

termination with respect to the former President's claim of privilege.

(b) In making the determination referred to in subsection (a) of this section, the Archivist shall abide by any instructions given him by the incumbent President or his designee unless otherwise directed by a final court order. The Archivist shall notify the incumbent and former Presidents of his determination at least 30 days prior to disclosure of the Presidential records, unless a shorter time period is required in the circumstances set forth in section 1270.44 of the NARA regulations. Copies of the notice for the incumbent President shall be delivered to the President (through the Counsel to the President) and the Attorney General (through the Assistant Attorney General for the Office of Legal Counsel). The copy of the notice for the former President shall be delivered to the former President or his designated representative.

SEC. 5. *Judicial Review.* This Order is intended only to improve the internal management of the Executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

RONALD REAGAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2205, 2206 of this title; title 22 section 4352.

§ 2205. Exceptions to restricted access

Notwithstanding any restrictions on access imposed pursuant to section 2204—

(1) the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to Presidential records in the custody of the Archivist;

(2) subject to any rights, defenses, or privileges which the United States or any agency or person may invoke, Presidential records shall be made available—

(A) pursuant to subpoena or other judicial process issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or proceeding;

(B) to an incumbent President if such records contain information that is needed for the conduct of current business of his office and that is not otherwise available; and

(C) to either House of Congress, or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof if such records contain information that is needed for the conduct of its business and that is not otherwise available; and

(3) the Presidential records of a former President shall be available to such former President or his designated representative.

(Added Pub. L. 95-591, § 2(a), Nov. 4, 1978, 92 Stat. 2527; amended Pub. L. 98-497, title I, § 107(b)(7), Oct. 19, 1984, 98 Stat. 2287.)

AMENDMENTS

1984—Par. (1). Pub. L. 98-497 substituted “National Archives and Records Administration” for “National Archives and Records Service of the General Services Administration”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2206 of this title.

§ 2206. Regulations

The Archivist shall promulgate in accordance with section 553 of title 5, United States Code, regulations necessary to carry out the provisions of this chapter. Such regulations shall include—

(1) provisions for advance public notice and description of any Presidential records scheduled for disposal pursuant to section 2203(f)(3);

(2) provisions for providing notice to the former President when materials to which access would otherwise be restricted pursuant to section 2204(a) are to be made available in accordance with section 2205(2);

(3) provisions for notice by the Archivist to the former President when the disclosure of particular documents may adversely affect any rights and privileges which the former President may have; and

(4) provisions for establishing procedures for consultation between the Archivist and appropriate Federal agencies regarding materials which may be subject to section 552(b)(7) of title 5, United States Code.

(Added Pub. L. 95-591, § 2(a), Nov. 4, 1978, 92 Stat. 2527.)

§ 2207. Vice-Presidential records

Vice-Presidential records shall be subject to the provisions of this chapter in the same manner as Presidential records. The duties and responsibilities of the Vice President, with respect to Vice-Presidential records, shall be the same as the duties and responsibilities of the President under this chapter with respect to Presidential records. The authority of the Archivist with respect to Vice-Presidential records shall be the same as the authority of the Archivist under this chapter with respect to Presidential records, except that the Archivist may, when the Archivist determines that it is in the public interest, enter into an agreement for the deposit of Vice-Presidential records in a non-Federal archival depository. Nothing in this chapter shall be construed to authorize the establishment of separate archival depositories for such Vice-Presidential records.

(Added Pub. L. 95-591, § 2(a), Nov. 4, 1978, 92 Stat. 2527.)

CHAPTER 23—NATIONAL ARCHIVES TRUST FUND BOARD

Sec.	
2301.	Establishment of Board; membership.
2302.	Authority of the Board; seal; services; bylaws; rules; regulations; employees.
2303.	Powers and obligations of Board; liability of members. ¹
2304.	Compensation of members; availability of trust funds for expenses of Board. ¹
2305.	Acceptance of gifts.
2306.	Investment of funds.
2307.	Trust fund account; disbursements; sales of publications and releases.

¹Section catchline amended by Pub. L. 98-497 without corresponding amendment of analysis.

2308. Tax exemption for gifts.

AMENDMENTS

1984—Pub. L. 98-497, title II, §202(c), Oct. 19, 1984, 98 Stat. 2294, amended item 2302 generally.

