

117TH CONGRESS  
1ST SESSION

# H. R. 6107

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, 2021

Ms. JAYAPAL (for herself and Mr. CICILLINE) 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. DISCLOSURE OF CONFLICTS OF INTEREST.**

7       (a) IN GENERAL.—Section 553 of title 5, United  
8       States Code, is amended—

1 (1) in subsection (c)—

2 (A) by inserting after “(c)” the following:

3 “NOTICE REQUIREMENT.—”;

4 (B) by striking “After notice required”  
5 and inserting the following:

6 “(1) IN GENERAL.—After notice required”; and

7 (C) by adding at the end the following:

8 “(2) SUBMISSIONS INCLUDING SCIENTIFIC,  
9 ECONOMIC, OR TECHNICAL MATERIALS.—In the case  
10 of any submission by an interested person that in-  
11 cludes a scientific, economic, or technical study, or  
12 the nonpublic results of any scientific research, the  
13 interested person shall disclose to the agency, the  
14 following:

15 “(A) What funds were received by the per-  
16 son who conducted the study 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 party that would be affected by  
25 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 incorporates or includes a scientific, economic,  
9       or technical study, or any other result of scientific re-  
10      search not published in a publicly available peer-reviewed  
11      publication, the interested person, in making that submis-  
12      sion, shall disclose—

13           “(1) the source of the funding for that study or  
14      research, as applicable;

15           “(2) any entity that sponsored the study or re-  
16      search;

17           “(3) the extent to which the findings of the  
18      study or research were reviewed by a party that may  
19      be affected by the rulemaking to which the submis-  
20      sion relates;

21           “(4) the identity of any party identified under  
22      paragraph (3); and

23           “(5) the nature of any financial relationship, in-  
24      cluding a consulting agreement, the support of any  
25      expert witness, and the funding of research, between

1 any person that conducted the study or research and  
2 any interested person with respect to the rulemaking  
3 to which the submission relates.”.

4 (b) APPLICATION.—Section 553(f) of title 5, United  
5 States Code, as amended by subsection (a), shall apply  
6 with respect to submissions made by interested persons  
7 on and after the date of enactment of this Act.

8 **SEC. 3. INCREASING DISCLOSURES RELATING TO STUDIES**  
9 **AND RESEARCH.**

10 (a) IN GENERAL.—Section 553 of title 5, United  
11 States Code, as amended by section 1 of this Act, is  
12 amended by adding at the end the following:

13 “(g) With respect to a study or research that is sub-  
14 mitted by an interested person to an agency under sub-  
15 section (c), the agency shall ensure that the study or re-  
16 search is available to the public, unless disclosure is pro-  
17 hibited under section 552 of this title.

18 “(h)(1) If a study or research submitted by an inter-  
19 ested person to an agency under subsection (c) presents  
20 a conflict described in paragraph (2), the agency shall dis-  
21 close the conflict to the public by publication in the Fed-  
22 eral Register and on the agency website, unless disclosure  
23 is prohibited under section 552 this title.

24 “(2) A conflict described in this paragraph means a  
25 study or research for which—

1           “(A) not less than 10 percent of the funding for  
2           the study or research is from an entity that is regu-  
3           lated by the agency; or

4           “(B) an entity that is regulated by the agency  
5           exercises editorial control over the study or research.

6           “(i) With respect to a rulemaking under this section,  
7           an agency shall include in the notice of proposed rule-  
8           making required under subsection (b) and in the final rule  
9           published under subsection (d) a description of how the  
10          agency considered scientific evidence, including any study  
11          or research.”.

12          (b) APPLICATION.—Subsections (g), (h), and (i) of  
13          section 553 of title 5, United States Code, as added by  
14          subsection (a), shall apply with respect to submissions  
15          made by interested persons on and after the date of enact-  
16          ment of this Act.

17       **SEC. 4. DISCLOSURE OF INTER-GOVERNMENTAL RULE**  
18               **CHANGES.**

19          (a) DEFINITIONS.—In this section—

20               (1) the term “Administrator” means the Ad-  
21               ministrator of the Office;

22               (2) the terms “agency”, “regulatory action”,  
23               have the meanings given those terms in section 3 of  
24               the Executive Order;

1           (3) the term “Executive Order” means Execu-  
2       tive Order 12866 (5 U.S.C. 601 note; relating to  
3       regulatory planning and review); and

4           (4) the term “Office” means the Office of In-  
5       formation and Regulatory Affairs.

