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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend chapter 22 of title 44, United States Code, to ensure Presidential records are preserved, duly created when non-official electronic messaging accounts are used, and made available to the public and the next administration in a timely fashion to advance national security and accountability, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

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

\_\_\_\_\_  
**A BILL**

To amend chapter 22 of title 44, United States Code, to ensure Presidential records are preserved, duly created when non-official electronic messaging accounts are used, and made available to the public and the next administration in a timely fashion to advance national security and accountability, 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 “Promoting Account-  
3 ability and Security in Transitions Act of 2023” or the  
4 “PAST Act of 2023”.

5 **SEC. 2. SENSE OF CONGRESS.**

6 The sense of Congress is the following:

7 (1) The preservation of Presidential records (as  
8 defined in section 2201 of title 44, United States  
9 Code) is a legal obligation for every Presidential ad-  
10 ministration, as Presidential records are the most  
11 important and widely used source for studying how  
12 the executive branch of the Federal Government  
13 works, how it has changed over time, and how it  
14 might evolve to serve the needs of a new era.

15 (2) The preservation of Presidential records is  
16 therefore vital for—

17 (A) the public to be able to understand  
18 and learn from the past;

19 (B) future policymaking to build on the  
20 past administration’s successes and experience;

21 (C) ensuring accountability for results,  
22 performance, and conduct; and

23 (D) other purposes that serve to strength-  
24 en American democracy.

1           (3) Any effort to destroy, alter, or remove Pres-  
2           idential records in violation of chapter 22 of title 44,  
3           United States Code—

4                   (A) threatens the values described in para-  
5                   graph (2); and

6                   (B) may subject a person engaging in such  
7                   efforts to other criminal penalties under section  
8                   641 or 2071 of title 18, United States Code.

9           (4) The lawful disposal of Presidential records  
10           that no longer have administrative, historical, infor-  
11           mational, or evidentiary value must follow a process  
12           as described in section 2203 of title 44, United  
13           States Code.

14           (5) What constitutes a Presidential record is  
15           determined solely by whether the record relates to  
16           the “carrying out of constitutional, statutory, or  
17           other official or ceremonial duties of the President”,  
18           as indicated in the definition of the term “Presi-  
19           dential records” in section 2201 of title 44, United  
20           States Code, and by the content of the information  
21           contained in the record.

22           (6) For communication between agencies and  
23           the Executive Office of the President, the copy of  
24           the record belonging to the agency is retained as an

1 agency record pursuant to section 3301 of title 44,  
2 United States Code.

3 (7) Consistent with section 2203 of title 44,  
4 United States Code, any Presidential records created  
5 with non-official electronic media shall be “pre-  
6 served”, which includes a comprehensive documenta-  
7 tion of all records and associated metadata and at-  
8 tachments.

9 (8) Applications or software with an automatic  
10 deleting functionality are antithetical to the legal  
11 and historical obligations described under chapter 22  
12 of title 44, United States Code.

13 (9) Periods of Presidential transition are mo-  
14 ments where the national security of the United  
15 States is most vulnerable, necessitating an early,  
16 good faith, and consistent commitment by the out-  
17 going administration to ensure continuity of oper-  
18 ations as it relates to national security and pro-  
19 tecting critical infrastructure, among other reasons.

20 (10) Agencies and the Executive Office of the  
21 President are required by law to cooperate with the  
22 Archivist of the United States and the Federal  
23 Transition Coordinator of the General Service Ad-  
24 ministration, who is tasked with ensuring agencies  
25 comply with all statutory requirements relating to

1 transition planning under section 4(c) of the Presi-  
2 dential Transition Act of 1963 (3 U.S.C. 102 note).

3 (11) During a Presidential transition, Presi-  
4 dential records, which contain valuable information  
5 regarding agreements or negotiations with foreign  
6 governments and international organizations and the  
7 actions and beliefs of foreign nations or actors are  
8 of enormous value to the national security.

9 (12) Any effort to delay briefings, coordination,  
10 and sharing information regarding key national se-  
11 curity relationships, threats, and operations with an  
12 incoming administration or the destruction, removal,  
13 or alteration of Presidential records that attest to  
14 the information described in this section could pose  
15 a grave danger to the national security.

