

118TH CONGRESS  
1ST SESSION

# H. R. 1507

To amend title 5, United States Code, to require disclosure of conflicts of interest with respect to rulemaking, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2023

Ms. JAYAPAL (for herself, Ms. LEE of California, Ms. OCASIO-CORTEZ, Mr. TAKANO, Mr. CICILLINE, Mr. GARCÍA of Illinois, Mr. JOHNSON of Georgia, Mr. LIEU, Ms. NORTON, and Ms. SCANLON) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Oversight and Accountability, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 5, United States Code, to require disclosure of conflicts of interest with respect to rulemaking, 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.**

4 This Act may be cited as the “Stop Corporate Cap-  
5 ture Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Congress is dependent on providing discre-  
2           tion to executive officials and agencies (including  
3           independent agencies) to implement its statutes.  
4           Congress provides appropriate oversight of the use  
5           of this discretion.

6           (2) Regulatory legislation is often phrased in  
7           broad terms, with an intelligible principle, to em-  
8           power agencies to address issues, such as those pre-  
9           sented by technological, scientific, or social develop-  
10          ments that were not precisely foreseen when the leg-  
11          islation was enacted; and to draw upon the agency's  
12          specialized knowledge, experience, and responsibility  
13          for implementing the statute.

14          (3) Such broad authorizing language is often  
15          necessary to empower the administering agency to  
16          take effective action when new or unforeseen issues  
17          arise, provided that the rule does not exceed clear  
18          limits in statute nor implement it in an impermis-  
19          sible manner.

20          (4) A rule that an agency has adopted to imple-  
21          ment a broadly worded regulatory statute should  
22          generally not be held to be invalid on the basis that  
23          Congress has not addressed the agency's proposed  
24          course of action in specific terms.

1           (5) A rule that an agency has adopted to imple-  
2           ment a regulatory statute should generally not be  
3           held to be invalid on the basis that the agency has  
4           not previously adopted a similar rule or scheme of  
5           regulation.

6           (6) The expectation that a rule will have broad  
7           economic, political, or social significance, should not,  
8           standing alone, negate application of the principle  
9           stated in paragraph (1), (2), or (3).

10 **SEC. 3. SENSE OF CONGRESS.**

11           It is the sense of Congress that—

12           (1) agency economic analyses of regulatory ac-  
13           tions commonly underestimate the benefits of regu-  
14           latory actions that protect public health and safety  
15           and overestimate the costs of regulatory action to in-  
16           dustry;

17           (2) agency regulatory actions often fail to ade-  
18           quately consider the distributional effects and social  
19           equity impact of regulatory action; and

20           (3) an agency shall prioritize the statutory di-  
21           rection of Congress when taking regulatory action.

22 **SEC. 4. DISCLOSURE OF CONFLICTS OF INTEREST.**

23           Section 553 of title 5, United States Code, is amend-  
24           ed—

25           (1) in subsection (c)—

1 (A) by striking “After notice required” and  
2 inserting the following:

3 “(1) After notice required”; and

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

5 “(2) In the case of any submission under para-  
6 graph (1) by an interested person that includes a  
7 scientific, economic, or technical study or research  
8 (or a citation thereto) that the interested person  
9 funded directly or indirectly, or the nonpublic results  
10 of any scientific, economic, or technical study or re-  
11 search that the interested person funded directly or  
12 indirectly, the interested person shall disclose to the  
13 agency, the following:

14 “(A) The amount of any funds that were  
15 received by the person who conducted the study  
16 or research.

17 “(B) The entity that provided the funds  
18 referred to in subparagraph (A).

19 “(C) Any entity that was allowed to review  
20 or revise the study or research, and the extent  
21 of that review or revision.

22 “(D) Any financial relationship between  
23 the person who conducted the study or re-  
24 search, and any person that would be affected  
25 by the proposed rule.”;

1           (2) in subsection (c), in the first sentence, by  
2           inserting “, subject to subsections (f) and (h),” after  
3           “the agency shall”; and

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

5           “(f) With respect to any submission by an interested  
6           person under subsection (c) or any other submission by  
7           an interested person relating to a proposed rule or final  
8           rule that includes a scientific, economic, or technical study  
9           or research by the interested person not published in a  
10          publicly available peer-reviewed publication, or any result  
11          of a scientific, economic, or technical study or research  
12          by the interested person not published in a publicly avail-  
13          able peer-reviewed publication, the interested person, in  
14          making that submission, shall disclose to the agency—

15                 “(1) the source of any funding for the study or  
16                 research, as applicable;

17                 “(2) any entity that sponsored the study or re-  
18                 search;

19                 “(3) the extent to which the findings of the  
20                 study or research were reviewed by a person that  
21                 may be affected by the rulemaking to which the sub-  
22                 mission relates;

23                 “(4) the identity of any person identified under  
24                 paragraph (3); and

1           “(5) the nature of any financial relationship, in-  
2           cluding a consulting agreement, the support of any  
3           expert witness, and the funding of research, between  
4           any person that conducted the study or research and  
5           any interested person with respect to the rulemaking  
6           to which the submission relates.”.