6       (b) REQUIREMENT.—With respect to any regulatory  
7       action that an agency provides to the Office under section  
8       6(a)(3) of the Executive Order, the agency shall—

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

14           (A) the substance of any changes between  
15      the text of the draft regulatory action that the  
16      agency provided to the Office under section  
17      6(a)(3)(B)(i) of the Executive Order and the  
18      text published in that general notice with re-  
19      spect to the action; and

20           (B) a statement regarding whether any  
21      change described in subparagraph (A) was  
22      made at the request of—

23                   (i) the Office;

24                   (ii) another agency; or

25                   (iii) a Member of Congress; 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 under section  
7 6(a)(3)(B)(i) of the Executive Order and the  
8 text of the regulatory action that the agency  
9 published in the Federal Register; and

10          (B) a statement regarding whether any  
11 change described in subparagraph (A) was  
12 made at the request of—

13               (i) the Office;

14               (ii) another agency; or

15               (iii) a Member of Congress.

16 **SEC. 5. JUSTIFICATION OF WITHDRAWN RULES.**

17       (a) DEFINITIONS.—In this section—

18           (1) the term “Administrator” means the Ad-  
19 ministrator of the Office;

20           (2) the terms “agency” and “regulatory action”  
21 have the meanings given those terms in section 3 of  
22 the Executive Order;

23           (3) the term “Executive Order” means Execu-  
24 tive Order 12866 (5 U.S.C. 601 note; relating to  
25 regulatory planning and review); and

1           (4) the term “Office” means the Office of In-  
2           formation and Regulatory Affairs.

3           (b) REQUIREMENT.—

4           (1) IN GENERAL.—If an agency withdraws a  
5           regulatory action after providing the action to the  
6           Office under section 6(a)(3) of the Executive Order  
7           (or, if the agency does not provide the regulatory ac-  
8           tion to the Office under that section, after pub-  
9           lishing the general notice of proposed rulemaking  
10          with respect to the action under section 553(b) of  
11          title 5, United States Code), the agency shall publish  
12          in the Federal Register and on the website of the  
13          agency a statement regarding the decision by the  
14          agency to withdraw the action.

15          (2) CONTENTS.—A statement required under  
16          paragraph (1) with respect to a decision by an agen-  
17          cy to withdraw a regulatory action shall include, at  
18          a minimum—

19                 (A) a detailed explanation of the reasons  
20                 that the agency withdrew the action; and

21                 (B) an explanation regarding whether the  
22                 decision by the agency to withdraw the action  
23                 was based, in whole or in part, on a request by,  
24                 or input from—

25                         (i) the Office;



- 1 (ii) another agency;
- 2 (iii) a Member of Congress;
- 3 (iv) a State, local, or tribal govern-
- 4 ment; or
- 5 (v) an organization, a corporation, a
- 6 member of the public, or another inter-
- 7 ested party.

8 **SEC. 6. NEGOTIATED RULEMAKING.**

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

11 (1) in section 561, in the first sentence, by in-  
12 serting “between agencies and Federal, State, local,  
13 or tribal governments. This subchapter shall apply  
14 only to information negotiations between Federal,  
15 State, local, or tribal governments” after “informal  
16 rulemaking process”;

17 (2) in section 563—

18 (A) in subsection (a)—

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

22 (ii) in paragraph (3), by striking  
23 “persons who” and inserting “representa-  
24 tives of Federal, State, local, and tribal  
25 governments that”; and

1 (B) in subsection (b)—

2 (i) in paragraph (1)—

3 (I) in subparagraph (A)—

4 (aa) by striking “persons  
5 who” and inserting “Federal,  
6 State, local, or tribal govern-  
7 ments that”; and

8 (bb) by striking “, including  
9 residents of rural areas”; and

10 (II) in subparagraph (B)—

11 (aa) by striking “with such  
12 persons” and inserting “with rep-  
13 resentatives of those govern-  
14 ments”; and

15 (bb) by striking “to such  
16 persons” and inserting “to those  
17 governments”; and

18 (ii) in paragraph (2), in the second  
19 sentence—

20 (I) by striking “persons who”  
21 and inserting “representatives of Fed-  
22 eral, State, local, or tribal govern-  
23 ments that”; and