16 (13) An expeditious ascertainment of the plau-  
17 sible President-elect and Vice-President-elect by the  
18 Administrator of General Services plays a vital role  
19 in ensuring continuity of Government and protecting  
20 national security such that the risk of redundant ex-  
21 penditure is overwhelmed by the advantages of an  
22 early access to transition resources to allow for tran-  
23 sition planning.

24 (14) The National Archives and Records Ad-  
25 ministration plays an essential role in ensuring the

1 official proceedings of Government are documented  
2 to improve democracy in the United States, protect  
3 national security, provide continuity of Government  
4 during a transition, and promote accountability for  
5 actions taking during a Presidency.

6 (15) The robust funding of the National Ar-  
7 chives and Records Administration and protection of  
8 its officers and employees from political interference  
9 is a national imperative and must be a priority for  
10 Congress.

11 **SEC. 3. DEFINITIONS.**

12 Section 2201 of title 44, United States Code, is  
13 amended—

14 (1) in paragraph (1), by inserting “, and in-  
15 cludes the metadata associated with all such mate-  
16 rial” before the period; and

17 (2) by adding at the end the following:

18 “(6) The term ‘electronic messaging account’  
19 includes electronic mail, chat or instant messaging,  
20 text messaging, voicemail messaging, and other mes-  
21 saging platforms or apps, such as social media or  
22 mobile applications, among other applications.

23 “(7) The term ‘official electronic messaging ac-  
24 count’ includes electronic messaging accounts pro-

1 vided by an executive agency or the Executive Office  
2 of the President.

3 “(8) The term ‘dispose’, with respect to docu-  
4 mentary material, means to remove, deface, alter,  
5 corrupt, delete, erase, or otherwise destroy the docu-  
6 mentary material.”.

7 **SEC. 4. MANAGEMENT AND CUSTODY OF PRESIDENTIAL**  
8 **RECORDS.**

9 (a) IN GENERAL.—Section 2203 of title 44, United  
10 States Code, is amended—

11 (1) by redesignating subsections (e), (f), and  
12 (g) as subsections (g), (h), and (i), respectively;

13 (2) by redesignating subsection (d) as sub-  
14 section (e);

15 (3) by striking subsection (c) and inserting the  
16 following:

17 “(c) The President shall obtain the advice of the Ar-  
18 chivist in applying standards, procedures, and techniques  
19 designed to—

20 “(1) improve the management of records;

21 “(2) promote the maintenance and security of  
22 records determined appropriate for preservation; and

23 “(3) facilitate the segregation and disposal of  
24 records of temporary value.

1           “(d)(1) During the President’s term of office, if the  
2 President wishes to dispose of those Presidential records  
3 of such President that no longer have administrative, his-  
4 torical, informational, or evidentiary value—

5           “(A) the President shall request, in writing, the  
6 views of the Archivist concerning the proposed dis-  
7 posal of such Presidential records; and

8           “(B) the Archivist shall indicate, in writing,  
9 whether the Archivist intends to take any action  
10 under subsection (g) of this section with respect to  
11 the Presidential records.

12          “(2) Not later than 5 business days after the date  
13 on which the Archivist provides a written indication under  
14 paragraph (1)(B), the Archivist shall make publicly avail-  
15 able on a website any communications received or sent by  
16 the Archivist regarding the potential disposal of Presi-  
17 dential records under paragraph (1).”;

18           (4) in subsection (e), as so redesignated—

19           (A) by striking “subsection (c)” and in-  
20 serting “subsection (d)”; and

21           (B) by striking “subsection (e)” and in-  
22 serting “subsection (g)”; and

23           (5) by inserting after subsection (e), as so re-  
24 designated, the following:



1 “(f) In January of each even-numbered year, the Ar-  
2 chivist shall, in coordination with the Office of Administra-  
3 tion of the Executive Office of the President, submit to  
4 the Chairman and Ranking Member of each committee of  
5 jurisdiction of either House of Congress, of the Committee  
6 on Appropriations of the Senate, and of the Committee  
7 on Appropriations of the House of Representatives and to  
8 the President a report that—