7   **SEC. 5. INCREASING DISCLOSURES RELATING TO STUDIES**  
8                           **AND RESEARCH.**

9           Section 553 of title 5, United States Code, as amend-  
10          ed by section 4 of this Act, is amended by adding at the  
11          end the following:

12          “(g) With respect to a study or research that is sub-  
13          mitted by an interested person to an agency under sub-  
14          section (e), the agency shall ensure that the study or re-  
15          search is available to the public (including on the Internet  
16          website of the agency and on the public docket of the agen-  
17          cy for the rulemaking) unless disclosure is exempted or  
18          excluded under section 552.

19          “(h)(1) If a study or research submitted by an inter-  
20          ested person to an agency under subsection (e) presents  
21          a conflict described in paragraph (2), the agency shall dis-  
22          close the conflict to the public on the internet website of  
23          the agency and on the public docket of the agency, and  
24          by publication in the Federal Register, unless disclosure  
25          is exempted or excluded under section 552.

1       “(2) A conflict described in this subsection means a  
2 study or research for which—

3               “(A) not less than 10 percent of the funding for  
4 the study or research is from an entity subject to  
5 the jurisdiction of the agency with respect to that  
6 rulemaking; or

7               “(B) an entity subject to the jurisdiction of the  
8 agency with respect to that rulemaking that is regu-  
9 lated by the agency exercises editorial control over  
10 the study or research.

11       “(i) In the case of a violation of the requirement to  
12 make a disclosure—

13               “(1) under subsection (e)(2) or subsection (f)  
14 with respect to a submission; or

15               “(2) under subsection (h) with respect to a con-  
16 flict related to a submission referred to under sub-  
17 section (g),

18 the agency may exclude from consideration or otherwise  
19 disregard the submission, and the agency has no obliga-  
20 tion to respond to the submission, except that the submis-  
21 sion may be remade with required disclosures during the  
22 opportunity for participation referred to in subsection  
23 (c)(1). Nothing in this subsection may be construed to af-  
24 fect the level of deference (in accordance with applicable

1 law) accorded to agency action by a court reviewing such  
2 action.”.

3 **SEC. 6. DISCLOSURE OF INTER-GOVERNMENTAL RULE**  
4 **CHANGE.**

5 With respect to any material provided to the Office  
6 with regard to a regulatory action for purposes of central-  
7 ized review of regulatory actions, the agency shall—

8 (1) not later than the date on which the agency  
9 publishes a general notice of proposed rulemaking  
10 required under section 553(b) of title 5, United  
11 States Code, with respect to the action, place in the  
12 rulemaking docket—

13 (A) the substance of any change between  
14 the text of any draft regulatory action that the  
15 agency provided to the Office and the text pub-  
16 lished in the general notice with respect to the  
17 action; and

18 (B) a statement regarding whether any  
19 change described in subparagraph (A) was  
20 made as a result of communication with—

21 (i) the Office;

22 (ii) another agency; or

23 (iii) any other Federal official; and

1           (2) not later than the date on which the agency  
2 publishes the regulatory action in the Federal Reg-  
3 ister, place in the rulemaking docket—

4           (A) the substance of any changes between  
5 the text of the regulatory action that the agency  
6 provided to the Office and the text of the regu-  
7 latory action that the agency published in the  
8 Federal Register; and

9           (B) a statement regarding whether any  
10 change described in subparagraph (A) was  
11 made as a result of communication with—

12           (i) the Office;

13           (ii) another agency; or

14           (iii) any other Federal official.

15 **SEC. 7. JUSTIFICATION OF WITHDRAWN RULES.**

16           (a) IN GENERAL.—If an agency withdraws a regu-  
17 latory action after providing the action to the Office under  
18 section 6(a)(3) of the Executive order (or, if the agency  
19 does not provide the regulatory action to the Office under  
20 that section, after publishing the general notice of pro-  
21 posed rulemaking with respect to the action under section  
22 553(b) of title 5, United States Code), the agency shall  
23 publish in the Federal Register, on the public docket of  
24 the agency, and on the internet website of the agency a

1 statement regarding the decision by the agency to with-  
2 draw the action.