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

1 (3) in section 564—

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

4 (B) in subsection (a)—

5 (i) in paragraph (4), by striking “the  
6 persons” and inserting “the representa-  
7 tives of Federal, State, local, and tribal  
8 governments”;

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

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

13 (iv) by striking paragraph (8);

14 (C) by striking subsection (b);

15 (D) by redesignating subsection (c) as sub-  
16 section (b); and

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

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

20 (ii) by striking “and applications”;

21 (4) in section 565(a)—

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

24 (B) in paragraph (2)—

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

1 (ii) by striking “publications,” and all  
2 that follows through the period at the end  
3 and inserting “publications.”; and

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

5 (A) by striking “and encourage agency use  
6 of”; and

7 (B) by inserting “between Federal, State,  
8 local, and tribal governments” after “negotiated  
9 rulemaking”.

10 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

11 (1) BALANCED BUDGET ACT OF 1997.—Section  
12 4554(b)(1) of the Balanced Budget Act of 1997 (42  
13 U.S.C. 1395u note) is amended by striking “, using  
14 a negotiated rulemaking process under subchapter  
15 III of chapter 5 of title 5, United States Code”.

16 (2) ELEMENTARY AND SECONDARY EDUCATION  
17 ACT OF 1965.—The Elementary and Secondary Edu-  
18 cation Act of 1965 (20 U.S.C. 6301 et seq.) is  
19 amended—

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

21 (i) in subsection (a), by striking “sub-  
22 sections (b) through (d)” and insert “sub-  
23 section (b)”;

24 (ii) by striking subsections (b) and  
25 (c); and

1 (iii) by redesignating subsections (d)  
2 and (e) as subsections (b) and (c), respec-  
3 tively;

4 (B) by repealing section 1602 (20 U.S.C.  
5 6572); and

6 (C) in section 8204(c)(1) (20 U.S.C.  
7 7824(c)(1)), by striking “using a negotiated  
8 rulemaking process to develop regulations for  
9 implementation no later than the 2017–2018  
10 academic year, shall define” and inserting  
11 “shall, for implementation no later than the  
12 2017–2018 academic year, define”.

13 (3) HEALTH INSURANCE PORTABILITY AND AC-  
14 COUNTABILITY ACT OF 1996.—Section 216(b) of the  
15 Health Insurance Portability and Accountability Act  
16 of 1996 (42 U.S.C. 1320a–7b note) is amended—

17 (A) in the subsection heading, by striking  
18 “NEGOTIATED”;

19 (B) by striking “(1) ESTABLISHMENT.—  
20 Chapter 5 of title 5, United States Code, stand-  
21 ards” and inserting the following:

22 “(1) IN GENERAL.—The Secretary of Health  
23 and Human Services (in this subsection referred to  
24 as the ‘Secretary’) shall establish standards”;

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

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

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

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

12 (A) in section 207 (20 U.S.C. 1022f)—

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

14 (ii) by redesignating subsection (d) as  
15 subsection (c);

16 (B) in section 422(g)(1) (20 U.S.C.  
17 1072(g)(1))—

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

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

22 (iii) by striking subparagraph (D);

23 (C) in section 487A(b)(3)(B) (20 U.S.C.  
24 1094a(b)(3)(B)), by striking “in the negotiated  
25 rulemaking process”;

1 (D) in section 491(l)(4)(A) (20 U.S.C.  
 2 1098(l)(4)(A)), by striking “, not later than two  
 3 years after the completion of the negotiated  
 4 rulemaking process required under section 492  
 5 resulting from the amendments to this Act  
 6 made by the Higher Education Opportunity  
 7 Act,”; and

8 (E) in section 492 (20 U.S.C. 1098a)—  
 9 (i) in the section heading, by striking  
 10 “**NEGOTIATED**”; and  
 11 (ii) by amending subsection (b) to  
 12 read as follows:

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

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

24 (6) MAGNUSON-STEVENSON FISHERY CONSERVA-  
 25 TION AND MANAGEMENT ACT.—Section 305(g) of

1 the Magnuson-Stevens Fishery Conservation and  
2 Management Act (16 U.S.C. 1855(g)) is amended—

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

4 (B) in paragraph (1)—

5 (i) by striking “(A)”; and

6 (ii) by redesignating subparagraph  
7 (B) as paragraph (2) and adjusting the  
8 margins accordingly; and

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

11 (7) MANDATORY PRICE REPORTING ACT OF  
12 2010.—Section 2(b) of the Mandatory Price Report-  
13 ing Act of 2010 (Public Law 111–239; 124 Stat.  
14 2501) is amended—

15 (A) by striking “WHOLESALE PORK CUTS”  
16 and all that follows through “chapter 3” and  
17 inserting “WHOLESALE PORK CUTS.—Chapter  
18 3”; and

19 (B) by striking paragraphs (2), (3), and  
20 (4) (7 U.S.C. 1635k note).

