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(Original Signature of Member)

113TH CONGRESS  
2D SESSION

# H. R.

To improve Federal employee compliance with the Federal and Presidential recordkeeping requirements, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. MEADOWS introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To improve Federal employee compliance with the Federal and Presidential recordkeeping requirements, and for other purposes.

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

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

4 (a) IN GENERAL.—This Act may be cited as the  
5 “Federal Records Accountability Act of 2014”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Removal for deliberate destruction of Federal records.

Sec. 3. Use of non-official electronic messaging accounts.

Sec. 4. Reporting of the loss or potential loss of records.

Sec. 5. Senior Agency Official for Records Compliance.

1 **SEC. 2. REMOVAL FOR DELIBERATE DESTRUCTION OF FED-**  
2 **ERAL RECORDS.**

3 (a) IN GENERAL.—Chapter 75 of title 5, United  
4 States Code, is amended by adding after subchapter V the  
5 following:

6 “SUBCHAPTER VI—FEDERAL RECORDS

7 “§ 7551. Definitions

8 “In this subchapter the following definitions apply:

9 “(1) EMPLOYEE.—The term ‘employee’  
10 means—

11 “(A) an individual in the competitive serv-  
12 ice who is not serving a probationary or trial  
13 period under an initial appointment or who has  
14 completed 1 year of current continuous employ-  
15 ment in the same or similar positions under  
16 other than a temporary appointment limited to  
17 1 year or less; or

18 “(B) a career appointee in the Senior Ex-  
19 ecutive Service who—

20 “(i) has completed the probationary  
21 period prescribed under section 3393(d) of  
22 this title; or

23 “(ii) was covered by the provisions of  
24 subchapter II of this chapter immediately

1                   before appointment to the Senior Executive  
2                   Service.

3                   “(2) SUSPENSION.—The term ‘suspension’ has  
4                   the meaning given that term in section 7501 of this  
5                   title.

6   **“§ 7552. Suspension and removal**

7                   “(a) INSPECTOR GENERAL FINDING.—If the Inspec-  
8                   tor General of an agency determines an employee of the  
9                   agency has willfully and unlawfully concealed, removed,  
10                  mutilated, obliterated, falsified, or destroyed any record,  
11                  proceeding, map, book, document, paper, or other thing  
12                  in the custody of such employee, or verifies a violation  
13                  under section 2208 or 2911 of title 44, the Inspector Gen-  
14                  eral shall promptly inform the head of the agency of that  
15                  determination in writing.

16                  “(b) SUSPENSION.—Notwithstanding any other pro-  
17                  vision of law, the head of an agency shall suspend an em-  
18                  ployee of that agency who has been determined by the In-  
19                  spector General under subsection (a) to have willfully and  
20                  unlawfully concealed, removed, mutilated, obliterated, fal-  
21                  sified, or destroyed any record, proceeding, map, book,  
22                  document, paper, or other thing in the custody of such  
23                  employee, or who has been verified by the Inspector Gen-  
24                  eral to be in violation of section 2208 or 2911 of title 44.

1       “(c) REQUIREMENTS AFTER SUSPENSION.—An em-  
2 ployee suspended under subsection (b) is entitled, after  
3 suspension and before removal, to—

4           “(1) be represented by an attorney or other  
5 representative;

6           “(2) a written statement of the charges against  
7 the employee within 15 days after suspension, which  
8 may be amended within 30 days thereafter;

9           “(3) an opportunity within 15 days after the re-  
10 ceipt of the written statement under paragraph (2),  
11 plus an additional 15 days if the charges are amend-  
12 ed, to answer the charges and submit affidavits;

13           “(4) a hearing, at the request of the employee,  
14 by an agency authority duly constituted for this pur-  
15 pose;

16           “(5) a review of the employee’s case by the  
17 head of the agency or a designee, before a decision  
18 adverse to the employee is made final; and

19           “(6) a written statement of the decision of the  
20 head of the agency.

21       “(d) REMOVAL.—Subject to subsection (c) of this  
22 section and after any investigation and review the head  
23 of the agency considers necessary, the head of an agency  
24 shall remove an employee suspended under subsection (b)  
25 if such head determines that the employee willfully and

1 unlawfully concealed, removed, mutilated, obliterated, fal-  
2 sified, or destroyed any record, proceeding, map, book,  
3 document, paper, or other thing in the custody of such  
4 employee.

5 “(e) APPEAL.—An employee who is removed under  
6 subsection (d) is entitled to appeal to the Merit Systems  
7 Protection Board under section 7701 of this title.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

9 (1) TABLE OF SUBCHAPTERS.—The table of  
10 subchapters for chapter 75 of title 5, United States  
11 Code, is amended by adding at the end the following  
12 new items:

“SUBCHAPTER VI—FEDERAL RECORDS

“7551. Definitions.

