

Stop Corporate Capture Act

| Codifies *Chevron* Deference | Modernizes and Reforms the Regulatory Process |
| Expands Public Input and Transparency in Rulemaking |

Section-by-Section Summary

Section 1. Short Title. Establishes the short title of the bill as the “Stop Corporate Capture Act”.

Section 2. Findings. Acknowledges that Congress often delegates discretion to the Executive Branch to carry out the intelligible principles expressed in statute, with appropriate oversight, in order to swiftly and effectively respond to changing circumstances. Holds that the broad economic, political, or social significance of a rule should not invalidate congressional delegation.

Section 3. Sense of Congress. Expresses the sense of Congress that agency economic analyses often underestimate the benefits of public health and safety and overestimate the costs of regulatory action, while failing to recognize social equity and distributional effects. States that agencies shall prioritize the statutory direction of Congress when taking regulatory action.

Section 4. Disclosure of Conflicts of Interest. Amends section 553 of the Administrative Procedure Act (APA) (which establishes the “informal rulemaking” process under which many administrative rules are promulgated) to require that:

- 1) if an interested person submits a comment on a public rulemaking that includes a scientific, economic, or technical study funded directly or indirectly by that person, the interested person must disclose the amount and source of funding for that study, whether any entity was allowed to review or revise the research, and the nature of the financial relationship between the person conducting the study and any person affected by the proposed rule.
- 2) If an interested person submits a comment that includes a scientific, economic, or technical study that is not published in a peer-reviewed publication, they must disclose the funding for that research, the entity that sponsored the research, whether the findings were reviewed by a person that may be affected by the rulemaking, and whether there was a financial relationship between the person who conducted the study and any interested person.

Section 5. Increasing Disclosures Relating to Studies and Research. Amends Section 553 of the APA to require public disclosure of studies and research submitted during agency rulemaking on the agency website and the public docket for the rulemaking by:

- 1) Requiring the agency to disclose any conflicts of interest presented by such studies or research. Defines “conflict of interest” as:
 - a. A study or research for which 10% or more of the funding is from an entity subject to the jurisdiction of the rulemaking agency; or
 - b. An entity subject to the jurisdiction of the agency exercises editorial control over the study or research.
- 2) Mandating that if a required disclosure is not made, either regarding the source or funding of research or of any conflict of interest, the agency may exclude the submission and has no obligation to respond, unless the submission is remade with the required disclosures.
- 3) Establishing that nothing in the subsection may be construed to affect the level of deference given to agency action by a court reviewing such action.

Section 6. Disclosure of Inter-Governmental Rule Change. Requires agencies to outline any substantive changes between the draft regulatory action submitted to the Office of Information and Regulatory Affairs

and the published general notice of the regulatory action. In addition, agencies must specify whether the changes were made at the request of OIRA, another agency, or any Federal official.

Section 7. Justification of Withdrawn Rules. Requires an agency that withdraws a regulatory action after providing it to OIRA to publish an explanation of that withdrawal in the Federal Register and on the agency's website. The explanation must detail the reasons that the agency withdrew the action and whether the withdrawal was made in whole or in part at the request of OIRA, another agency, or any other Federal official.

Section 8. Negotiated Rulemaking. Limits negotiated rulemaking during the informal rulemaking process in the APA to federal, state, local, and tribal governments, and makes a number of technical and conforming amendments to limit mandatory negotiated rulemaking in various statutes.

Section 9. Streamlining OIRA Review. Creates a 60-day time limit on OIRA review of significant regulatory action, with one extension permitted. If OIRA waives review or does not notify the agency of the results of the review within the time frame, the agency may publish the regulatory action in the Federal Register.

Section 10. Penalizing Public Companies that Submit False Information to Agencies. Imposes a \$250,000 fine on any public company that knowingly submits any false writing or documents containing any materially false, fictitious, or fraudulent statements to agencies as part of rulemaking. Subsequent violations impose a fine of no less than \$1,000,000. False, fictitious, or fraudulent statements can be excluded from the record and from consideration by the agency. This section also requires commenters to submit the most recent annual and quarterly reports to shareholders (Forms 10-K and 10-Q) required by the SEC with the submitted study and comment.

Section 11. Establishment of the Office of the Public Advocate. Establishes an "Office of the Public Advocate (OPA) within the Office of Management and Budget, under the supervision of a "National Public Advocate." The National Public Advocate, appointed by the President, is responsible for increasing public comment accessibility, expanding public rulemaking participation, and working with agencies and Congress to identify and improve public participation in the rulemaking process. The OPA is also responsible for facilitating access to rulemaking for communities that have historically been excluded from the rulemaking process, and for promoting social equity across the executive branch. The OPA must promulgate rules to carry out this section 180 days after appointment.

Section 12. Scope of Review. Codifies agency deference (also known as "*Chevron* deference doctrine"), specifying that an agency has authority to implement a reasonable or permissible interpretation of a silent or ambiguous portion of a statute that it administers, and that a reviewing court shall defer to an agency's reasonable or permissible interpretation of the statute. Additionally, defines the term "unreasonable delay" with regard to agency actions, allowing courts to compel agencies to act after one year of delay in several circumstances.

Section 13. Expanding Public Awareness of Rulemaking. Provides guidelines for improving rulemaking notifications.

- 1) Requires that the agency take action to expand public awareness of rulemaking proceedings and publication of proposed and final rules and requires the agency to establish a participation log.
- 2) Requires that the agency notify interested parties within 2 days of publication of a Notice of Proposed Rulemaking, including by using social media accounts or provided contact information.
- 3) Mandates that these requirements apply 30 days after enactment of this bill.

Section 14. Public Petitions. Requires agencies to provide a written, explanatory response within 60 days if a public petition on an agency action gets 100,000 signatures. It also mandates that 30 days after enactment of the Act, the agency shall establish and publish procedures for the processing of a petition.

Section 15. Amendment to Congressional Review Act. Eliminates the provisions of the Congressional Review Act (CRA) that prohibit issuing a new rule after a substantially similar rule has been subject to a joint resolution of disapproval.

Section 16. Reinstatement of Disapproved Rules. Allows fast track reinstatement, through publishing in the Federal Register, of CRA-repealed rules within one year of enactment. This section also provides instructions for reinstatement after the one-year period.

Section 17. Cost-Benefit Analysis. Requires an agency to consider benefits, including nonquantifiable benefits to the public, when using cost-benefit analysis in the rulemaking process, and requires agencies to prioritize adoption of rules that provide benefits to the public. This section also requires agencies to account for distributional effects and social equity in the rulemaking process.

Section 18. Definitions. Defines several terms.