21 (8) PATIENT PROTECTION AND AFFORDABLE  
22 CARE ACT.—Section 5602 of the Patient Protection  
23 and Affordable Care Act (42 U.S.C. 254b note) is  
24 amended—



1 (A) in the section heading, by striking  
 2 “**NEGOTIATED**”;

3 (B) by striking subsections (b) through  
 4 (h);

5 (C) in subsection (a)—

6 (i) by redesignating paragraph (2) as  
 7 subsection (b) and adjusting the margins  
 8 accordingly; and

9 (ii) in paragraph (1)—

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

12 (II) by redesignating subpara-  
 13 graphs (A) and (B) as paragraphs (1)  
 14 and (2), respectively; and

15 (D) in subsection (b), as so redesignated,  
 16 by striking “paragraph (1)” and inserting “sub-  
 17 section (a)”.

18 (9) PRICE-ANDERSON AMENDMENTS ACT OF  
 19 1988.—The Price-Anderson Amendments Act of  
 20 1988 (Public Law 100–408; 102 Stat. 1066) is  
 21 amended—

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

23 (B) in subsection (a)—

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

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

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

7 (A) in section 1834(l)(1) (U.S.C.  
8 1395m(l)(1)), by striking “through a negotiated  
9 rulemaking process described in title 5, United  
10 States Code, and”; and

11 (B) in section 1856(a) (42 U.S.C. 1395w–  
12 26(a));

13 (i) by striking paragraphs (2) through  
14 (9);

15 (ii) in paragraph (1)—

16 (I) by striking “(A) IN GEN-  
17 ERAL.—”;

18 (II) by striking “and using a ne-  
19 gotiated rulemaking process under  
20 subchapter III of chapter 5 of title  
21 5”; and

22 (III) by redesignating subpara-  
23 graph (B) as paragraph (2) and ad-  
24 justing the margins accordingly; and

1 (iii) in paragraph (2), as so redesignated,  
 2 nated, by striking “subparagraph (A)” and  
 3 inserting “paragraph (1)”.

4 (11) TITLE 5.—The table of sections for subchapter III of chapter 5 of title 5, United States  
 5 Code, is amended by striking the item relating to  
 6 section 564 and inserting the following:  
 7

“564. Publication of notice”.

8 (12) TITLE 49.—Section 31136(g)(1) of title  
 9 49, United States Code, is amended—

10 (A) by striking “shall—” and all that follows  
 11 through “issue” and inserting “shall  
 12 issue”;

13 (B) by striking “; or” and inserting a period;  
 14 and

15 (C) by striking subparagraph (B).

16 (13) TOXIC SUBSTANCES CONTROL ACT.—Section  
 17 8(a) of the Toxic Substances Control Act (15  
 18 U.S.C. 2607(a)) is amended by striking paragraph  
 19 (6).

20 (14) UNITED STATES HOUSING ACT OF 1937.—  
 21 Section 9 of the United States Housing Act of 1937  
 22 (42 U.S.C. 1437g) is amended by repealing sub-  
 23 section (f).

24 **SEC. 7. STREAMLINING OIRA REVIEW.**

25 (a) DEFINITIONS.—In this section—

1           (1) the term “Administrator” means the Ad-  
2       ministrator of the Office;

3           (2) the terms “agency”, “regulatory action”,  
4       and “significant regulatory action” have the mean-  
5       ings given those terms in section 3 of the Executive  
6       Order;

7           (3) the term “Executive Order” means Execu-  
8       tive Order 12866 (5 U.S.C. 601 note; relating to  
9       regulatory planning and review); and

10          (4) the term “Office” means the Office of In-  
11       formation and Regulatory Affairs.

12       (b) PROHIBITIONS.—With respect to a regulatory ac-  
13       tion of an agency that may be subject to review by the  
14       Office under section 6(b) of the Executive Order, the Of-  
15       fice may not engage in communications or meetings with  
16       the agency before the date on which the agency submits  
17       the regulatory action to the Office under section 6(a)(3)  
18       of the Executive Order.