§ 2301. Establishment of Board; membership

The National Archives Trust Fund Board shall consist of the Archivist of the United States, as Chairman, and the Secretary of the Treasury and the Chairman of the National Endowment for the Humanities. Membership on the Board is not an office within the meaning of the statutes of the United States.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292; Pub. L. 94-391, Aug. 19, 1976, 90 Stat. 1192; Pub. L. 95-379, Sept. 22, 1978, 92 Stat. 724; Pub. L. 98-497, title I, §107(b)(8), Oct. 19, 1984, 98 Stat. 2287.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§300bb, 391 (part) (July 9, 1941, ch. 284, §2, 55 Stat. 581; Aug. 2, 1946, ch. 753, title I, §§102, 121, 60 Stat. 814, 822; June 30, 1949, ch. 288, title I, §104, 63 Stat. 381).

This section incorporates only the last sentence of paragraph (b) of former section 391. The balance of that section will be found in sections 1506, 2102, 2501, and 2902 of the revision.

AMENDMENTS

1984—Pub. L. 98-497 struck out “The authority of the Administrator of General Services under section 754 of title 40 to regroup, transfer, and distribute functions within the General Services Administration does not extend to the Board or its functions.”

1978—Pub. L. 95-379 substituted references to the Secretary of the Treasury and the Chairman of the National Endowment for the Humanities, for references to the chairman of the House Committee on Government Operations and the Senate Committee on Post Office and Civil Service.

1976—Pub. L. 94-391 substituted reference to House Committee on Government Operations for reference to House Committee on Post Office and Civil Service.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

§ 2302. Authority of the Board; seal; services; by-laws; rules; regulations; employees

In carrying out the purposes of this chapter, the Board—

(1) may adopt an official seal, which shall be judicially noticed;

(2) may utilize on a reimbursable basis the services and personnel of the National Archives and Records Administration necessary (as determined by the Archivist) to assist the Board in the administration of the trust fund, and in the preparation and publication of special works and collections of sources and preparation, duplication, editing, and release of historical photographic materials and sound recordings, and may utilize on a reimbursable basis the services and personnel of other Federal agencies for such purposes;

(3) may adopt bylaws, rules, and regulations necessary for the administration of its functions under this chapter; and

(4) may, subject to the laws and regulations governing appointments in the civil service,

appoint and fix the compensation of such personnel as may be necessary to carry out its functions.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292; Pub. L. 98-497, title II, §202(a), Oct. 19, 1984, 98 Stat. 2293.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §300hh (July 9, 1941, ch. 284, §8, 55 Stat. 582).

REFERENCES IN TEXT

The laws governing appointments in the civil service, referred to in par. (4), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

AMENDMENTS

1984—Pub. L. 98-497 amended section generally. Prior to amendment, section read as follows: “In carrying out the purposes of this chapter, the Board may—

“(1) adopt an official seal, which shall be judicially noticed;

“(2) appoint, or authorize the Chairman to appoint, without regard to the civil-service laws, necessary employees, and fix their duties; and

“(3) adopt bylaws, rules, and regulations necessary for the administration of its functions under this chapter.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

§ 2303. Powers and obligations of the Board; liability of members

Except as otherwise provided by this chapter, the Board shall have all the usual powers and obligations of a trustee with respect to property and funds administered by it, but the members of the Board are not personally liable, except for malfeasance.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292; Pub. L. 98-497, title II, §202(a), Oct. 19, 1984, 98 Stat. 2293.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §300ff (July 9, 1941, ch. 284, §6, 55 Stat. 582).

AMENDMENTS

1984—Pub. L. 98-497 amended section generally, inserting “Except as otherwise provided by this chapter.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

§ 2304. Compensation of members; availability of trust funds for expenses of the Board

Compensation may not be paid to the members of the Board for their services as members. Costs incurred by the Board in carrying out its duties under this chapter, including the obligations necessarily incurred by the members of the Board in the performance of their duties and the compensation of persons employed by the Board, shall be paid by the Archivist of the United States from trust funds available to the Board for this purpose. The Board, by resolu-

tion, may authorize the transfer of funds (including the principal or interest of a gift or bequest) to the National Archives and Records Administration to be expended on an archival or records activity approved by the Board or to accomplish the purpose of a gift or bequest.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292; Pub. L. 98-497, title II, §202(a), Oct. 19, 1984, 98 Stat. 2293.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §300ii (July 9, 1941, ch. 284, §9, 55 Stat. 582).

