

117TH CONGRESS
2D SESSION

H. R. 9390

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2022

Ms. JAYAPAL (for herself, Mr. CICILLINE, Mr. GARCÍA of Illinois, Mr. JOHNSON of Georgia, Mr. JONES, Ms. LEE of California, Ms. OCASIO-CORTEZ, Ms. PORTER, Ms. SCANLON, and Mr. TAKANO) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Oversight and Reform, 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

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 (c), 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 (c) 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 (c)(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 striking
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 insert “sub-
6 section (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) is amended—

24 (A) in the header, by striking “NEGO-
25 TIATED”;

1 (B) by striking paragraphs (2) through
2 (9);

3 (C) by redesignating subparagraph (B) of
4 paragraph (1) as paragraph (2) and adjusting
5 the margins accordingly;

6 (D) in paragraph (2), as so redesignated,
7 by striking “subparagraph (A)” and inserting
8 “paragraph (1)”;

9 (E) in paragraph (1), by striking the para-
10 graph heading, and the heading of subparagraph
11 (A); and

12 (F) in paragraph (1), by striking “The
13 Secretary of Health and Human Services (in
14 this subsection referred to as the ‘Secretary’)
15 shall establish, on an expedited basis and using
16 a negotiated rulemaking process under sub-
17 chapter 3 [III] of chapter 5 of title 5, United
18 States Code, standards” and inserting the fol-
19 lowing: “(1) ESTABLISHMENT.—The Secretary
20 of Health and Human Services (in this sub-
21 section referred to as the ‘Secretary’) shall es-
22 tablish standards”.

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

1 (A) in section 207—

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

3 (ii) by redesignating subsection (d) as
4 subsection (c);

5 (B) in section 422(g)(1)—

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

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

10 (iii) by striking subparagraph (D);

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

14 (D) in section 491(l)(4)(A), by striking
15 “not later than two years after the completion
16 of the negotiated rulemaking process required
17 under section 492 resulting from the amend-
18 ments to this Act made by the Higher Edu-
19 cation Opportunity Act,”; and

20 (E) in section 492—

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

23 (ii) by amending subsection (b) to
24 read as follows:

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

6 (5) HOUSING ACT OF 1949.—Section 515(r)(3)
 7 of the Housing Act of 1949 (42 U.S.C. 1485) is
 8 amended by striking “in accordance with” and all
 9 that follows through the period at the end and in-
 10 sserting “under the rulemaking authority contained
 11 in section 553 of title 5, United States Code.”.

12 (6) MAGNUSON-STEVENSON FISHERY CONSERVA-
 13 TION AND MANAGEMENT ACT.—Section 305(g) of
 14 the Magnuson-Stevens Fishery Conservation and
 15 Management Act (16 U.S.C. 1855(g)) is amended—

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

17 (B) in paragraph (1)—

18 (i) by striking “(A)”;

19 (ii) by redesignating subparagraph

20 (B) as paragraph (2) and adjusting the
 21 margins accordingly; and

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

24 (7) MANDATORY PRICE REPORTING ACT OF
 25 2010.—Section 2(b) of the Mandatory Price Report-

1 ing Act of 2010 (Public Law 111–239; 124 Stat.
2 2501) is amended—

3 (A) by striking “WHOLESALE PORK CUTS”
4 and all that follows through “chapter 3” and
5 inserting “WHOLESALE PORK CUTS.—Chapter
6 3”; and

7 (B) by striking paragraphs (2), (3), and
8 (4).

9 (8) PATIENT PROTECTION AND AFFORDABLE
10 CARE ACT.—Section 5602 of the Patient Protection
11 and Affordable Care Act (42 U.S.C. 254b note) is
12 amended—

13 (A) in the section heading, by striking
14 “**NEGOTIATED**”;

15 (B) by striking subsections (b) through
16 (h);

17 (C) in subsection (a)—

18 (i) by redesignating paragraph (2) as
19 subsection (b) and adjusting the margins
20 accordingly; and

21 (ii) in paragraph (1)—

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

1 (II) by redesignating subpara-
2 graphs (A) and (B) as paragraphs (1)
3 and (2), respectively; and
4 (D) in subsection (b), as so redesignated,
5 by striking “paragraph (1)” and inserting “sub-
6 section (a)”.

7 (9) PRICE-ANDERSON AMENDMENTS ACT OF
8 1988.—Section 170 of the Atomic Energy Act of
9 1954 (42 U.S.C. 2210) is amended—

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

11 (B) in subsection (a)—

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

13 (ii) by redesignating paragraph (2) as
14 subsection (b) and adjusting the margins
15 accordingly.

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

19 (A) in section 1834(l)(1) (U.S.C.
20 1395m(l)(1)), by striking “through a negotiated
21 rule making process described in title 5, United
22 States Code, and”; and

23 (B) in section 1856(a) (42 U.S.C. 1395w–
24 26(a));

1 (i) by striking paragraphs (2) through
2 (9);

3 (ii) in paragraph (1)—

4 (I) by striking “(A) IN GEN-
5 ERAL.—”;

6 (II) by striking “and using a ne-
7 gotiated rule making process under
8 subchapter III of chapter 5 of title
9 5”; and

10 (III) by redesignating subpara-
11 graph (B) as paragraph (2) and ad-
12 justing the margins accordingly; and

13 (iii) in paragraph (2), as so redesign-
14 ated, by striking “subparagraph (A)” and
15 inserting “paragraph (1)”.