19       (c) TIME PERIOD FOR OIRA REVIEW.—

20           (1) IN GENERAL.—Except as provided in para-  
21       graph (2), the Office shall complete a review of a  
22       significant regulatory action under section 6(b) of  
23       the Executive Order not more than 45 days after the  
24       date on which the Office receives the significant reg-

1       ulatory action under section 6(a)(3) of the Executive  
2       Order.

3           (2) EXTENSION.—The Office may extend the  
4       45-day period described in paragraph (1) by a single  
5       45-day period if the Office provides the agency with,  
6       and makes publicly available, a written justification  
7       for the extension.

8           (3) PUBLICATION OF REGULATORY ACTION.—If  
9       the Office waives review of a significant regulatory  
10      action of an agency under section 6(b)(2) of the Ex-  
11      ecutive Order without a request for further consider-  
12      ation or does not notify the agency in writing of the  
13      results of the review under section 6(b) of the Exec-  
14      utive Order within the time frame described in para-  
15      graph (1) or (2), the agency may publish the signifi-  
16      cant regulatory action in the Federal Register.

17 **SEC. 8. PENALIZING PUBLIC COMPANIES THAT SUBMIT**  
18 **FALSE INFORMATION TO AGENCIES.**

19       Section 553 of title 5, United States Code, as amend-  
20      ed by section 3 of this Act, is amended by adding at the  
21      end the following:

22       “(j) Any entity required to file an annual report  
23      under section 13 of the Securities Exchange Act of 1934  
24      (15 U.S.C. 78m) that uses any false writing or document  
25      knowing the same to contain any materially false, ficti-

1 tious, or fraudulent statement or entry with respect to a  
 2 rulemaking under this section shall be fined a minimum  
 3 of \$250,000 for their first violation; fines shall double per  
 4 violation for each subsequent violation.

5 “(k) Any entity required to file an annual report pur-  
 6 suant to section 13 of the Securities Exchange Act of  
 7 1934 (15 U.S.C. 78m), shall include in a submission  
 8 under subsection (c)(2) the annual report filed in the year  
 9 previous to such submission.”.

10 **SEC. 9. ESTABLISHMENT OF THE OFFICE OF THE PUBLIC**  
 11 **ADVOCATE.**

12 Section 401 of the Ethics in Government Act of 1978  
 13 (5 U.S.C. App.) is amended by adding at the end the fol-  
 14 lowing:

15 “(d)(1)(A) There is established in the Office of Gov-  
 16 ernment Ethics an office to be known as the ‘Office of  
 17 the Public Advocate’.

18 “(B) The Office of the Public Advocate shall be under  
 19 the supervision of an official to be known as the ‘National  
 20 Public Advocate’, who shall—

21 “(i) be appointed by the President, by and with  
 22 the advice and consent of the Senate;

23 “(ii) report to the Director of the Office of Gov-  
 24 ernment Ethics;

1           “(iii) be entitled to compensation at the same  
2           rate as the highest rate of basic pay established for  
3           the Senior Executive Service under section 5382 of  
4           title 5, United States Code;

5           “(iv) have a background in customer service,  
6           consumer protection, and administrative law;

7           “(v) have experience representing the public in  
8           cases involving rules (as defined in section 551 of  
9           title 5, United States Code);

10          “(vi) not have worked as an officer or employee  
11          in any Federal agency during the 2-year period pre-  
12          ceding appointment under this subparagraph; and

13          “(vii) agree not to accept an offer of employ-  
14          ment with a Federal agency for not less than 5  
15          years after ceasing to serve as the National Public  
16          Advocate.

17          “(2) The duties of the Office of the Public Advocate  
18          shall include—

19               “(A) assisting individuals in resolving conflicts  
20               with agencies;

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

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

1           “(D) identifying areas in which the public has  
2           problems in dealing with agencies and proposing  
3           changes to mitigate those problems;

4           “(E) conducting research on social equity im-  
5           pacts of the rulemaking process;

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

8           “(G) performing a social equity assessment for  
9           rules when requested by the public through com-  
10          ments submitted through the process described in  
11          section 553 of title 5, United States Code; and

12          “(H) facilitating means by which individuals  
13          and populations that have not traditionally been in-  
14          vited into the rulemaking process may be better in-  
15          cluded in the rulemaking process, including by rec-  
16          ommending and implementing new outreach plans,  
17          partnering with community-based organizations to  
18          propagate information about rules changes, and en-  
19          suring rules change information is written in clear,  
20          accessible language that is accessible in multiple lan-  
21          guages.