3 (b) CONTENTS.—A statement required under para-  
4 graph (1) with respect to a decision by an agency to with-  
5 draw a regulatory action shall include, at a minimum—

6 (1) a detailed explanation of the reasons that  
7 the agency withdrew the action; and

8 (2) an explanation regarding whether the deci-  
9 sion by the agency to withdraw the action was  
10 based, in whole or in part, on a request by, or input  
11 from—

12 (A) the Office;

13 (B) another agency; or

14 (C) any other Federal official.

15 **SEC. 8. NEGOTIATED RULEMAKING.**

16 (a) IN GENERAL.—Subchapter III of chapter 5 of  
17 title 5, United States Code, is amended—

18 (1) in section 561, in the first sentence, by in-  
19 serting “between agencies and Federal, State, local,  
20 or tribal governments. This subchapter shall apply  
21 only to information negotiations between Federal,  
22 State, local, or tribal governments” after “informal  
23 rule making process”;

24 (2) in section 563—

25 (A) in subsection (a)—

1 (i) in paragraph (2), by inserting  
2 “Federal, State, local, or tribal govern-  
3 ment” after “identifiable”; and

4 (ii) in paragraph (3), by striking  
5 “persons who” and inserting “representa-  
6 tives of Federal, State, local, and tribal  
7 governments that”; and

8 (B) in subsection (b)—

9 (i) in paragraph (1)—

10 (I) in subparagraph (A)—

11 (aa) by striking “persons  
12 who” and inserting “Federal,  
13 State, local, or tribal govern-  
14 ments that”; and

15 (bb) by striking “, including  
16 residents of rural areas”; and

17 (II) in subparagraph (B)—

18 (aa) by striking “with such  
19 persons” and inserting “with rep-  
20 resentatives of those govern-  
21 ments”; and

22 (bb) by striking “to such  
23 persons” and inserting “to those  
24 governments”; and

1 (ii) in paragraph (2), in the second  
2 sentence—

3 (I) by striking “persons who”  
4 and inserting “representatives of Fed-  
5 eral, State, local, or tribal govern-  
6 ments that”; and

7 (II) by striking “, including resi-  
8 dents of rural areas”;

9 (3) in section 564—

10 (A) in the section heading, by striking “;  
11 applications for membership on committees”;

12 (B) in subsection (a)—

13 (i) in paragraph (4), by striking “the  
14 person or persons” and inserting “the rep-  
15 resentatives of Federal, State, local, and  
16 tribal governments”;

17 (ii) in paragraph (6), by adding “and”  
18 at the end;

19 (iii) in paragraph (7), by striking “;  
20 and” and inserting a period; and

21 (iv) by striking paragraph (8);

22 (C) by striking subsection (b);

23 (D) by redesignating subsection (c) as sub-  
24 section (b); and

25 (E) in subsection (b), as so redesignated—

1 (i) in the subsection heading, by strik-  
2 ing “AND APPLICATIONS”; and

3 (ii) by striking “and applications”;

4 (4) in section 565(a)—

5 (A) in paragraph (1), in the first sentence,  
6 by striking “and applications”; and

7 (B) in paragraph (2)—

8 (i) by striking “and applications”; and

9 (ii) by striking “publications,” and all  
10 that follows through the period at the end  
11 and inserting “publications.”; and

12 (5) in section 569(a), in the first sentence—

13 (A) by striking “and encourage agency use  
14 of”; and

15 (B) by inserting “between Federal, State,  
16 local, and tribal governments” after “negotiated  
17 rule making”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) BALANCED BUDGET ACT OF 1997.—Section  
20 1856(b)(1) of the Balanced Budget Act of 1997 (42  
21 U.S.C. 1395w–26) is amended by striking “, using  
22 a negotiated rule making process under subchapter  
23 III of chapter 5 of title 5, United States Code”.

24 (2) ELEMENTARY AND SECONDARY EDUCATION  
25 ACT OF 1965.—The Elementary and Secondary Edu-

1 cation Act of 1965 (20 U.S.C. 6301 et seq.) is  
2 amended—

3 (A) in section 1601 (20 U.S.C. 6571)—

4 (i) in subsection (a), by striking “sub-  
5 sections (b) through (d)” and inserting  
6 “subsection (b)”;

7 (ii) by striking subsections (b) and  
8 (c); and

9 (iii) by redesignating subsections (d)  
10 and (e) as subsections (b) and (c), respec-  
11 tively;

12 (B) by repealing section 1602; and

13 (C) in section 8204(c)(1), by striking  
14 “using a negotiated rulemaking process to de-  
15 velop regulations for implementation no later  
16 than the 2017–2018 academic year, shall de-  
17 fine” and inserting “shall, for implementation  
18 no later than the 2017–2018 academic year, de-  
19 fine”.