AMENDMENTS

1984—Pub. L. 98-497 amended section generally. Prior to amendment, section read as follows: "Compensation may not be paid to the members of the Board for their services as members. Costs incurred by the Board in carrying out its duties under this chapter, including the expenditures necessarily made by the members of the Board in the performance of their duties and the compensation of persons employed by the Board, shall be paid out of income from trust funds available to the Board for the purpose. Unless otherwise restricted by the instrument of gift or bequest, the Board, by resolution, may authorize the Chairman to use for these purposes, or for any other purpose for which funds may be expended under this chapter, the principal of a gift or bequest accepted under this chapter."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

§ 2305. Acceptance of gifts

The Board may solicit and accept gifts or bequests of money, securities, or other personal property, for the benefit of or in connection with the national archival and records activities administered by the National Archives and Records Administration. Moneys that are for deposit into the trust fund shall be deposited within 10 working days of the receipt thereof.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292; Pub. L. 98-497, title II, §202(a), Oct. 19, 1984, 98 Stat. 2293.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §300cc (July 9, 1941, ch. 284, §3, 55 Stat. 581).

AMENDMENTS

1984—Pub. L. 98-497 amended section generally. Prior to amendment, section read as follows: "The Board may accept, receive, hold, and administer gifts or bequests of money, securities, or other personal property, for the benefit of or in connection with the national archival and records activities administered by the General Services Administration as may be approved by the Board."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

§ 2306. Investment of funds

The Secretary of the Treasury shall receipt for moneys or securities composing trust funds given or bequeathed to the Board and shall invest, reinvest, and retain the moneys or securi-

ties as the Board from time to time determines. The Board may not engage in business or exercise a voting privilege which may be incidental to securities in such trust funds, nor may the Secretary of the Treasury make investments for the account of the Board which could not lawfully be made by a trust company in the District of Columbia, unless directly authorized by the instrument of gift or bequest under which the funds to be invested are derived, and may retain investments accepted by the Board.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §300dd (July 9, 1941, ch. 284, §4, 55 Stat. 581).

§ 2307. Trust fund account; disbursements; sales of publications and releases

The income from trust funds held by the Board and the proceeds from the sale of securities and other personal property, as and when collected, shall be covered into the Treasury of the United States in a trust fund account to be known as the National Archives Trust Fund, subject to disbursement on the basis of certified vouchers of the Archivist of the United States (or his designee) for activities approved by the Board and in the interest of the national archival and records activities administered by the National Archives and Records Administration, including but not restricted to the preparation and publication of special works, and collections of sources and the preparation, duplication, editing, and release of historical photographic materials and sound recordings. The Archivist may sell publications and releases authorized by this section and paid for out of the income derived from trust funds at a price which will cover their cost, plus 10 percent, and moneys received from these sales shall be paid into, administered, and expended as part of the National Archives Trust Fund.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1293; Pub. L. 98-497, title II, §202(b), Oct. 19, 1984, 98 Stat. 2294.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §300ee (July 9, 1941, ch. 284, §5, 55 Stat. 581).

AMENDMENTS

1984—Pub. L. 98-497 substituted "on the basis of certified vouchers of the Archivist of the United States (or his designee) for activities approved by the Board and in the interest of the national archival and records activities administered by the National Archives and Records Administration" for "by the Division of Disbursement, Treasury Department, on the basis of certified vouchers of the Chairman or his authorized agent, unless otherwise restricted by the instrument of gift or bequest, for and in the interest of the national archival and records activities administered by the General Services Administration" and "Archivist" for "Chairman" in second sentence.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

TRANSFER OF FUNCTIONS

Division of Disbursement of Treasury Department consolidated into Fiscal Service of Treasury Depart-

ment by section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees. See section 306 of Title 31, Money and Finance.

§ 2308. Tax exemption for gifts

Gifts and bequests received by the Board under this chapter, and the income from them are exempt from taxes.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §300gg (July 9, 1941, ch. 284, §7, 55 Stat. 582).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 2055.