22          “(3) Not later than 180 days after the date on which  
23          the National Public Advocate is appointed under this sub-  
24          section or 180 days after the date of enactment of this  
25          subsection, whichever is later, the National Public Advo-



1 cate shall propose regulations to carry out this sub-  
2 section.”.

3 **SEC. 10. ACTIONS BY PRIVATE PERSONS.**

4 (a) DEFINITIONS.—In this section, the terms “agen-  
5 cy” and “rule” have the meanings given those terms in  
6 section 551 of title 5, United States Code.

7 (b) ACTIONS.—

8 (1) IN GENERAL.—A person may bring a civil  
9 action for the person and for the United States Gov-  
10 ernment, in the name of the Government, against  
11 any person, including the United States Government  
12 and any other governmental instrumentality or agen-  
13 cy to the extent permitted by the Eleventh Amend-  
14 ment to the Constitution of the United States, for—

15 (A) a violation of a final rule issued by an  
16 agency; or

17 (B) the failure of the head of an agency to  
18 comply with any requirement under this Act; or

19 (C) a violation of Section 8 of this Act.

20 (2) NOTICE.—A copy of the complaint and  
21 written disclosure of substantially all material evi-  
22 dence and information the person possesses shall be  
23 served on the Government pursuant to rule 4(d)(4)  
24 of the Federal Rules of Civil Procedure. The Gov-  
25 ernment may elect to intervene and proceed with the

1       action within 60 days after it receives both the com-  
2       plaint and the material evidence and information.

3               (3) PARTY CONDUCTING THE ACTION.—Before  
4       the expiration of the 60-day period under paragraph  
5       (2), the Government shall—

6               (A) proceed with the action, in which case  
7       the action shall be conducted by the Govern-  
8       ment; or

9               (B) notify the court that it declines to pro-  
10      ceed with the action, in which case the person  
11      bringing the action shall have the right to con-  
12      duct the action.

13              (4) AWARD TO PLAINTIFF.—

14              (A) GOVERNMENT PROCEEDS WITH AC-  
15      TION.—If the Government proceeds with an ac-  
16      tion brought by a person under this subsection,  
17      the person shall receive at least 15 percent but  
18      not more than 25 percent of the proceeds of the  
19      action or settlement of the claim, depending  
20      upon the extent to which the person substan-  
21      tially contributed to the prosecution of the ac-  
22      tion. Any payment to a person under this sub-  
23      paragraph shall be made from the proceeds.  
24      The person may also receive an amount for rea-  
25      sonable expenses that the court finds to have

1           been necessarily incurred, plus reasonable attor-  
 2           ney's fees and costs. The expenses, fees, and  
 3           costs may be awarded against the defendant.

4           (B) GOVERNMENT DOES NOT PROCEED  
 5           WITH ACTION.—If the Government does not  
 6           proceed with an action under this subsection,  
 7           the person bringing the action or settling the  
 8           claim shall receive an amount which the court  
 9           decides is reasonable for collecting the civil pen-  
 10          alty and damages. The amount may not be less  
 11          than 25 percent and not more than 30 percent  
 12          of the proceeds of the action or settlement and  
 13          shall be paid out of the proceeds. The person  
 14          shall also receive an amount for reasonable ex-  
 15          penses that the court finds to have been nec-  
 16          essarily incurred, plus reasonable attorney's  
 17          fees and costs. The expenses, fees, and costs  
 18          may be awarded against the defendant.

19 **SEC. 11. SCOPE OF REVIEW.**

20          Section 706 of title 5, United States Code, is amend-  
 21          ed—

22               (1) in the first sentence of the matter preceding  
 23          paragraph (1)—

24                       (A) by striking “agency action.” and in-  
 25          serting “agency action. If a statute that an

1           agency administers is silent or ambiguous, and  
2           an agency has followed the procedures in sec-  
3           tion 553 or 554 of this title, as applicable, a re-  
4           viewing court shall defer to the agency’s reason-  
5           able or permissible interpretation of that stat-  
6           ute.”; and

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

9           “(a) IN GENERAL.—To the extent necessary”; and  
10           (2) by adding at the end the following:

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

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

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

22                   “(3) when an agency has not implemented a  
23           final rule before the date that is 1 year of the imple-  
24           mentation date published in the Federal Register or,  
25           if no implementation date was provided, before the

1 date that is 1 year of the date on which the final  
2 rule was published in the Federal Register.”.