20 (3) HEALTH INSURANCE PORTABILITY AND AC-  
21 COUNTABILITY ACT OF 1996.—Section 216(b) of the  
22 Health Insurance Portability and Accountability Act  
23 of 1996 (42 U.S.C. 1320a–7b note) to read as fol-  
24 lows:

1       “(b) RULEMAKING FOR RISK-SHARING EXCEP-  
2 TION.—

3           “(1) ESTABLISHMENT.—The Secretary of  
4 Health and Human Services (in this subsection re-  
5 ferred to as the ‘Secretary’) shall establish standards  
6 relating to the exception for risk-sharing arrange-  
7 ments to the antikickback penalties described in sec-  
8 tion 1128B(b)(3)(F) of the Social Security Act, as  
9 added by subsection (a).

10          “(2) FACTORS TO CONSIDER.—In establishing  
11 standards relating to the exception for risk-sharing  
12 arrangements to the anti-kickback penalties under  
13 subparagraph (A), the Secretary—

14           “(A) shall consult with the Attorney Gen-  
15 eral and representatives of the hospital, physi-  
16 cian, other health practitioner, and health plan  
17 communities, and other interested parties; and

18           “(B) shall take into account—

19           “(i) the level of risk appropriate to  
20 the size and type of arrangement;

21           “(ii) the frequency of assessment and  
22 distribution of incentives;

23           “(iii) the level of capital contribution;  
24 and

1           “(iv) the extent to which the risk-  
2           sharing arrangement provides incentives to  
3           control the cost and quality of health care  
4           services.”.

5           (4) HIGHER EDUCATION ACT OF 1965.—The  
6           Higher Education Act of 1965 (20 U.S.C. 1001 et  
7           seq.) is amended—

8           (A) in section 207—

9           (i) by striking subsection (c); and

10           (ii) by redesignating subsection (d) as  
11           subsection (c);

12           (B) in section 422(g)(1)—

13           (i) in subparagraph (B), by adding  
14           “and” at the end;

15           (ii) in subparagraph (C), by striking  
16           “; and” and inserting a period; and

17           (iii) by striking subparagraph (D);

18           (C) in section 487A(b)(3)(B), by striking  
19           “as determined in the negotiated rulemaking  
20           process under section 492”;

21           (D) in section 491(l)(4)(A), by striking  
22           “not later than two years after the completion  
23           of the negotiated rulemaking process required  
24           under section 492 resulting from the amend-

1           ments to this Act made by the Higher Edu-  
2           cation Opportunity Act,”; and

3                   (E) in section 492—

4                           (i) in the section heading, by striking  
5                   “**NEGOTIATED**”; and

6                           (ii) by amending subsection (b) to  
7                   read as follows:

8           “(b) **ISSUANCE OF REGULATIONS.**—After obtaining  
9           the advice and recommendations described in subsection  
10          (a)(1), the Secretary shall issue final regulations within  
11          the 360-day period described in section 437(e) of the Gen-  
12          eral Education Provisions Act (12 U.S.C. 1232(e)).”.

13                   (5) **HOUSING ACT OF 1949.**—Section 515(r)(3)  
14          of the Housing Act of 1949 (42 U.S.C. 1485) is  
15          amended by striking “in accordance with” and all  
16          that follows through the period at the end and in-  
17          serting “under the rulemaking authority contained  
18          in section 553 of title 5, United States Code.”.

19                   (6) **MAGNUSON-STEVENSON FISHERY CONSERVA-**  
20          **TION AND MANAGEMENT ACT.**—Section 305(g) of  
21          the Magnuson-Stevens Fishery Conservation and  
22          Management Act (16 U.S.C. 1855(g)) is amended—

23                           (A) by striking paragraphs (2) and (3);

24                           (B) in paragraph (1)—

25                                   (i) by striking “(A)”; and

1 (ii) by redesignating subparagraph  
2 (B) as paragraph (2) and adjusting the  
3 margins accordingly; and

4 (C) in paragraph (2), as so redesignated,  
5 by striking the second sentence.

6 (7) MANDATORY PRICE REPORTING ACT OF  
7 2010.—Section 2(b) of the Mandatory Price Report-  
8 ing Act of 2010 (Public Law 111–239; 124 Stat.  
9 2501) is amended—

10 (A) by striking “WHOLESALE PORK CUTS”  
11 and all that follows through “chapter 3” and  
12 inserting “WHOLESALE PORK CUTS.—Chapter  
13 3”; and

14 (B) by striking paragraphs (2), (3), and  
15 (4).

