

117TH CONGRESS
1ST SESSION

S. 3378

To require agencies to submit certain settlement agreements to Congress, to allow Congress to disapprove of those settlement agreements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2021

Mr. SCOTT of Florida (for himself, Mr. TOOMEY, Mr. CASSIDY, Mr. ROUNDS, Mr. HAGERTY, Mr. BRAUN, and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require agencies to submit certain settlement agreements to Congress, to allow Congress to disapprove of those settlement agreements, 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 “Congressional Review
5 of Agency Legal Settlements Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

4 (2) AGENCY RULE.—The term “agency rule”
5 means—

6 (A) a substantive rule of general applica-
7 bility of an agency;

8 (B) a statement of general policy of an
9 agency; or

10 (C) an interpretation of general applica-
11 bility formulated and adopted by an agency
12 pursuant to relevant law.

13 (3) COVERED SETTLEMENT AGREEMENT.—The
14 term “covered settlement agreement” means a pro-
15 posed voluntary compromise settlement to be entered
16 into by an agency to resolve 1 or more pending legal
17 claims against the United States that includes—

18 (A) a financial award paid by the agency
19 that is more than \$10,000,000, aggregated
20 across all similarly situated cases or legal
21 claims against the agency; or

22 (B) an agreement to modify or alter an
23 agency rule of the agency.

24 (4) END OF SESSION PERIOD.—The term “end
25 of session period” means the period—

1 (A) beginning on the date occurring, in the
2 case of the Senate, 60 session days, or in the
3 case of the House of Representatives, 60 legis-
4 lative days before the date the Congress ad-
5 journals a session of Congress; and

6 (B) ending on the date on which the same
7 or succeeding Congress first convenes its next
8 session.

9 (5) JOINT RESOLUTION OF DISAPPROVAL.—The
10 term “joint resolution of disapproval” means a joint
11 resolution—

12 (A) introduced during the period beginning
13 on the submission date and ending 60 days
14 thereafter (excluding days either House of Con-
15 gress is adjourned for more than 3 days during
16 a session of Congress); and

17 (B) the matter after the resolving clause of
18 which is as follows:

19 (i) For covered settlement agreements
20 involving a financial award: “That Con-
21 gress finds that the settlement agreement
22 proposed by the _____ relating to _____
23 is an unauthorized use of amounts appro-
24 priated by Congress, and the _____ may
25 not enter into the settlement agreement

1 using amounts appropriated by Congress.”
 2 (The blank spaces being appropriately
 3 filled in).

4 (ii) For covered settlement agree-
 5 ments involving a modification or alter-
 6 ation of an agency rule: “That Congress
 7 disapproves modification or alteration of
 8 the agency rule within the settlement
 9 agreement proposed by the _____ relating
 10 to _____, and such modification or alter-
 11 ation of the agency rule shall have no force
 12 or effect.” (The blank spaces being appro-
 13 priately filled in).

14 (6) SUBMISSION DATE.—The term “submission
 15 date” means the date on which a report submitted
 16 by an agency under section 3(a) is received by Con-
 17 gress.

18 **SEC. 3. CONGRESSIONAL REVIEW OF CERTAIN AGENCY**
 19 **SETTLEMENT AGREEMENTS.**

20 (a) IN GENERAL.—Before an agency may enter into
 21 a covered settlement agreement, the agency shall submit
 22 to Congress a report that includes—

23 (1) information relating to each legal claim re-
 24 solved by the covered settlement agreement;

1 (2) the terms of the covered settlement agree-
2 ment;

3 (3) the class of claimants covered by the cov-
4 ered settlement agreement;

5 (4) the total amount of the financial award to
6 be paid under the covered settlement agreement;

7 (5) the factual and legal basis for calculating
8 the amount described in paragraph (4);

9 (6) the factual and legal basis for modifying or
10 altering each agency rule of the agency modified or
11 altered under the covered settlement agreement; and

12 (7) whether each modification or alteration of
13 an agency rule described in paragraph (6) will re-
14 quire the agency to initiate rulemaking proceedings
15 under section 553 of title 5, United States Code and
16 the date those rulemaking proceedings will com-
17 mence.

18 (b) RECEIPT BY CONGRESS.—Upon receipt of a re-
19 port from an agency under subsection (a), each House
20 shall provide a copy of the report to the chairman and
21 ranking member of the standing committee with jurisdic-
22 tion over the agency and the operating budget of the agen-
23 cy.

24 (c) JOINT RESOLUTION.—Not later than 60 days
25 after the date on which Congress receives a report under

1 subsection (a), Congress may pass a joint resolution of
2 disapproval of the covered settlement agreement that is
3 the subject of the report in accordance with section 4.

4 (d) EFFECT OF JOINT RESOLUTION.—If Congress
5 passes a joint resolution of disapproval relating to a cov-
6 ered settlement agreement in accordance with section 4,
7 the agency may not—

8 (1) pay a financial award under the covered set-
9 tlement agreement using amounts otherwise appro-
10 priated by Congress; or

11 (2) modify or alter an agency rule of the agency
12 under the covered settlement agreement without
13 complying with the rulemaking requirements under
14 section 553 of title 5, United States Code.

15 (e) WAITING PERIOD.—Subject to subsection (f), an
16 agency may enter into a covered settlement agreement as
17 otherwise provided by law if, on the date that is 60 days
18 after the submission date, Congress has not passed a joint
19 resolution of disapproval relating to the covered settlement
20 agreement.