3 **SEC. 12. EXPANDING RULEMAKING NOTIFICATIONS.**

4 Section 553 of title 5, United States Code, as amend-  
5 ed by section 8 of this Act, is amended by adding at the  
6 end the following:

7 “(1)(1) Not later than 2 business days after the date  
8 on which an agency publishes a notice of proposed rule-  
9 making or a final rule under this section, the agency shall  
10 notify interested parties of the publication.

11 “(2) The Director of the Government Publishing Of-  
12 fice shall establish a process under which an agency shall  
13 notify interested parties under paragraph (1) through  
14 email or postal mail.”.

15 **SEC. 13. PUBLIC PETITIONS.**

16 Section 553(e) of title 5, United States Code, is  
17 amended—

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

19 and

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

21 “(2) If, during a 60-day period, an agency re-  
22 ceives more than 100,000 signatures on a single pe-  
23 tition under paragraph (1), the agency shall, not  
24 later than 30 days after the date on which the agen-

1       cy receives the petition, provide a written response  
2       that includes—

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

6               “(B) if the agency has not engaged in the  
7               requested issuance, amendment, or repeal of a  
8               rule, a written explanation for not engaging in  
9               the requested issuance, amendment, or repeal.”.

10 **SEC. 14. AMENDMENT TO CONGRESSIONAL REVIEW ACT.**

11       Section 801(b) of title 5, United States Code, is  
12       amended—

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

14               (2) by striking paragraph (2).

15 **SEC. 15. REINSTATEMENT OF DISAPPROVED RULES.**

16       (a) DEFINITIONS.—In this section—

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

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

24       (b) FAST TRACK REINSTATEMENT.—A Federal agen-  
25       cy may reinstate a covered rule by publishing the covered

1 rule in the Federal Register during the 1-year period be-  
 2 ginning on the date of enactment of this Act.

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

8 **SEC. 16. COST-BENEFIT ANALYSIS.**

9 (a) DEFINITIONS.—In this section, the terms “agen-  
 10 cy” and “regulation” have the meanings given those terms  
 11 in section 3 of Executive Order 12866 (5 U.S.C. 601 note;  
 12 relating to regulatory planning and review).

13 (b) REQUIREMENT.—If an agency is performing a  
 14 cost-benefit or regulatory impact analysis in the course of  
 15 issuing a regulation, the agency shall—

16 (1) take into account the benefits of the regula-  
 17 tion to the public, including the nonquantifiable ben-  
 18 efits of the regulation; and

19 (2) adopt a regulation that prioritizes benefits  
 20 to the public, including nonquantifiable benefits.

21 **SEC. 17. SENSE OF CONGRESS.**

22 It is the sense of Congress that—

23 (1) agency economic analyses of regulatory ac-  
 24 tions commonly underestimate the benefits of regu-  
 25 latory actions that protect public health and safety

1 and overestimate the costs of regulatory action to in-  
2 dustry; and

3 (2) an agency should primarily consider the  
4 statutory direction of Congress when taking regu-  
5 latory action.

6 **SEC. 18. DEFINITIONS.**

7 In this Act:

8 (1) SOCIAL EQUITY IMPACTS.—The term “so-  
9 cial equity impacts” shall mean any impacts of a  
10 proposed regulation, whether intended or unin-  
11 tended, that might reasonably be expected to dis-  
12 proportionately affect a group or population of per-  
13 sons who share a common characteristic that is part  
14 of a protected class or set of protected classes, based  
15 on the regulation’s plain language, stated intention,  
16 and based on credible statistical projections and data  
17 on the impacts of similar regulations, laws and poli-  
18 cies.

19 (2) SOCIAL EQUITY ASSESSMENT.—The term  
20 “social equity assessment” shall mean a written and  
21 publicly available report that shall specifically con-  
22 sider any social equity impacts, positive or negative,  
23 that the proposed policy might have on a group or  
24 population of persons who share a common char-  
25 acteristic that renders them part of a protected



1 class, where that group or population was previously  
2 subjected to discriminatory or exclusionary practices  
3 by the agency promulgating the regulation or where  
4 credible demographic evidence demonstrates signifi-  
5 cant disparities experienced by different populations  
6 within a protected class.

○