

118TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself, Mr. SANDERS, Mr. BLUMENTHAL, Mr. MERKLEY, Ms. HIRONO, Mr. LUJÁN, Mr. VAN HOLLEN, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on _____

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:

8 (1) Congress is dependent on providing discre-
9 tion to executive officials and agencies (including

1 independent agencies) to implement its statutes.
2 Congress provides appropriate oversight of the use
3 of this discretion.

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

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

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

23 (5) A rule that an agency has adopted to imple-
24 ment a regulatory statute should generally not be
25 held to be invalid on the basis that the agency has

1 not previously adopted a similar rule or scheme of
2 regulation.

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

7 **SEC. 3. SENSE OF CONGRESS.**

8 It is the sense of Congress that—

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

14 (2) agency regulatory actions often fail to ade-
15 quately consider the distributional effects and social
16 equity impact of regulatory action; and

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

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

20 Section 553 of title 5, United States Code, is amend-
21 ed—

22 (1) in subsection (c)—

23 (A) by striking “After notice required” and
24 inserting the following:

25 “(1) After notice required”; and

1 (B) in the first sentence of paragraph (1),
2 as so designated, by inserting “, subject to sub-
3 sections (f) and (h),” after “the agency shall”;
4 and

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

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

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

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

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

23 “(D) Any financial relationship between
24 the person who conducted the study or re-

1 search, and any person that would be affected
2 by the proposed rule.”; and

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

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

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

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

18 “(3) the extent to which the findings of the
19 study or research were reviewed by a person that
20 may be affected by the rule making to which the
21 submission relates;

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

24 “(5) the nature of any financial relationship, in-
25 cluding a consulting agreement, the support of any

1 expert witness, and the funding of research, between
2 any person that conducted the study or research and
3 any interested person with respect to the rule mak-
4 ing to which the submission relates.”.

5 **SEC. 5. INCREASING DISCLOSURES RELATING TO STUDIES**
6 **AND RESEARCH.**

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

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

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

24 “(2) A conflict described in this subsection 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 subject to
3 the jurisdiction of the agency with respect to that
4 rule making; or

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

9 “(i) In the case of a violation of the requirement to
10 make a disclosure—

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

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

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

1 **SEC. 6. DISCLOSURE OF INTER-GOVERNMENTAL RULE**
2 **CHANGE.**

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

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

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

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

19 (i) the Office;

20 (ii) another agency; or

21 (iii) any other Federal official; and

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

25 (A) the substance of any changes between
26 the text of the regulatory action that the agency

1 provided to the Office and the text of the regu-
2 latory action that the agency published in the
3 Federal Register; and

4 (B) a statement regarding whether any
5 change described in subparagraph (A) was
6 made as a result of communication with—

7 (i) the Office;

8 (ii) another agency; or

9 (iii) any other Federal official.

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

11 (a) IN GENERAL.—If an agency withdraws a regu-
12 latory action after providing the action to the Office under
13 section 6(a)(3) of the Executive Order 12866 (5 U.S.C.
14 601 note; relating to regulatory planning and review) (or,
15 if the agency does not provide the regulatory action to the
16 Office under that section, after publishing the general no-
17 tice of proposed rulemaking with respect to the action
18 under section 553(b) of title 5, United States Code), the
19 agency shall publish in the Federal Register, on the public
20 docket of the agency, and on the internet website of the
21 agency a statement regarding the decision by the agency
22 to withdraw the action.

23 (b) CONTENTS.—A statement required under sub-
24 section (a) with respect to a decision by an agency to with-
25 draw a regulatory action shall include, at a minimum—

1 (ii) in paragraph (3), by striking
2 “persons who” and inserting “representa-
3 tives of Federal, State, local, and Tribal
4 governments that”; and

5 (B) in subsection (b)—

6 (i) in paragraph (1)—

7 (I) in subparagraph (A)—

8 (aa) by striking “persons
9 who” and inserting “Federal,
10 State, local, or Tribal govern-
11 ments that”; and

12 (bb) by striking “, including
13 residents of rural areas”; and

14 (II) in subparagraph (B)—

15 (aa) by striking “with such
16 persons” and inserting “with rep-
17 resentatives of those govern-
18 ments”; and

19 (bb) by striking “to such
20 persons” and inserting “to those
21 governments”; and

22 (ii) in paragraph (2), in the second
23 sentence—

24 (I) by striking “persons who”
25 and inserting “representatives of Fed-

1 eral, State, local, or Tribal govern-
2 ments that”; and

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

5 (3) in section 564—

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

8 (B) in subsection (a)—

9 (i) in paragraph (4), by striking “the
10 person or persons” and inserting “the rep-
11 resentatives of Federal, State, local, and
12 Tribal governments”;