21 (f) END OF SESSION SUBMISSION.—In addition to
22 the opportunity for Congress to review a covered settle-
23 ment agreement as otherwise provided under this Act, in
24 the case of any covered settlement agreement for which

1 a report is submitted in accordance with subsection (a)
2 during an end of session period—

3 (1) section 4 shall apply to the covered settle-
4 ment agreement in the succeeding session of Con-
5 gress; and

6 (2) in applying section 4 for purposes of such
7 additional review, the covered settlement agreement
8 shall be treated as though a report on such covered
9 settlement agreement were submitted to Congress
10 under subsection (a) on, with respect to the date on
11 which the succeeding session of Congress first con-
12 venes—

13 (A) in the case of the Senate, the 15th ses-
14 sion day after that date; or

15 (B) in the case of the House of Represent-
16 atives, the 15th legislative day after that date.

17 **SEC. 4. EXPEDITED PROCEDURE FOR JOINT RESOLUTIONS**
18 **OF DISAPPROVAL.**

19 (a) REFERRAL.—A joint resolution shall be referred
20 to the committees in each House of Congress with jurisdic-
21 tion.

22 (b) DISCHARGE FROM COMMITTEE.—In the Senate,
23 if the committee to which a joint resolution of disapproval
24 is referred under subsection (a) has not reported the joint
25 resolution of disapproval (or an identical joint resolution

1 of disapproval) at the end of 20 calendar days after the
2 submission date, the committee may be discharged from
3 further consideration of the joint resolution of disapproval
4 upon a petition supported in writing by 30 Members of
5 the Senate, and such joint resolution of disapproval shall
6 be placed on the calendar.

7 (c) PROCEDURE.—

8 (1) IN GENERAL.—In the Senate, when the
9 committee to which a joint resolution of disapproval
10 is referred has reported, or when a committee is dis-
11 charged (under subsection (b)) from further consid-
12 eration of a joint resolution of disapproval, it is at
13 any time thereafter in order (even though a previous
14 motion to the same effect has been disagreed to) for
15 a motion to proceed to the consideration of the joint
16 resolution of disapproval, and all points of order
17 against the joint resolution of disapproval (and
18 against consideration of the joint resolution of dis-
19 approval) are waived. The motion is not subject to
20 amendment, or to a motion to postpone, or to a mo-
21 tion to proceed to the consideration of other busi-
22 ness. A motion to reconsider the vote by which the
23 motion is agreed to or disagreed to shall not be in
24 order. If a motion to proceed to the consideration of
25 the joint resolution of disapproval is agreed to, the

1 joint resolution of disapproval shall remain the un-
2 finished business of the Senate until disposed of.

3 (2) DEBATE LIMITATION.—In the Senate, de-
4 bate on the joint resolution of disapproval, and on
5 all debatable motions and appeals in connection
6 therewith, shall be limited to not more than 10
7 hours, which shall be divided equally between those
8 favoring and those opposing the joint resolution of
9 disapproval. A motion further to limit debate is in
10 order and not debatable. An amendment to, or a mo-
11 tion to postpone, or a motion to proceed to the con-
12 sideration of other business, or a motion to recom-
13 mit the joint resolution of disapproval is not in
14 order.

15 (3) VOTE ON FINAL PASSAGE.—In the Senate,
16 immediately following the conclusion of the debate
17 on a joint resolution of disapproval, and a single
18 quorum call at the conclusion of the debate if re-
19 quested in accordance with the rules of the Senate,
20 the vote on final passage of the joint resolution of
21 disapproval shall occur.

22 (4) APPEALS.—Appeals from the decisions of
23 the Chair relating to the application of the rules of
24 the Senate to the procedure relating to a joint reso-
25 lution of disapproval shall be decided without debate.

1 (d) LIMITATION.—In the Senate, the procedure de-
2 scribed in subsection (b) or (c) shall not apply to the con-
3 sideration of a joint resolution of disapproval—

4 (1) after the expiration of the 60 session days
5 beginning with the applicable submission date; or

6 (2) if the report described in section 3(a) was
7 submitted during an end of session period, after the
8 expiration of the 60 session days beginning on the
9 15th session day after the succeeding session of
10 Congress first convenes.

11 (e) EFFECT OF PASSAGE IN ONE HOUSE.—If, before
12 the passage by one House of a joint resolution of dis-
13 approval of that House, that House receives from the
14 other House a joint resolution of disapproval, then the fol-
15 lowing procedures shall apply:

16 (1) The joint resolution of disapproval of the
17 other House shall not be referred to a committee.

18 (2) With respect to a joint resolution of dis-
19 approval of the House receiving the joint resolution
20 of disapproval—

21 (A) the procedure in that House shall be
22 the same as if no joint resolution of disapproval
23 had been received from the other House; but

1 (B) the vote on final passage shall be on
2 the joint resolution of disapproval of the other
3 House.

4 (f) RULE OF CONSTRUCTION.—This section is en-
5 acted by Congress—

6 (1) as an exercise of the rulemaking power of
7 the Senate and House of Representatives, respec-
8 tively, and, as such, it is deemed a part of the rules
9 of each House, respectively, but applicable only with
10 respect to the procedure to be followed in that
11 House in the case of a joint resolution of dis-
12 approval, and it supersedes other rules only to the
13 extent that it is inconsistent with such rules; and

14 (2) with full recognition of the constitutional
15 right of either House to change the rules (so far as
16 relating to the procedure of that House) at any time,
17 in the same manner, and to the same extent as in
18 the case of any other rule of that House.

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