

FEDERAL AGENCY MAIL MANAGEMENT ACT OF 2017

MARCH 29, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 194]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 194) to ensure the effective processing of mail by Federal agencies, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

The Federal Agency Mail Management Act of 2017, H.R. 194 makes a technical correction to the Presidential and Federal Records Act Amendments of 2014 (P.L. 113–187). This technical

correction will clarify that the General Services Administration is responsible for the regulation and oversight of federal agency mail processing programs.

BACKGROUND AND NEED FOR LEGISLATION

The Presidential and Federal Records Act Amendments of 2014 modernized and improved federal recordkeeping statutes. On November 26, 2014, President Obama signed the act into law as P.L. 113–187. P.L. 113–187 clarified the process for the release of presidential records and clarified that records are specific to information created, not the media on which it is stored. Additionally, the law established a timeframe limiting the permissible use of personal electronic messaging accounts for the conduct of official business. Finally, the legislation made a number of technical edits to existing law to reflect the appropriate roles and responsibilities of the National Archives and Records Administration (National Archives) and the General Services Administration (GSA) since their formal separation in 1985.

A technical edit made by P.L. 113–187 removed a reference authorizing GSA to “promulgate standards, procedures, and guidelines with respect to records management.”¹ The intent of this technical edit was to recognize the proper responsibility of the National Archives to oversee management of presidential and federal records. However, GSA interpreted the change as potentially limiting its ability to regulate federal agency mail management operations.

GSA has been responsible for the oversight and regulation of agency mailrooms for decades and has developed significant expertise in mail management, mail security, and mail handling training and best practices.² In this role, GSA leads the Federal Mail Council, organizes mail-related training, conferences, and seminars, and provides data and best practices on mail management to federal agencies.³ In fiscal year 2015, GSA provided oversight to more than \$1.15 billion in federal agency mail-related expenditures.⁴

Since it was not the intent of Congress to shift mail management responsibilities from GSA to the National Archives, Representative Steve Russell introduced H.R. 194 to clarify GSA’s authority by explicitly recognizing GSA’s role. Both the National Archives and GSA support ensuring GSA retains mail management responsibilities.⁵

LEGISLATIVE HISTORY

On January 3, 2017, Representative Steve Russell (R–OK) introduced H.R. 194, the Federal Agency Mail Management Act of 2017, with Representative Gerald Connolly (D–VA). H.R. 194 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 194 at a business meeting on Feb-

¹ 44 U.S.C. § 2904(c)(1).

² See generally General Serv. Admin., *Mail Management Policy Overview*, available at www.gsa.gov/mailpolicy.

³ *Id.*

⁴ General Serv. Admin., *FY2015 Federal Mail Expenditures Open Data Set* at table 8, available at www.gsa.gov/portal/content/235245.

⁵ Email from John Hamilton, Director of Congressional Affairs, Nat’l. Archives and Records Admin., to Oversight and Gov’t. Reform Comm. Staff (Jul. 11, 2016) (on file with the Committee).

ruary 2, 2017 and ordered the bill reported favorably, without amendment, by voice vote.

In the 114th Congress, Representative Russell introduced an identical bill to H.R. 194, which was H.R. 6009, the Federal Agency Mail Management Act of 2016. On September 15, 2016, the Committee ordered H.R. 6009 favorably reported by unanimous consent and on November 30, 2016 the House passed the bill by voice vote.

SECTION-BY-SECTION

Section 1. Short title

Section 1 establishes the short title of the bill as the “Federal Agency Mail Management Act of 2017.”

Section 2. Record management

Subsection (a) amends section 9 of the Presidential and Federal Records Act Amendments of 2014 (P.L. 113–187), as codified at title 44 section 101 note of the United States code.

Paragraph (1) amends section 9(a)(3) to insert “Archivist or the Administrator” in place of “Administrator”.

Paragraph (2) amends section 9(c)(1) to clarify that the Archivist is responsible for providing guidance and assistance to federal agencies to ensure economical and effective records management; adequate and proper documentation of the policies and transactions of the federal government; and proper records disposition.

Paragraph (2) further amends 9(c) to redesignate paragraphs (2) and (3) in order to add a new paragraph (2) directing the Administrator of General Services (Administrator) to ensure effective processing of mail by federal agencies. Finally, the paragraph adds a new paragraph, (5), requiring the Administrator, when carrying out his or her duties under paragraph (2) as amended, ensure the promotion of economy and efficiency in the selection and utilization of space, staff, equipment, and supplies for processing mail at federal facilities, while also making necessary conforming amendments.

Paragraph (3) amends section 9(d) by inserting a new paragraph at the end to permit the Administrator or his or her designee the ability to inspect mail processing practices and programs of any federal agency for rendering recommendations for the improvement of mail processing practices and programs. Agencies are also required to cooperate fully in such inspections.

Paragraph (4) strikes section 9(f), as it is no longer necessary due to the other changes of the bill, and paragraph (5) redesignates section 9(g) as 9(f).

Subsection (b) makes this act retroactive to the date of enactment of the Presidential and Federal Records Act Amendments of 2014 (P.L. 113–187).

EXPLANATION OF AMENDMENTS

There were no amendments to H.R. 194 offered or adopted during Committee consideration of the bill.

COMMITTEE CONSIDERATION

On February 2, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported by voice vote.

ROLL CALL VOTES

There were no roll call votes requested or conducted during Full Committee consideration of H.R. 194.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill makes a technical correction to the Presidential and Federal Records Act Amendments of 2014 (P.L. 113–187) to clarify that the General Services Administration is responsible for the regulation and oversight of federal agency mail processing programs. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to ensure the effective processing of mail by Federal agencies, and for other purposes.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII, no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of section 551 or title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement, the Committee has included below a letter received from the Congressional Budget Office.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974, which the Committee has included below.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

H.R. 194—Federal Agency Mail Management Act of 2017

CBO estimates that enacting H.R. 194 would have no significant effect on the federal budget. The legislation would amend federal law to clarify that the General Services Administration (GSA) has the responsibility for promoting and recommending efficient practices for processing mail among federal agencies. GSA already performs this function.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 194 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 194 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**PRESIDENTIAL AND FEDERAL RECORDS ACT
AMENDMENTS OF 2014**

* * * * *

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”.]

(3) *in paragraph (7), by striking “the Administrator or the Archivist” and inserting “the Archivist or the Administrator”.*

(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”];

(1) *by amending subsection (a) to read as follows:*

“(a) *The Archivist shall provide guidance and assistance to Federal agencies with respect to ensuring—*

“(1) *economical and effective records management;*

“(2) *adequate and proper documentation of the policies and transactions of the Federal Government; and*

“(3) *proper records disposition.*”;

(2) *in subsection (b), by striking “effective records management by such agencies” and inserting “effective processing of mail by Federal agencies”;*

[(2)] (3) 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)] *subsection (a)*”;

(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)”; [and]

[(3)] (4) 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.”[.]; and

(5) by inserting at the end the following new subsection:

“(e) *The Administrator, in carrying out subsection (b), shall have the responsibility to promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies for processing mail at Federal facilities.*”.

(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”[.]; and

(3) by inserting at the end the following new subsection:

“(c) *The Administrator (or the Administrator’s designee) may inspect the mail processing practices and programs of any Federal agency for the purpose of rendering recommendations for the improvement of mail processing practices and programs. Officers and employees of such agencies shall cooperate fully in such inspections of mail processing practices and programs.*”.

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

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