“7552. Suspension and removal.”.

13 (2) SUBCHAPTER II APPLICABILITY.—Section  
14 7512 of such title is amended—

15 (A) in subparagraph (D), by striking “or”  
16 at the end;

17 (B) in subparagraph (E), by striking the  
18 period at the end and inserting “, or”; and

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

20 “(F) a suspension or removal under sec-  
21 tion 7552 of this title.”.

1 **SEC. 3. USE OF NON-OFFICIAL ELECTRONIC MESSAGING**  
2 **ACCOUNTS.**

3 (a) PRESIDENTIAL RECORDS ACT.—Chapter 22 of  
4 title 44, United States Code is amended by adding at the  
5 end the following new section:

6 **“§ 2208. Disclosure requirement for official business**  
7 **conducted using non-official electronic**  
8 **messaging accounts**

9 “(a) IN GENERAL.—The President, Vice President,  
10 or covered employee may not create or send a Presidential  
11 or Vice Presidential record using a non-official electronic  
12 messaging account (in this section, referred to as ‘applica-  
13 ble electronic message’) unless the President, Vice Presi-  
14 dent, or covered employee—

15 “(1) includes an official electronic messaging  
16 account of the President, Vice President, or covered  
17 employee, as applicable, as a recipient in the original  
18 creation or transmission of the applicable electronic  
19 message and identifies all recipients of the applicable  
20 electronic message in such message;

21 “(2) forwards a complete copy of the applicable  
22 electronic message, including a complete list of the  
23 recipients of such message, to an official electronic  
24 messaging account of the President, Vice President,  
25 or covered employee, as applicable, within fifteen

1 days after the original creation or transmission of  
2 the message; or

3 “(3) prints a complete copy of the applicable  
4 electronic message, including a complete list of the  
5 recipients of such message, and submits the message  
6 to the appropriate location or individual for appro-  
7 priate archival storage by the Executive Office of the  
8 President within fifteen days after the original cre-  
9 ation or transmission of the message.

10 “(b) ADVERSE ACTIONS.—An intentional violation of  
11 subsection (a) (including any rules, regulations, or other  
12 implementing guidelines) by a covered employee, as deter-  
13 mined by the appropriate supervisor, shall be forwarded  
14 to the Inspector General of the agency for a verification  
15 of the violation, and upon verification, shall be subject to  
16 the suspension and removal provisions under section 7552  
17 of title 5.

18 “(c) DEFINITIONS.—In this section:

19 “(1) COVERED EMPLOYEE.—The term ‘covered  
20 employee’ means—

21 “(A) the immediate staff of the President;

22 “(B) the immediate staff of the Vice Presi-  
23 dent;

1           “(C) an individual of the Executive Office  
2 of the President whose function is to advise and  
3 assist the President; or

4           “(D) an individual of the Office of the Vice  
5 President whose function is to advise and assist  
6 the Vice President.

7           “(2) ELECTRONIC MESSAGE.—The term ‘elec-  
8 tronic message’ means electronic mail and all other  
9 means by which individuals and groups may commu-  
10 nicate with each other electronically.

11           “(2) ELECTRONIC MESSAGING ACCOUNT.—The  
12 term ‘electronic messaging account’ means any ac-  
13 count that sends an electronic message.”.

14           (b) FEDERAL RECORDS.—Chapter 29 of title 44,  
15 United States Code is amended by adding at the end the  
16 following new section:

17           “§ 2911. **Disclosure requirement for official business**  
18                           **conducted using non-official electronic**  
19                           **messaging accounts**

20           “(a) IN GENERAL.—An officer or employee of a Fed-  
21 eral agency may not create or send a record using a non-  
22 official electronic messaging account (in this section, re-  
23 ferred to as ‘applicable electronic message’) unless such  
24 officer or employee—



1           “(1) includes an official electronic messaging  
2           account of the officer or employee as a recipient in  
3           the original creation or transmission of the applica-  
4           ble electronic message and identifies all recipients of  
5           the applicable electronic message in such message;

6           “(2) forwards a complete copy of the applicable  
7           electronic message, including a complete list of the  
8           recipients of such message, to an official electronic  
9           messaging account of the officer or employee within  
10          fifteen days after the original creation or trans-  
11          mission of the record; or

12          “(3) prints a complete copy of the applicable  
13          electronic message, including a complete list of the  
14          recipients of such message, and submits it to the ap-  
15          propriate location or individual for appropriate ar-  
16          chival storage by the Federal agency within fifteen  
17          days after the original creation or transmission of  
18          the message.