CHAPTER 25—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Sec.	
2501.	Creation; composition; appointment and tenure; vacancies; meetings. ¹
2502.	Vacancies.
2503.	Executive director; staff; transportation expenses. ¹
2504.	Duties; authorization of grants for historical publications and records programs; authorization for appropriations.
2505.	Special advisory committees; membership; reimbursement.
2506.	Records to be kept by grantees.
[2507.	Repealed.]

AMENDMENTS

1988—Pub. L. 100-365, §5, July 13, 1988, 102 Stat. 825, amended analysis generally, inserting “; vacancies; meetings” after “tenure” in item 2501, substituted “staff; transportation expenses” for “editorial and clerical staff; reimbursement of members for transportation expenses; honorarium” in item 2503 and “historical publications and records programs; authorization for appropriations” for “collection, reproduction, and publication of documentary historical source material” in item 2504, and reenacting items 2502, 2505, and 2506 without change.

1984—Pub. L. 98-497, title I, §107(b)(12)(B), Oct. 19, 1984, 98 Stat. 2287, struck out item 2507 “Report to Congress”.

1974—Pub. L. 93-536, §1(a), Dec. 22, 1974, 88 Stat. 1734, inserted “AND RECORDS” after “PUBLICATIONS” in chapter heading.

CROSS REFERENCES

Accounting systems, forms, and procedures: authority of Comptroller General; settlement of accounts of collecting and disbursing officers with General Accounting Office, responsibility for, see section 3107 of this title.

Definitions applicable to provisions of Federal Property and Administrative Services Act of 1949, see section 472 of Title 40, Public Buildings, Property, and Works.

Definitions used in provisions respecting records management by Administrator of General Services to have same meaning when used in this chapter, see section 2901 of this title.

Exemptions from provisions of this chapter, see section 474 of Title 40, Public Buildings, Property, and Works.

Federal agency management program to provide for compliance with this chapter and regulations thereunder, see section 3102 of this title.

Reports from Federal agencies on their activities under this chapter, authority of Archivist and Adminis-

trator of General Services to obtain; correction of violations, see section 2115 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2111, 2901, 3107 of this title; title 25 section 450j.

§ 2501. Creation; composition; appointment and tenure; meetings

(a) The National Historical Publications and Records Commission shall consist of 15 members as follows:

(1) the following ex officio members:

(A) the Archivist of the United States, who shall be chairman;

(B) the Librarian of Congress (or an alternate designated by the Librarian);

(C) one Senator, appointed by the President of the Senate;

(D) one Representative, appointed by the Speaker of the House of Representatives;

(E) one member of the judicial branch of the Government, appointed by the Chief Justice of the United States;

(F) one representative of the Department of State to be appointed by the Secretary of State; and

(G) one representative of the Department of Defense to be appointed by the Secretary of Defense;

(2) one member from each of the following organizations, appointed by the governing council or board of the respective organization:

(A) the American Historical Association;

(B) the Organization of American Historians;

(C) the Society of American Archivists;

(D) the American Association for State and Local History;

(E) the Association for Documentary Editing; and

(F) the National Association for Government Archives and Records Administrators; and

(3) two other members, outstanding in the fields of the social or physical sciences, the arts, or archival or library science, appointed by the President of the United States.

(b)(1) The members appointed under subsection (a) shall be appointed for terms of 4 years, except that—

(A) a member appointed under subsection (a)(1)(D) shall be appointed for a term of 2 years; and

(B) the Archivist and the Librarian of Congress are permanent ex officio members.

(2) A member may continue to serve after the expiration of a term until a successor has been appointed, but not to exceed one year.

(c) The Commission shall meet at least annually and at call of the Chairman.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1293; Pub. L. 92-546, §1(a), Oct. 25, 1972, 86 Stat. 1155; Pub. L. 93-536, §1(b), Dec. 22, 1974, 88 Stat. 1735; Pub. L. 96-98, §2(b), Nov. 1, 1979, 93 Stat. 731; Pub. L. 98-497, title I, §107(b)(9), Oct. 19, 1984, 98 Stat. 2287; Pub. L. 100-365, §2(a), July 13, 1988, 102 Stat. 823.)

¹ So in original. Does not conform to section catchline.