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

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

17 (iv) by striking paragraph (8);

18 (C) by striking subsection (b);

19 (D) by redesignating subsection (c) as sub-
20 section (b); and

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

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

24 (ii) by striking “and applications”;

25 (4) in section 565(a)—

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

3 (B) in paragraph (2)—

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

5 (ii) by striking “publications,” and all

6 that follows through the period at the end

7 and inserting “publications.”; and

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

9 (A) by striking “and encourage agency use
10 of”; and

11 (B) by inserting “between Federal, State,
12 local, and Tribal governments” after “nego-
13 tiated rulemaking”.

14 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

15 (1) ELEMENTARY AND SECONDARY EDUCATION

16 ACT OF 1965.—The Elementary and Secondary Edu-

17 cation Act of 1965 (20 U.S.C. 6301 et seq.) is

18 amended—

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

20 (i) in subsection (a), by striking “sub-

21 sections (b) through (d)” and inserting

22 “subsection (b)”;

23 (ii) by striking subsections (b) and

24 (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 (2) 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 to
17 read as follows:

18 “(b) RULEMAKING FOR RISK-SHARING EXCEP-
19 TION.—

20 “(1) ESTABLISHMENT.—The Secretary of
21 Health and Human Services (in this subsection re-
22 ferred to as the ‘Secretary’) shall establish standards
23 relating to the exception for risk-sharing arrange-
24 ments to the antikickback penalties described in sec-

1 tion 1128B(b)(3)(F) of the Social Security Act, as
2 added by subsection (a).

3 “(2) FACTORS TO CONSIDER.—In establishing
4 standards relating to the exception for risk-sharing
5 arrangements to the anti-kickback penalties under
6 paragraph (1), the Secretary—

7 “(A) shall consult with the Attorney Gen-
8 eral and representatives of the hospital, physi-
9 cian, other health practitioner, and health plan
10 communities, and other interested parties; and

11 “(B) shall take into account—

12 “(i) the level of risk appropriate to
13 the size and type of arrangement;

14 “(ii) the frequency of assessment and
15 distribution of incentives;

16 “(iii) the level of capital contribution;
17 and

18 “(iv) the extent to which the risk-
19 sharing arrangement provides incentives to
20 control the cost and quality of health care
21 services.”.

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

25 (A) in section 207—

1 (i) by striking subsection (e); and

2 (ii) by redesignating subsection (d) as
3 subsection (e);

4 (B) in section 422(g)(1)—

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

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

9 (iii) by striking subparagraph (D);

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

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

19 (E) in section 492—

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

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

24 “(b) **ISSUANCE OF REGULATIONS.**—After obtaining
25 the advice and recommendations described in subsection

1 (a)(1), the Secretary shall issue final regulations within
2 the 360-day period described in section 437(e) of the Gen-
3 eral Education Provisions Act (20 U.S.C. 1232(e)).”.

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

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

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

15 (B) in paragraph (1)—

16 (i) by striking “(A)”; and

17 (ii) by redesignating subparagraph
18 (B) as paragraph (2) and adjusting the
19 margins accordingly; and

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

22 (6) MANDATORY PRICE REPORTING ACT OF
23 2010.—Section 2(b) of the Mandatory Price Report-
24 ing Act of 2010 (Public Law 111–239; 124 Stat.
25 2501) is amended—

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

5 (B) by striking paragraphs (2), (3), and
6 (4).

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

11 (A) in the section heading, by striking
12 “**NEGOTIATED**”;

13 (B) by striking subsections (b) through
14 (h);

15 (C) in subsection (a)—

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

19 (ii) by striking “ESTABLISHMENT.—”
20 and all that follows through “The Sec-
21 retary of Health and Human Services”
22 and inserting “ESTABLISHMENT.—The
23 Secretary of Health and Human Services”;

24 (iii) by striking “, through a nego-
25 tiated rulemaking process under sub-

1 chapter 3 of chapter 5 of title 5, United
2 States Code,”; and

3 (iv) by redesignating subparagraphs
4 (A) and (B) as paragraphs (1) and (2), re-
5 spectively, and adjusting the margins ac-
6 cordingly; and

7 (D) in subsection (b), as so redesignated,
8 by striking “paragraph (1)” and inserting “sub-
9 section (a)”.