9 “(1) is based on inspections conducted by the  
10 Archivist, in coordination with the Office of Admin-  
11 istration of the Executive Office of the President, of  
12 the Presidential records management programs of  
13 the Executive Office of the President; and

14 “(2) evaluates—

15 “(A) the records management activities  
16 and training conducted and standard operating  
17 procedures and guidance issued pursuant to  
18 this section; and

19 “(B) responses to any recommendations  
20 resulting from inspections or studies conducted  
21 under this section.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 2105(a)(2) of title 44, United  
24 States Code, is amended by striking “paragraph  
25 (f)(2)” and inserting “subsection (i)(2)”.

1           (2) Chapter 22 of title 44, United States Code,  
2           is amended—

3                   (A) in section 2204(b)(2)(A), by striking  
4           “section 2203(d)(1)” and inserting  
5           “2203(i)(1)”; and

6                   (B) in section 2206(1), by striking “sec-  
7           tion 2203(f)(3)” and inserting “section  
8           2203(i)(4)”.

9 **SEC. 5. RESTRICTIONS ON ACCESS TO PRESIDENTIAL**  
10 **RECORDS.**

11           Section 2204 of title 44, United States Code, is  
12 amended—

13           (1) in subsection (b)(3), by striking “shall not  
14           be subject to judicial review, except as provided” and  
15           inserting “shall be subject to judicial review, includ-  
16           ing as provided”; and

17           (2) in subsection (e)—

18                   (A) by inserting “(1)” before “The United  
19           States”; and

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

21           “(2)(A) A person seeking access to a Presidential  
22 record to which access is restricted under subsection (a)  
23 may file an action in the United States District Court for  
24 the District of Columbia seeking release of the Presi-  
25 dential record.

1 “(B) In an action filed under subparagraph (A), the  
2 court shall direct the release of a Presidential record, or  
3 a reasonably segregable portion thereof, if the court deter-  
4 mines that the Presidential record, or the reasonably seg-  
5 regable portion thereof, is not within any of the categories  
6 specified in subsection (a) and there is not a valid claim  
7 of constitutionally based privilege against disclosure.”.

8 **SEC. 6. EXCEPTIONS TO RESTRICTED ACCESS.**

9 Section 2205(2)(C) of title 44, United States Code,  
10 is amended—

11 (1) by striking “to any committee or sub-  
12 committee thereof” and inserting “upon request by  
13 the Chairman or Ranking Member of a committee or  
14 subcommittee thereof, to such Chairman or ranking  
15 member,”; and

16 (2) by striking “its business” and inserting  
17 “the business of the committee or subcommittee”.

18 **SEC. 7. REGULATIONS.**

19 Section 2206 of title 44, United States Code, is  
20 amended—

21 (1) by inserting “(a)” before “The Archivist”;

22 (2) in subsection (a), as so designated—

23 (A) in paragraph (3), by striking “and” at  
24 the end;

1 (B) in paragraph (4), by striking the pe-  
2 riod and inserting a semicolon; and

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

4 “(5) provisions—

5 “(A) for what constitutes official and non-  
6 official electronic messaging accounts; and

7 “(B) establishing procedures for docu-  
8 menting—

9 “(i) Presidential records created on  
10 non-official electronic messaging accounts  
11 (including emerging technologies, applica-  
12 tions, and platforms); and

13 “(ii) required metadata;

14 “(6) provisions for the preservation of digital  
15 media, including from social media accounts, that  
16 may appear to be personal records or private prop-  
17 erty but the preservation of which may be required  
18 under this chapter; and

19 “(7) provisions for the appropriate cir-  
20 cumstances and controls for the use of messaging  
21 applications and software with automatic deleting or  
22 other similar functionalities.”; and

23 (3) by adding at the end the following:

24 “(b) The Archivist shall issue, and shall annually up-  
25 date, implementation guidance with respect to the regula-

1 tions described in paragraphs (5) and (6) of subsection  
2 (a).”.