16 (8) PATIENT PROTECTION AND AFFORDABLE  
17 CARE ACT.—Section 5602 of the Patient Protection  
18 and Affordable Care Act (42 U.S.C. 254b note) is  
19 amended—

20 (A) in the section heading, by striking  
21 “**NEGOTIATED**”;

22 (B) by striking subsections (b) through  
23 (h);

24 (C) in subsection (a)—

1 (i) by redesignating paragraph (2) as  
2 subsection (b) and adjusting the margins  
3 accordingly; and

4 (ii) in paragraph (1)—

5 (I) by striking “(1) IN GEN-  
6 ERAL.—”; and

7 (II) by redesignating subpara-  
8 graphs (A) and (B) as paragraphs (1)  
9 and (2), respectively; and

10 (D) in subsection (b), as so redesignated,  
11 by striking “paragraph (1)” and inserting “sub-  
12 section (a)”.

13 (9) PRICE-ANDERSON AMENDMENTS ACT OF  
14 1988.—Section 170 of the Atomic Energy Act of  
15 1954 (42 U.S.C. 2210) is amended—

16 (A) by striking subsection (b); and

17 (B) in subsection (a)—

18 (i) by striking “(1) PURPOSE.—”; and

19 (ii) by redesignating paragraph (2) as  
20 subsection (b) and adjusting the margins  
21 accordingly.

22 (10) SOCIAL SECURITY ACT.—Title XVIII of  
23 the Social Security Act (42 U.S.C. 1395 et seq.) is  
24 amended—

1 (A) in section 1834(l)(1) (42 U.S.C.  
2 1395m(l)(1)), by striking “through a negotiated  
3 rulemaking process described in title 5, United  
4 States Code,”;

5 (B) in section 1856(a) (42 U.S.C. 1395w–  
6 26(a));

7 (i) by striking paragraphs (2) through  
8 (9);

9 (ii) in paragraph (1)—

10 (I) by striking “(A) IN GEN-  
11 ERAL.—”;

12 (II) by striking “and using a ne-  
13 gotiated rulemaking process under  
14 subchapter III of chapter 5 of title 5,  
15 United States Code,”; and

16 (III) by redesignating subpara-  
17 graph (B) as paragraph (2) and ad-  
18 justing the margins accordingly; and

19 (iii) in paragraph (2), as so redesign-  
20 ated, by striking “subparagraph (A)” and  
21 inserting “paragraph (1)”.

22 (11) TITLE 5.—The table of sections for sub-  
23 chapter III of chapter 5 of title 5, United States  
24 Code, is amended by striking the item relating to  
25 section 564 and inserting the following:

“564. Publication of notice.”.

1           (12) TITLE 49.—Section 31136(g)(1) of title  
2 49, United States Code, is amended—

3           (A) by striking “shall—” and all that fol-  
4 lows through “issue” and inserting “shall  
5 issue”;

6           (B) by striking “; or” and inserting a pe-  
7 riod; and

8           (C) by striking subparagraph (B).

9           (13) TOXIC SUBSTANCES CONTROL ACT.—Sec-  
10 tion 8(a) of the Toxic Substances Control Act (15  
11 U.S.C. 2607(a)) is amended by—

12           (A) striking paragraph (6); and

13           (B) redesignating paragraph (7) as para-  
14 graph (6).

15           (14) UNITED STATES HOUSING ACT OF 1937.—  
16 Section 9 of the United States Housing Act of 1937  
17 (42 U.S.C. 1437g) is amended by striking sub-  
18 section (f).

19 **SEC. 9. STREAMLINING OIRA REVIEW.**

20           (a) IN GENERAL.—Except as provided in paragraph  
21 (2), if the Office commences a review of a significant regu-  
22 latory action, the Office shall complete such review not  
23 more than 60 days after the date on which the Office re-  
24 ceives the significant regulatory action.

1 (b) EXTENSION.—The Office may extend the 60-day  
2 period described in paragraph (1) by a single 60-day pe-  
3 riod if the Office provides the agency with, and makes  
4 publicly available, a written justification for the extension.

5 (c) PUBLICATION OF REGULATORY ACTION.—If the  
6 Office waives review of a significant regulatory action of  
7 an agency without a request for further consideration or  
8 does not notify the agency in writing of the results of the  
9 review within the time frame described in paragraph (1)  
10 or (2), the agency may publish the significant regulatory  
11 action in the Federal Register.

