AMENDMENT.—The table of sections  
11 at the beginning of chapter 29 of title 44, United States  
12 Code, is amended by adding after the item relating to sec-  
13 tion 2911 the following new item:

“2912. Preservation of electronic messages and other records.”.

14 (e) DEFINITIONS.—Section 2901 of title 44, United  
15 States Code, is amended—

16 (1) by striking “and” at the end of paragraph  
17 (14); and

18 (2) by striking paragraph (15) and inserting  
19 the following new paragraphs:

20 “(15) the term ‘electronic messages’ means  
21 electronic mail and other electronic messaging sys-  
22 tems that are used for purposes of communicating  
23 between individuals; and

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

4                   “(A) categorizing and locating records;

5                   “(B) ensuring that records are retained as  
6           long as necessary;

7                   “(C) identifying records that are due for  
8           disposition; and

9                   “(D) ensuring the storage, retrieval, and  
10          disposition of records.”.

11 **SEC. 3. PRESIDENTIAL RECORDS.**

12          (a) **ADDITIONAL REGULATIONS RELATING TO PRESI-**  
13 **DENTIAL RECORDS.—**

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

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

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

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

21                   “(5) provisions for establishing standards nec-  
22                  essary for the economical and efficient management  
23                  of electronic Presidential records during the Presi-  
24                  dent’s term of office, including—

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

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

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

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

16                 “(6) The term ‘electronic messages’ has the  
17                 meaning given that term under section 2901(15).

18                 “(7) The term ‘electronic records management  
19                 system’ has the meaning given that term under sec-  
20                 tion 2901(16).”.

21          (b) CERTIFICATION OF PRESIDENT’S MANAGEMENT  
22          OF PRESIDENTIAL RECORDS.—

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

1 **“§ 2210. Certification of the President’s management**  
2 **of Presidential records**

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

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

12 (2) CLERICAL AMENDMENT.—The table of sec-  
13 tions at the beginning of chapter 22 of title 44,  
14 United States Code, is amended by adding at the  
15 end the following new item:

“2210. Certification of the President’s management of Presidential  
records.”.

16 (c) REPORT TO CONGRESS.—Section 2203(g) of title  
17 44, United States Code, is amended by adding at the end  
18 the following new paragraph:

19 “(5) One year following the conclusion of a Presi-  
20 dent’s term of office, or if a President serves consecutive  
21 terms 1 year following the conclusion of the last term, the  
22 Archivist shall submit to the Committee on Homeland Se-  
23 curity and Governmental Affairs of the Senate and the



1 Committee on Oversight and Reform of the House of Rep-  
2 resentatives a report on—

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

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

9 (d) EFFECTIVE DATE.—The amendments made by  
10 this section shall take effect 1 year after the date of the  
11 enactment of this Act.

12 **SEC. 4. DETERMINATION OF BUDGETARY EFFECTS.**

13 The budgetary effects of this Act, for the purpose of  
14 complying with the Statutory Pay-As-You-Go Act of 2010,  
15 shall be determined by reference to the latest statement  
16 titled “Budgetary Effects of PAYGO Legislation” for this  
17 Act, submitted for printing in the Congressional Record  
18 by the Chairman of the House Budget Committee, pro-  
19 vided that such statement has been submitted prior to the  
20 vote on passage.

Passed the House of Representatives March 12,  
2019.

Attest:

*Clerk.*

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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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.