3 **SEC. 8. DISCLOSURE REQUIREMENT FOR OFFICIAL BUSI-**  
4 **NESS CONDUCTED USING NON-OFFICIAL**  
5 **ELECTRONIC MESSAGING ACCOUNTS.**

6 (a) IN GENERAL.—Section 2209(a) of title 44,  
7 United States Code, is amended—

8 (1) in the matter preceding paragraph (1), by  
9 striking “create or send” and inserting “create,  
10 send, or receive”;

11 (2) by redesignating paragraphs (1) and (2) as  
12 subparagraphs (A) and (B), respectively, and adjust-  
13 ing the margin accordingly; and

14 (3) by striking “The President,” and inserting  
15 the following:

16 “(1) LIMITATIONS.—Not later than 90 days  
17 after assuming office, the President shall publicly re-  
18 lease guidelines for officers and employees of the Ex-  
19 ecutive Office of the President who create or receive  
20 documentary material that—

21 “(A) prohibit the use of non-official elec-  
22 tronic messaging accounts that cannot be easily  
23 copied or forwarded to an official electronic  
24 messaging account for official business; and

1           “(B) prohibit the use of messaging ac-  
2           counts or software with automatic deleting or  
3           other similar functionalities.

4           “(2) REQUIREMENTS FOR USE.—The Presi-  
5           dent,”.

6   **SEC. 9. PRESIDENTIAL TRANSITION ACT OF 1963.**

7           The Presidential Transition Act of 1963 (3 U.S.C.  
8   102 note) is amended—

9           (1) in section 3—

10           (A) in subsection (a)(8)(A), by striking  
11           clause (v) and inserting the following:

12           “(v)(I)(aa) Activities under this paragraph shall in-  
13           clude the preparation of a detailed classified, compart-  
14           mented summary by the relevant outgoing executive  
15           branch officials of—

16           “(AA) specific strategic, tactical, and oper-  
17           ational threats to national security;

18           “(BB) major military or covert operations; and

19           “(CC) pending decisions on possible uses of  
20           military force or covert actions.

21           “(bb) The summary prepared under item (aa) shall  
22           be provided to the President-elect and members of office  
23           staff with appropriate clearances that are designated by  
24           the President-elect as soon as possible after the date of  
25           the general elections held to determine the electors of

1 President and Vice President under section 1 or 2 of title  
2 3, United States Code.

3 “(II) The Archivist of the United States shall collabo-  
4 rate with the Federal Transition Coordinator and agen-  
5 cies, including the Executive Office of the President, to  
6 ensure that the President-elect and members of office staff  
7 with appropriate clearances that are designated by the  
8 President-elect can easily access national security informa-  
9 tion (including documents, videos, audio, and briefings)  
10 created by the previous administration after the inaugura-  
11 tion of the President-elect.

12 “(III) The Archivist of the United States shall submit  
13 to the Chairman and Ranking Member of each committee  
14 of jurisdiction of either House of Congress, of the Com-  
15 mittee on Appropriations of the Senate, and of the Com-  
16 mittee on Appropriations of the House of Representatives  
17 a report if the Archivist of the United States believes there  
18 appears to be noncompliance with the requirements under  
19 this clause.”; and

20 (B) in subsection (c)—

21 (i) by inserting “(1)” before “The  
22 terms”; and

23 (ii) by adding at the end the fol-  
24 lowing:

1           “(2)(A) Not later than 6 days after the date of a gen-  
2 eral election described in paragraph (1), the Administrator  
3 shall make the ascertainment described in paragraph (1)  
4 without any interference or undue pressure from the  
5 President or a candidate for President, or any representa-  
6 tive thereof, based on provisional results from State elec-  
7 tion officials and expert analysis of results.