12 **SEC. 10. PENALIZING PUBLIC COMPANIES THAT SUBMIT**  
13 **FALSE INFORMATION TO AGENCIES.**

14 Section 553 of title 5, United States Code, as amend-  
15 ed by sections 3 and 4 of this Act, is amended by adding  
16 at the end the following:

17 “(j)(1) Any entity required to file an annual report  
18 under section 13 of the Securities Exchange Act of 1934  
19 (15 U.S.C. 78m) that makes a submission under sub-  
20 section (c) knowing the same—

21 “(A) to include any materially false, fictitious,  
22 or fraudulent statement or representation; or

23 “(B) to omit any material fact resulting in any  
24 statement or representation being false or mis-  
25 leading,

1 shall be subject a civil penalty of not less than \$250,000  
2 for a first violation.

3 “(2) Any entity that has a subsequent violation of  
4 paragraph (1) shall be subject to a civil penalty of not  
5 less than \$1,000,000 for each subsequent violation.

6 “(3) Any submission in violation of this subsection  
7 may be excluded from the record and from consideration  
8 by the agency or otherwise disregarded, and such submis-  
9 sion (or any amendment to such submission) may not be  
10 resubmitted thereafter. An exclusion or other disregard of  
11 a submission pursuant to this subsection shall not affect  
12 the level of deference (in accordance with applicable law)  
13 accorded to agency action by a court reviewing such ac-  
14 tion.

15 “(k) Any entity required to file an annual report pur-  
16 suant to section 13 of the Securities Exchange Act of  
17 1934 (15 U.S.C. 78m), shall include in a submission  
18 under subsection (c)(2) the annual report filed in the year  
19 previous to such submission and the quarterly report filed  
20 most recently prior to such submission.”.

21 **SEC. 11. ESTABLISHMENT OF THE OFFICE OF THE PUBLIC**  
22 **ADVOCATE.**

23 Subchapter I of chapter 5 of title 5, United States  
24 Code, is amended as follows:

25 (1) By adding at the end the following:

1 **“§ 505. Office of the Public Advocate**

2 “(a) ESTABLISHMENT.—There is established in the  
3 Office of Management and Budget an office to be known  
4 as the ‘Office of the Public Advocate’.

5 “(b) NATIONAL PUBLIC ADVOCATE.—The Office of  
6 the Public Advocate shall be under the supervision of an  
7 official to be known as the ‘National Public Advocate’, who  
8 shall—

9 “(1) be appointed by the President, by and with  
10 the advice and consent of the Senate;

11 “(2) report to the President;

12 “(3) be entitled to compensation at the same  
13 rate as the highest rate of basic pay established for  
14 the Senior Executive Service under section 5382;

15 “(4) have a background in customer service,  
16 consumer protection, or administrative law; and

17 “(5) have experience working with the public in  
18 cases involving rules (as defined in section 551).

19 “(c) DUTIES.—The duties of the Office of the Public  
20 Advocate shall include—

21 “(1) assisting agencies in soliciting public par-  
22 ticipation in the rulemaking process;

23 “(2) assisting individuals in participating in the  
24 rulemaking process;

1           “(3) working with agencies, Congress, and the  
2 public to identify problems and improve public par-  
3 ticipation in the rulemaking process;

4           “(4) conducting and publishing research on so-  
5 cial equity impacts of the rulemaking process;

6           “(5) developing and coordinating social equity  
7 definitions across the executive branch;

8           “(6) when requested by the agency or by the  
9 public through comments submitted through the  
10 process described in section 553 of title 5, United  
11 States Code, performing, not later than 30 days  
12 after the receipt of such a request, a social equity  
13 assessment (as such term is defined in the Stop Cor-  
14 porate Capture Act) for a proposed rule; and

15           “(7) facilitating means by which individuals and  
16 populations that have not historically participated in  
17 the rulemaking process may be better included in  
18 the rulemaking process, including by—

19                 “(A) recommending and implementing new  
20 outreach plans;

21                 “(B) partnering with State, local, and  
22 Tribal governments, and with community-based  
23 organizations to propagate information about  
24 rules changes; and

1           “(C) ensuring information about agency  
2           rulemaking and changes to rules are written in  
3           clear, accessible language that is accessible in  
4           multiple languages.

5           “(d) RULEMAKING.—Not later than 180 days after  
6           the date on which the National Public Advocate is ap-  
7           pointed under this subsection or 180 days after the date  
8           of enactment of this subsection, whichever is later, the Na-  
9           tional Public Advocate shall make rules to carry out this  
10          section.”.

11           (2) In the table of sections for such chapter, by  
12          inserting after the item relating to section 504 the  
13          following:

“505. Office of the Public Advocate.”.