10 (8) PRICE-ANDERSON AMENDMENTS ACT OF
11 1988.—Section 19 of the Price-Anderson Amend-
12 ments Act of 1988 (42 U.S.C. 2210 note) is amend-
13 ed—

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

15 (B) in subsection (a)—

16 (i) by striking “RULEMAKING.—” and
17 all that follows through “The Nuclear”
18 and inserting “RULEMAKING PRO-
19 CEEDING.—The Nuclear”; and

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

23 (9) SOCIAL SECURITY ACT.—Title XVIII of the
24 Social Security Act (42 U.S.C. 1395 et seq.) is
25 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,”; and

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 “ESTABLISH-
11 MENT.—” and all that follows through
12 “The Secretary shall establish” and
13 inserting “ESTABLISHMENT.—The
14 Secretary shall establish”; and

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

19 (III) by redesignating subpara-
20 graphs (B) and (C) as paragraphs (2)
21 and (3), respectively, and adjusting
22 the margins accordingly; and

23 (iii) in paragraph (2), as so redesi-
24 gnated—

1 (I) by striking “subparagraph
2 (A)” and inserting “paragraph (1)”;
3 and

4 (II) by redesignating clauses (i),
5 (ii), and (iii) as subparagraphs (A),
6 (B), and (C), respectively, and adjust-
7 ing the margins accordingly.

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

“564. Publication of notice.”.

12 (11) TITLE 49.—Section 31136(g)(1) of title
13 49, United States Code, is amended—

14 (A) by striking “shall—” and all that fol-
15 lows through “issue” and inserting “shall
16 issue”;

17 (B) by striking “; or” and inserting a pe-
18 riod; and

19 (C) by striking subparagraph (B).

20 (12) TOXIC SUBSTANCES CONTROL ACT.—Sec-
21 tion 8(a) of the Toxic Substances Control Act (15
22 U.S.C. 2607(a)) is amended—

23 (A) by striking paragraph (6); and

24 (B) by redesignating paragraph (7) as
25 paragraph (6).

1 (13) UNITED STATES HOUSING ACT OF 1937.—
2 Section 9 of the United States Housing Act of 1937
3 (42 U.S.C. 1437g) is amended by repealing sub-
4 section (f).

5 **SEC. 9. STREAMLINING OIRA REVIEW.**

6 (a) IN GENERAL.—Except as provided in subsection
7 (b), if the Office commences a review of a significant regu-
8 latory action, the Office shall complete such review not
9 more than 60 days after the date on which the Office re-
10 ceives the significant regulatory action.

11 (b) EXTENSION.—The Office may extend the 60-day
12 period described in subsection (a) by a single 60-day pe-
13 riod if the Office provides the agency with, and makes
14 publicly available, a written justification for the extension.

15 (c) PUBLICATION OF REGULATORY ACTION.—If the
16 Office waives review of a significant regulatory action of
17 an agency without a request for further consideration or
18 does not notify the agency in writing of the results of the
19 review within the time frame described in subsection (a)
20 or (b), the agency may publish the significant regulatory
21 action in the Federal Register.

1 **SEC. 10. PENALIZING PUBLIC COMPANIES THAT SUBMIT**
2 **FALSE INFORMATION TO AGENCIES.**

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

6 “(j)(1) Any entity required to file an annual report
7 under section 13 of the Securities Exchange Act of 1934
8 (15 U.S.C. 78m) that makes a submission under sub-
9 section (c) knowing the same—

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

12 “(B) to omit any material fact resulting in any
13 statement or representation being false or mis-
14 leading,

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

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

20 “(3) Any submission in violation of this subsection
21 may be excluded from the record and from consideration
22 by the agency or otherwise disregarded, and such submis-
23 sion (or any amendment to such submission) may not be
24 resubmitted thereafter. An exclusion or other disregard of
25 a submission pursuant to this subsection shall not affect
26 the level of deference (in accordance with applicable law)

1 accorded to agency action by a court reviewing such ac-
2 tion.