8           “(B) Given the imperatives of an orderly transition,  
9 if there is a plausible chance that the apparent successful  
10 candidate for the office of President and Vice President,  
11 respectively, are not the incumbent, or if the incumbent  
12 was not a candidate, the Administrator shall provide a  
13 portion of the services and facilities authorized to be pro-  
14 vided under this section to all parties with a plausible  
15 chance of being the successful candidate.”; and

16                   (2) in section 4—

17                           (A) in subsection (d)—

18                                   (i) in paragraph (2)—

19   (I) in subparagraph (B), by  
20 striking “and” at the end;

21   (II) in subparagraph (C), by  
22 striking the period at the end and in-  
23 serting “; and”; and

24   (III) by adding at the end the  
25 following:



1           “(D) under the guidance of the Archivist  
2 of the United States, monitor compliance with  
3 chapter 22 of title 44, United States Code, in-  
4 cluding the preservation of all records and pre-  
5 vention of any records from being disposed un-  
6 less done in accordance with such chapter.”;

7           (ii) in paragraph (3)—

8                 (I) by redesignating subpara-  
9                 graphs (C) and (D) as subparagraphs  
10                (D) and (E), respectively; and

11               (II) by inserting after subpara-  
12               graph (B) the following:

13               “(C) the Archivist of the United States;”;

14           and

15               (iii) by adding at the end the fol-  
16               lowing:

17           “(5) ROLE OF THE ARCHIVIST.—

18               “(A) IN GENERAL.—Not later than 120  
19               days before the date of a Presidential election,  
20               the Archivist of the United States shall send a  
21               written communication to all officers and em-  
22               ployees of the Executive Office of the President  
23               who create or receive documentary material (as  
24               defined under section 2201 of title 44, United  
25               States Code)—

1 “(i) describing the requirements under  
2 chapter 22 of title 44, United States Code;  
3 and

4 “(ii) establishing a timeline for co-  
5 operation with the Archivist of the United  
6 States to ensure an orderly and timely  
7 transition of records subject to such chap-  
8 ter if there is a Presidential transition.

9 “(B) REPORTING.—

10 “(i) IN GENERAL.—Not later than 30  
11 days after the date of a Presidential elec-  
12 tion which results in a Presidential transi-  
13 tion, the Archivist of the United States, in  
14 coordination with the Federal Transition  
15 Coordinator, shall submit to the Chairman  
16 and Ranking Member of each committee of  
17 jurisdiction of either House of Congress, of  
18 the Committee on Appropriations of the  
19 Senate, and of the Committee on Appro-  
20 priations of the House of Representatives a  
21 report discussing the status of the transi-  
22 tion activities of the White House Transi-  
23 tion Coordinating Council and identifying  
24 concerns, if any, regarding compliance with  
25 chapter 22 of title 44, United States Code.

1           “(ii) NONCOMPLIANCE.—The Archi-  
2           vist of the United States shall submit to  
3           the Chairman and Ranking Member of  
4           each committee of jurisdiction of either  
5           House of Congress, of the Committee on  
6           Appropriations of the Senate, and of the  
7           Committee on Appropriations of the House  
8           of Representatives a report if the Archivist  
9           of the United States believes there appears  
10          to be noncompliance with the requirements  
11          or timeline described in subparagraph  
12          (A).”;

13          (B) in subsection (e)(2)—

14               (i) in subparagraph (D), by striking  
15               “and” at the end;

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

19               (iii) by adding at the end the fol-  
20               lowing:

21               “(F) under the guidance of the Archivist of  
22               the United States, monitor compliance with  
23               chapter 22 of title 44, United States Code, in-  
24               cluding the preservation of all records and pre-

1           vention of any records from being disposed un-  
2           less done in accordance with such chapter.”;

3           (C) by redesignating subsection (i) as sub-  
4           section (j); and

5           (D) by inserting after subsection (h) the  
6           following:

7           “(i) ROLE OF THE ARCHIVIST.—

8           “(1) IN GENERAL.—Not later than 120 days  
9           before the date of a Presidential election, the Archi-  
10          vist of the United States shall send a written com-  
11          munication to the head of each agency—

12           “(A) describing the requirements under  
13          chapter 33 of title 44, United States Code; and

14           “(B) establishing a timeline for coopera-  
15          tion with the Archivist of the United States to  
16          ensure an orderly and timely transition of  
17          records subject to such chapter if there is a  
18          Presidential transition.