14          **SEC. 12. SCOPE OF REVIEW.**

15          Section 706 of title 5, United States Code, is amend-  
16          ed—

17           (1) in the first sentence of the matter preceding  
18          paragraph (1)—

19           (A) by striking “agency action.” and in-  
20          serting “agency action. If a statute that an  
21          agency administers is silent or ambiguous as to  
22          the proper construction of a particular term or  
23          provision or set of terms or provisions, and an  
24          agency has followed the applicable procedures  
25          in subchapter II of chapter 5, has otherwise

1           lawfully adjudicated a matter, or has followed  
2           the corresponding procedural provisions of the  
3           relevant statute, as applicable, a reviewing court  
4           shall defer to the agency’s reasonable or per-  
5           missible interpretation of that statute, regard-  
6           less of the significance of the related agency ac-  
7           tion or a possible future agency action.”; and

8                       (B) by striking “To the extent necessary”  
9           and inserting:

10          “(a) IN GENERAL.—To the extent necessary”; and

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

12          “(b) UNREASONABLE DELAY.—For purposes of sub-  
13 section (a)(1), unreasonable delay shall include—

14                       “(1) when an agency has not issued a notice of  
15           proposed rulemaking before the date that is 1 year  
16           after the date of enactment of the legislation man-  
17           dating the rulemaking, where no deadline for the  
18           rulemaking was specified in the enacted law;

19                       “(2) when an agency has not issued a final  
20           version of a proposed rule before the date that is 1  
21           year after the date on which the proposed rule was  
22           published in the Federal Register;

23                       “(3) when an agency has not implemented a  
24           final rule before the date that is 1 year after the im-  
25           plementation date published in the Federal Register

1 or, if no implementation date was provided, before  
2 the date that is 1 year after the date on which the  
3 final rule was published in the Federal Register; and

4 “(4) when an agency has not issued or imple-  
5 mented a final rule, upon a showing of good cause  
6 therefor.”.

7 **SEC. 13. EXPANDING PUBLIC AWARENESS OF**  
8 **RULEMAKINGS.**

9 (a) IN GENERAL.—Section 553 of title 5, United  
10 States Code, as amended by section 8 of this Act, is  
11 amended by adding at the end the following:

12 “(1)(1) The head of each agency shall take such ac-  
13 tions as may be necessary to—

14 “(A) expand public awareness of the initiation  
15 of each rulemaking proceeding;

16 “(B) expand public awareness of the publication  
17 of each proposed rule;

18 “(C) expand public awareness when a rule is  
19 published; and

20 “(D) establish a participation log, including all  
21 rulemaking participants, with respect to each rule-  
22 making.

23 “(2) Not later than two business days after the date  
24 on which an agency publishes a notice of proposed rule-  
25 making or a final rule under this section, the agency shall

1 notify interested persons of the publication, including by  
2 using contact information that interested persons have  
3 provided to the agency and by publishing such notice on  
4 the agency’s website and any social media accounts.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall take effect beginning on the date that  
7 is 30 days after the date of enactment of this Act.

8 **SEC. 14. PUBLIC PETITIONS.**

9 Section 553(e) of title 5, United States Code, is  
10 amended—

11 (1) by inserting “(1)” before “Each agency”;

12 and

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

14 “(2) Not later than 60 days after the date on  
15 which an agency receives more than 100,000 signa-  
16 tures on a single petition under paragraph (1), the  
17 agency shall provide a written response that in-  
18 cludes—

19 “(A) an explanation of whether the agency  
20 has engaged or is engaging in the requested  
21 issuance, amendment, or repeal of a rule; and

22 “(B) if the agency has not engaged in the  
23 requested issuance, amendment, or repeal of a  
24 rule, a written explanation for not engaging in  
25 the requested issuance, amendment, or repeal.

1           “(3) Not later than 30 days after the effective  
2           date of this paragraph, the head of each agency shall  
3           establish and publish procedures for the processing  
4           of a petition under paragraph (1), including—

5                   “(A) using the agency website, the Federal  
6           Register, and other Federal websites to educate  
7           the public about how to file petition under para-  
8           graph (1); and

9                   “(B) creating an accessible docket on the  
10           internet website of the agency, or on any exist-  
11           ing Government-wide internet website, of any  
12           petition filed under paragraph (1).

13           “(4) No agency action under this subsection  
14           shall be subject to review under chapter 7.”.

15 **SEC. 15. AMENDMENT TO CONGRESSIONAL REVIEW ACT.**

16           Section 801(b) of title 5, United States Code, is  
17           amended—

18                   (1) in paragraph (1), by striking “(1)”; and

19                   (2) by striking paragraph (2).

20 **SEC. 16. REINSTATEMENT OF DISAPPROVED RULES.**

21           (a) **DEFINITIONS.**—In this section—

22                   (1) the term “covered rule” means a rule for  
23           which a joint resolution of disapproval was enacted  
24           under chapter 8 of title 5, United States Code, be-  
25           fore the date of enactment of this Act; and

1           (2) the term “Federal agency” has the meaning  
2           given the term “agency” in section 551(1) of title 5,  
3           United States Code.