19          “(b) ADVERSE ACTIONS.—An intentional violation of  
20          subsection (a) (including any rules, regulations, or other  
21          implementing guidelines) by an officer or employee of a  
22          Federal agency, as determined by the appropriate super-  
23          visor, shall be forwarded to the Inspector General of the  
24          agency for a verification of the violation, and upon

1 verification, shall be subject to the suspension and removal  
2 provisions under section 7552 of title 5.

3 “(c) DEFINITIONS.—In this section:

4 “(1) ELECTRONIC MESSAGE.—The term ‘elec-  
5 tronic message’ means electronic mail and all other  
6 means by which individuals and groups may commu-  
7 nicate with each other electronically.

8 “(2) ELECTRONIC MESSAGING ACCOUNT.—The  
9 term ‘electronic messaging account’ means any ac-  
10 count that sends an electronic message.”.

11 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

12 (1) CHAPTER 22.—The table of sections at the  
13 beginning of chapter 22 of title 44, United States  
14 Code, is amended by adding at the end the following  
15 new item:

“2208. Disclosure requirement for official business conducted using non-official  
electronic messaging accounts.”.

16 (2) CHAPTER 29.—The table of sections at the  
17 beginning of chapter 29 of title 44, United States  
18 Code, is amended by adding at the end the following  
19 new item:

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

20 **SEC. 4. REPORTING OF THE LOSS OR POTENTIAL LOSS OF**  
21 **RECORDS.**

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

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

2 “(a) NOTIFICATION.—

3 “(1) ARCHIVIST AND PUBLIC NOTIFICATION.—

4 Whenever the actual, impending, or threatened un-  
5 lawful concealment, removal, mutilation, obliteration,  
6 falsification, or destruction of any record, pro-  
7 ceeding, map, book, document, paper, or other thing  
8 in the custody of an agency comes to the attention  
9 of the head of the Federal agency, the head of the  
10 agency shall—

11 “(A) notify the Archivist; and

12 “(B) publish a general description of the  
13 records at risk or that have been lost on the  
14 website of the agency.

15 “(2) AGENCY NOTIFICATION.—Whenever the  
16 actual, impending, or threatened unlawful conceal-  
17 ment, removal, mutilation, obliteration, falsification,  
18 or destruction of any record, proceeding, map, book,  
19 document, paper, or other thing in the custody of an  
20 agency comes to the attention of a Senior Agency  
21 Official for Records Management, such official shall  
22 immediately notify the head of the agency.

23 “(b) RECLAMATION OF RECORDS.—With the assist-  
24 ance of the Archivist, the head of a Federal agency shall  
25 initiate action through the Attorney General for the recov-  
26 ery of records the head knows or has reason to believe

1 have been unlawfully removed from the agency, or from  
2 another Federal agency whose records have been trans-  
3 ferred to the legal custody of such head.

4 “(c) ACTION BY THE ARCHIVIST.—In any case in  
5 which the head of the agency does not initiate an action  
6 for the recovery of records described in subsection (b) or  
7 other redress within a reasonable period of time after  
8 being notified of any such unlawful removal, the Archivist  
9 shall request the Attorney General to initiate an action  
10 described in subsection (b), and shall notify the Congress  
11 not later than 5 days after the date on which such a re-  
12 quest has been submitted to the Attorney General.”.

13 **SEC. 5. SENIOR AGENCY OFFICIAL FOR RECORDS COMPLI-**  
14 **ANCE.**

15 (a) SENIOR AGENCY OFFICIAL.—Chapter 31 of title  
16 44, United States Code, is amended by adding at the end  
17 the following new section:

18 **“§ 3108. Senior Agency Official for Records Compli-**  
19 **ance**

20 “(a) DESIGNATION.—Not later than November 15,  
21 2014, the head of each Federal agency shall designate a  
22 Senior Agency Official for Records Management, and not  
23 later than November 15 of each year thereafter the head  
24 of each Federal agency shall reaffirm or designate a new  
25 Senior Agency Official for Records Management.

1       “(b) **AUTHORITIES AND RESPONSIBILITIES.**—The  
2 Senior Agency Official for Records Management shall—

3           “(1) be at least at the level of an Assistant Sec-  
4 retary or the equivalent; and

5           “(2) be responsible for the coordinating with  
6 the appropriate Agency Records Officer and appro-  
7 priate agency officials to ensure compliance with all  
8 applicable records management statutes, regulations,  
9 and any guidance issued by the Archivist.

10       “(c) **FEDERAL AGENCY COORDINATION.**—In addition  
11 to the designation made pursuant to subsection (a), the  
12 head of a Federal agency may designate additional Senior  
13 Agency Officials for Records Management as the head of  
14 the agency determines to be necessary.”.

15       (b) **TECHNICAL AND CONFORMING AMENDMENT.**—  
16 The table of sections at the beginning of chapter 31 of  
17 title 44, United States Code, is amended by adding at the  
18 end the following new item:

“3108. Senior Agency Official for Records Compliance.”.