19          “(2) REPORTING.—

20           “(A) IN GENERAL.—Not later than 30  
21          days after the date of a Presidential election  
22          which results in a Presidential transition, the  
23          Archivist of the United States, in coordination  
24          with the Federal Transition Coordinator, shall  
25          submit to the Chairman and Ranking Member

1 of each committee of jurisdiction of either  
2 House of Congress, of the Committee on Appro-  
3 priations of the Senate, and of the Committee  
4 on Appropriations of the House of Representa-  
5 tives a report discussing the status of the tran-  
6 sition activities of agencies and identifying con-  
7 cerns, if any, regarding compliance with chapter  
8 33 of title 44, United States Code.

9 “(B) NONCOMPLIANCE.—The Archivist of  
10 the United States shall submit to the Chairman  
11 and Ranking Member of each committee of ju-  
12 risdiction of either House of Congress, of the  
13 Committee on Appropriations of the Senate,  
14 and of the Committee on Appropriations of the  
15 House of Representatives a report if the Archi-  
16 vist of the United States believes there appears  
17 to be noncompliance with the requirements or  
18 timeline described in paragraph (1).”.

19 **SEC. 10. FORMER PRESIDENTS.**

20 The Act entitled “An Act to provide retirement, cler-  
21 ical assistants, and free mailing privileges to former Presi-  
22 dents of the United States, and for other purposes”, ap-  
23 proved August 25, 1958 (commonly known as the  
24 “Former Presidents Act of 1958”) (3 U.S.C. 102 note),  
25 is amended by adding at the end the following:

1       “(h) If the Archivist of the United States determines  
2 that a former President did not comply with major re-  
3 quirements under chapter 22 of title 44, United States  
4 Code, or the Presidential Transition Act of 1963 (3 U.S.C.  
5 102 note), the monetary amounts described in subsections  
6 (a) and (b) shall be withheld until the later of—

7               “(1) 1 year after the date on which the Archi-  
8 vist makes that determination; or

9               “(2) the date on which the Archivist determines  
10 the former President has adequately complied with  
11 the requirements.”.

12 **SEC. 11. PRESIDENTIAL ARCHIVAL DEPOSITORY.**

13       Section 2112 of title 44, United States Code, is  
14 amended—

15               (1) in subsection (b)—

16                       (A) by striking “When the Archivist” and  
17 inserting “(1) Subject to paragraph (2), when  
18 the Archivist”; and

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

20               “(2) The Archivist may not deposit papers, doc-  
21 uments, or other historical materials accepted under  
22 section 2111 of this title or other Federal records  
23 appropriate for preservation in a Presidential archi-  
24 val depository relating to a former President under  
25 paragraph (1) until after the date on which the Ar-

1 chivist determines that the former President has  
2 adequately complied with the requirements under  
3 chapter 22 relating to Presidential records (as de-  
4 fined in section 2201).”;

5 (2) in subsection (g), by adding at the end the  
6 following:

7 “(6)(A) Notwithstanding paragraphs (3), (4), and (5)  
8 (to the extent that such paragraphs are inconsistent with  
9 this paragraph), this subsection shall be administered in  
10 accordance with this paragraph with respect to any Presi-  
11 dential archival depository created as a depository for the  
12 papers, documents, and other historical materials and  
13 Presidential records pertaining to any President who takes  
14 any action, including destruction, alteration, concealment,  
15 or removal, that threatens or damages the integrity and  
16 statutory preservation requirements under chapter 22 for  
17 Presidential records (as defined in section 2201).

18 “(B) For purposes of subparagraphs (A)(ii),  
19 (B)(i)(II), and (B)(ii)(II) of paragraph (3) the percentage  
20 of 100 percent shall apply instead of 60 or 20 percent.”;  
21 and

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

23 “(h) None of the funds in the account in the National  
24 Archives Trust Fund that may be expended for the benefit  
25 and in the interest of a Presidential archival depository

1 relating to a former President may be used for the cost  
2 of digitizing records the former President wishes to de-  
3 posit in and make available through the Presidential archi-  
4 val depository.”.