4           (b) **FAST-TRACK REINSTATEMENT.**—A Federal  
5           agency may reinstate a covered rule by publishing the cov-  
6           ered rule in the Federal Register during the 1-year period  
7           beginning on the date of enactment of this Act.

8           (c) **REINSTATEMENT AFTER 1-YEAR PERIOD.**—After  
9           the end of the 1-year period beginning on the date of en-  
10          actment of this Act, a Federal agency may reinstate a cov-  
11          ered rule using the rulemaking procedures described in  
12          section 553 of title 5, United States Code.

13          **SEC. 17. COST-BENEFIT ANALYSIS.**

14          (a) **REQUIREMENT OF REGULATORY IMPACT.**—If an  
15          agency is performing a cost-benefit or regulatory impact  
16          analysis in the course of issuing a rule, the agency shall—

17                  (1) take into account the benefits of the rule to  
18                  the public, including the nonquantifiable benefits of  
19                  the rule; and

20                  (2) except for good cause shown, prioritize  
21                  adoption of a rule that provides benefits to the pub-  
22                  lic, including nonquantifiable benefits.

23          (b) **REQUIREMENT OF DISTRIBUTIONAL EFFECTS.**—  
24          An agency shall agency shall take into account distribu-

1 tional effects and the social equity impact of a rule when  
2 issuing such rule.

3 (c) SCOPE OF REVIEW.—Section 706 of title 5,  
4 United States Code, is amended by adding at the end the  
5 following: “When acting under paragraph (2)(A), the  
6 court shall not require an agency to demonstrate that the  
7 challenged action meets a cost-benefit analysis standard  
8 except where explicitly required by law.”.

9 **SEC. 18. DEFINITIONS.**

10 In this Act:

11 (1) AGENCY; RULE.—The terms “agency” and  
12 “rule” shall have the meanings given such terms in  
13 section 551 of title 5, United States Code.

14 (2) INTERESTED PERSON.—The term “inter-  
15 ested person” includes individuals, partnerships, cor-  
16 porations, associations, or public or private organiza-  
17 tions of any character other than an agency.

18 (3) OFFICE.—The term “Office” means the Of-  
19 fice of Information and Regulatory Affairs of the Of-  
20 fice of Management and Budget.

21 (4) REGULATORY ACTION.—The term “regu-  
22 latory action” means any substantive action by an  
23 agency that promulgates or is expected to lead to the  
24 promulgation of a final rule or regulation, including

1 notices of inquiry, advance notices of proposed rule-  
2 making, and notices of proposed rulemaking.

3 (5) SIGNIFICANT REGULATORY ACTION.—The  
4 term “significant regulatory action” means any reg-  
5 ulatory action that is likely to result in a rule that  
6 may—

7 (A) have an annual effect on the economy  
8 of \$100,000,000 or more or adversely affect in  
9 a material way the economy, a sector of the  
10 economy, productivity, competition, jobs, the  
11 environment, public health or safety, or State,  
12 local, or tribal governments or communities;

13 (B) create a serious inconsistency or other-  
14 wise interfere with an action taken or planned  
15 by another agency;

16 (C) materially alter the budgetary impact  
17 of entitlements, grants, user fees, or loan pro-  
18 grams or the rights and obligations of recipi-  
19 ents thereof; or

20 (D) raise novel legal or policy issues aris-  
21 ing out of legal mandates, the President’s prior-  
22 ities, or the general principles of regulation cus-  
23 tomarily practiced by the executive branch.

24 (6) SOCIAL EQUITY IMPACT.—The term “social  
25 equity impact” means any impact of a proposed

1 rule, whether intended or unintended, that might  
2 reasonably be expected to disproportionately affect a  
3 population of interested persons that is part of a  
4 protected class or set of protected classes, based on  
5 the rules’s plain language, stated intention, and  
6 based on credible statistical projections and data on  
7 the impacts of similar rules, laws, and policies.

8 (7) SOCIAL EQUITY ASSESSMENT.—The term  
9 “social equity assessment” means a written and pub-  
10 licly available report that shall specifically consider  
11 any social equity impact, positive or negative, that  
12 the proposed policy might have on a population of  
13 interested persons who share a common char-  
14 acteristic that renders them part of a protected  
15 class, where that population was previously subjected  
16 to discriminatory or exclusionary practices by the  
17 agency promulgating the rule or where credible de-  
18 mographic evidence demonstrates significant dispari-  
19 ties experienced by different populations within a  
20 protected class.

○