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

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

11 Subchapter I of chapter 5 of title 5, United States
12 Code, is amended—

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

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

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

18 “(b) NATIONAL PUBLIC ADVOCATE.—The Office of
19 the Public Advocate shall be under the supervision of an
20 official to be known as the ‘National Public Advocate’, who
21 shall—

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

24 “(2) report to the President;

1 “(3) 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;

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

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

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

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

12 “(2) assisting individuals in participating in the
13 rulemaking process;

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

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

19 “(5) developing and coordinating social equity
20 definitions across the executive branch;

21 “(6) when requested by the agency or by the
22 public through comments submitted through the
23 process described in section 553 of title 5, United
24 States Code, performing, not later than 30 days
25 after the receipt of such a request, a social equity

1 assessment (as such term is defined in the Stop Cor-
2 porate Capture Act) for a proposed rule; and

3 “(7) facilitating means by which individuals and
4 populations that have not historically participated in
5 the rulemaking process may be better included in
6 the rulemaking process, including by—

7 “(A) recommending and implementing new
8 outreach plans;

9 “(B) partnering with State, local, and
10 Tribal governments, and with community-based
11 organizations to propagate information about
12 rules changes; and

13 “(C) ensuring information about agency
14 rulemaking and changes to rules are written in
15 clear, accessible language that is accessible in
16 multiple languages.

17 “(d) RULEMAKING.—Not later than 180 days after
18 the date on which the National Public Advocate is ap-
19 pointed under this subsection or 180 days after the date
20 of enactment of this subsection, whichever is later, the Na-
21 tional Public Advocate shall make rules to carry out this
22 section.”; and

23 (2) in the table of sections for such chapter, by
24 inserting after the item relating to section 504 the
25 following:

“505. Office of the Public Advocate.”.

1 **SEC. 12. SCOPE OF REVIEW.**

2 Section 706 of title 5, United States Code, is amend-
3 ed—

4 (1) in the first sentence of the matter preceding
5 paragraph (1)—

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

20 (B) by striking “To the extent necessary”
21 and inserting:

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

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

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

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

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

10 “(3) when an agency has not implemented a
11 final rule before the date that is 1 year after the im-
12 plementation date published in the Federal Register
13 or, if no implementation date was provided, before
14 the date that is 1 year after the date on which the
15 final rule was published in the Federal Register; and

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

19 **SEC. 13. EXPANDING PUBLIC AWARENESS OF**
20 **RULEMAKINGS.**

21 (a) **IN GENERAL.**—Section 553 of title 5, United
22 States Code, as amended by sections 4, 5, and 10 of this
23 Act, is amended by adding at the end the following:

24 “(1)(1) The head of each agency shall take such ac-
25 tions as may be necessary to—

1 “(A) expand public awareness of the initiation
2 of each rule making proceeding;

3 “(B) expand public awareness of the publication
4 of each proposed rule;

5 “(C) expand public awareness when a rule is
6 published; and

7 “(D) establish a participation log, including all
8 rule making participants, with respect to each rule
9 making.

10 “(2) Not later than two business days after the date
11 on which an agency publishes a notice of proposed rule
12 making or a final rule under this section, the agency shall
13 notify interested persons of the publication, including by
14 using contact information that interested persons have
15 provided to the agency and by publishing such notice on
16 the agency’s website and any social media accounts.”.

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

20 **SEC. 14. PUBLIC PETITIONS.**

21 Section 553(e) of title 5, United States Code, is
22 amended—

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

24 and

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

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

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

9 “(B) if the agency has not engaged in the
10 requested issuance, amendment, or repeal of a
11 rule, a written explanation for not engaging in
12 the requested issuance, amendment, or repeal.

13 “(3) Not later than 30 days after the date of
14 enactment of the Stop Corporate Capture Act, the
15 head of each agency shall establish and publish pro-
16 cedures for the processing of a petition under para-
17 graph (1), including—

18 “(A) using the agency website, the Federal
19 Register, and other Federal websites to educate
20 the public about how to file a petition under
21 paragraph (1); and

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

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

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

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

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

7 (2) by striking paragraph (2).

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

9 (a) DEFINITIONS.—In this section—

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

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

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

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

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

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

5 (1) take into account the benefits of the rule to
6 the public, including the nonquantifiable benefits of
7 the rule; and

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

11 (b) REQUIREMENT OF DISTRIBUTIONAL EFFECTS.—

12 An agency shall take into account distributional effects
13 and the social equity impact of a rule when issuing such
14 rule.

15 (c) SCOPE OF REVIEW.—Section 706 of title 5,
16 United States Code, as amended by section 12, is amended
17 in subsection (a), as so designated, by inserting after
18 “prejudicial error.” the following: “When acting under
19 paragraph (2)(A), the court shall not require an agency
20 to demonstrate that the challenged action meets a cost-
21 benefit analysis standard except where explicitly required
22 by law.”.

23 **SEC. 18. DEFINITIONS.**

24 In this Act:

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

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

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

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

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

21 (A) have an annual effect on the economy
22 of \$100,000,000 or more or adversely affect in
23 a material way the economy, a sector of the
24 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.