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

“564. Publication of notice.”.

20 (12) TITLE 49.—Section 31136(g)(1) of title
21 49, United States Code, is amended—

22 (A) by striking “shall—” and all that fol-
23 lows through “issue” and inserting “shall
24 issue”;

1 (B) by striking “; or” and inserting a pe-
2 riod; and

3 (C) by striking subparagraph (B).

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

7 (A) striking paragraph (6); and

8 (B) redesignating paragraph (7) as para-
9 graph (6).

10 (14) UNITED STATES HOUSING ACT OF 1937.—
11 Section 9 of the United States Housing Act of 1937
12 (42 U.S.C. 1437g) is amended by striking sub-
13 section (f).

14 **SEC. 9. STREAMLINING OIRA REVIEW.**

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

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

24 (c) PUBLICATION OF REGULATORY ACTION.—If the
25 Office waives review of a significant regulatory action of

1 an agency without a request for further consideration or
2 does not notify the agency in writing of the results of the
3 review within the time frame described in paragraph (1)
4 or (2), the agency may publish the significant regulatory
5 action in the Federal Register.

6 **SEC. 10. PENALIZING PUBLIC COMPANIES THAT SUBMIT**
7 **FALSE INFORMATION TO AGENCIES.**

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

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

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

17 “(B) to omit any material fact resulting in any
18 statement or representation being false or mis-
19 leading,

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

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

1 “(3) Any submission in violation of this subsection
 2 may be excluded from the record and from consideration
 3 by the agency or otherwise disregarded, such submission
 4 (or any amendment to such submission) may not be resub-
 5 mitted thereafter. An exclusion or other disregard of a
 6 submission pursuant to this subsection shall not affect the
 7 level of deference (in accordance with applicable law) ac-
 8 corded to agency action by a court reviewing such action.

9 “(k) Any entity required to file an annual report pur-
 10 suant to section 13 of the Securities Exchange Act of
 11 1934 (15 U.S.C. 78m), shall include in a submission
 12 under subsection (c)(2) the annual report filed in the year
 13 previous to such submission and the quarterly report filed
 14 most recently prior to such submission.”.

15 **SEC. 11. ESTABLISHMENT OF THE OFFICE OF THE PUBLIC**
 16 **ADVOCATE.**

17 Subchapter I of chapter 5 of title 5, United States
 18 Code, is amended as follows:

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

20 **“§ 508. Office of the Public Advocate**

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

24 “(b) NATIONAL PUBLIC ADVOCATE.—The Office of
 25 the Public Advocate shall be under the supervision of an

1 official to be known as the ‘National Public Advocate’, who
2 shall—

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

5 “(2) report to the President;

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

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

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

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

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

17 “(2) assisting individuals in participating in the
18 rulemaking process;

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

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

24 “(5) developing and coordinating social equity
25 definitions across the executive branch;

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

8 “(7) facilitating means by which individuals and
9 populations that have not historically participated in
10 the rulemaking process may be better included in
11 the rulemaking process, including by—

12 “(A) recommending and implementing new
13 outreach plans;

14 “(B) partnering with State, local, and
15 Tribal governments, and with community-based
16 organizations to propagate information about
17 rules changes; and

18 “(C) ensuring information about agency
19 rulemaking and changes to rules are written in
20 clear, accessible language that is accessible in
21 multiple languages.

22 “(d) RULEMAKING.—Not later than 180 days after
23 the date on which the National Public Advocate is ap-
24 pointed under this subsection or 180 days after the date
25 of enactment of this subsection, whichever is later, the Na-

1 tional Public Advocate shall make rules to carry out this
2 section.”.

3 (2) In the table of sections for such chapter, by
4 inserting after the item relating to section 507 the
5 following:

“508. Office of the Public Advocate.”.

6 **SEC. 12. SCOPE OF REVIEW.**

7 Section 706 of title 5, United States Code, is amend-
8 ed—

9 (1) in the first sentence of the matter preceding
10 paragraph (1)—

11 (A) by striking “agency action.” and in-
12 serting “agency action. If a statute that an
13 agency administers is silent or ambiguous as to
14 the proper construction of a particular term or
15 provision or set of terms or provisions, and an
16 agency has followed the applicable procedures
17 in subchapter II of chapter 5, has otherwise
18 lawfully adjudicated a matter, or has followed
19 the corresponding procedural provisions of the
20 relevant statute, as applicable, a reviewing court
21 shall defer to the agency’s reasonable or per-
22 missible interpretation of that statute, regard-
23 less of the significance of the related agency ac-
24 tion or a possible future agency action.”; and

1 (B) by striking “To the extent necessary”

2 and inserting:

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

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

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

7 “(1) when an agency has not issued a notice of
8 proposed rulemaking before the date that is 1 year
9 of the date of enactment of the legislation man-
10 dating the rulemaking, where no deadline for the
11 rulemaking was specified in the enacted law;

12 “(2) when an agency has not issued a final
13 version of a proposed rule before the date that is 1
14 year of the date on which the proposed rule was
15 published in the Federal Register;

16 “(3) when an agency has not implemented a
17 final rule before the date that is 1 year of the imple-
18 mentation date published in the Federal Register or,
19 if no implementation date was provided, before the
20 date that is 1 year of the date on which the final
21 rule was published in the Federal Register; and

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

1 **SEC. 13. EXPANDING PUBLIC AWARENESS OF**
2 **RULEMAKINGS.**

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

6 “(1)(1) The head of each agency shall take such ac-
7 tions as may be necessary to—

8 “(A) expand public awareness of the initiation
9 of each rulemaking proceeding;

10 “(B) expand public awareness of the publication
11 of each proposed rule;

12 “(C) expand public awareness when a rule is
13 published; and

14 “(D) establish a participation log, including all
15 rulemaking participants, with respect to each rule-
16 making.

17 “(2) Not later than two business days after the date
18 on which an agency publishes a notice of proposed rule-
19 making or a final rule under this section, the agency shall
20 notify interested persons of the publication, including by
21 using contact information that interested persons have
22 provided to the agency and by publishing such notice on
23 the agency’s website and any social media accounts.”.

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

1 **SEC. 14. PUBLIC PETITIONS.**

2 Section 553(e) of title 5, United States Code, is
3 amended—

4 (1) by inserting “(1)” before “Each agency”;
5 and

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

7 “(2) Not later than 60 days after the date on
8 which an agency receives more than 100,000 signa-
9 tures on a single petition under paragraph (1), the
10 agency shall provide a written response that in-
11 cludes—

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

15 “(B) if the agency has not engaged in the
16 requested issuance, amendment, or repeal of a
17 rule, a written explanation for not engaging in
18 the requested issuance, amendment, or repeal.

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

23 “(A) using the agency website, the Federal
24 Register, and other Federal websites to educate
25 the public about how to file petition under para-
26 graph (1); and

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

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

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

8 Section 801(b) of title 5, United States Code, is
 9 amended—

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

11 (2) by striking paragraph (2).

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

13 (a) DEFINITIONS.—In this section—

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

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

21 (b) FAST TRACK REINSTATEMENT.—A Federal agen-
 22 cy may reinstate a covered rule by publishing the covered
 23 rule in the Federal Register during the 1-year period be-
 24 ginning on the date of enactment of this Act.

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

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

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

10 (1) take into account the benefits of the rule to
 11 the public, including the nonquantifiable benefits of
 12 the rule; and

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

16 (b) REQUIREMENT OF DISTRIBUTIONAL EFFECTS.—
 17 An agency shall agency shall take into account distribu-
 18 tional effects and the social equity impact of a rule when
 19 issuing such rule.

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

1 **SEC. 18. DEFINITIONS.**

2 In this Act:

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

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

10 (3) OFFICE.—The term “Office” means the Of-
11 fice of Information and Regulatory Affairs of the Of-
12 fice of Management and Budget.

13 (4) REGULATORY ACTION.—The term “regu-
14 latory action” means any substantive action by an
15 agency that promulgates or is expected to lead to the
16 promulgation of a final rule or regulation, including
17 notices of inquiry, advance notices of proposed rule-
18 making, and notices of proposed rulemaking.

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

23 (A) have an annual effect on the economy
24 of \$100,000,000 or more or adversely affect in
25 a material way the economy, a sector of the
26 economy, productivity, competition, jobs, the

1 environment, public health or safety, or State,
2 local, or tribal governments or communities;

3 (B) create a serious inconsistency or other-
4 wise interfere with an action taken or planned
5 by another agency;

6 (C) materially alter the budgetary impact
7 of entitlements, grants, user fees, or loan pro-
8 grams or the rights and obligations of recipi-
9 ents thereof; or

10 (D) raise novel legal or policy issues aris-
11 ing out of legal mandates, the President's prior-
12 ities, or the general principles of regulation cus-
13 tomarily practiced by the executive branch.

14 (6) SOCIAL EQUITY IMPACT.—The term “social
15 equity impact” means any impact of a proposed
16 rule, whether intended or unintended, that might
17 reasonably be expected to disproportionately affect a
18 population of interested persons that is part of a
19 protected class or set of protected classes, based on
20 the rules's plain language, stated intention, and
21 based on credible statistical projections and data on
22 the impacts of similar rules, laws, and policies.

23 (7) SOCIAL EQUITY ASSESSMENT.—The term
24 “social equity assessment” means a written and pub-
25 licly available report that shall specifically consider

1 any social equity impact, positive or negative, that
2 the proposed policy might have on a population of
3 interested persons who share a common char-
4 acteristic that renders them part of a protected
5 class, where that population was previously subjected
6 to discriminatory or exclusionary practices by the
7 agency promulgating the rule or where credible de-
8 mographic evidence demonstrates significant dispari-
9 ties experienced by different populations within a
10 protected class.

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