

118TH CONGRESS
2D SESSION

S. 4692

To require agency officials to communicate with and testify before Congress regarding certain agency actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 11 (legislative day, JULY 10), 2024

Mr. CASSIDY introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require agency officials to communicate with and testify before Congress regarding certain agency actions, 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 “Upholding Standards
5 of Accountability Act of 2024” or the “USA Act of 2024”.

6 **SEC. 2. TESTIMONY REGARDING MAJOR RULES.**

7 Section 801(a) of title 5, United States Code, is
8 amended by adding at the end the following:

9 “(6) AGENCY TESTIMONY.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), not later than 30 days after
3 the publication of a final major rule in the Fed-
4 eral Register, the officer of the Federal agency
5 signing such major rule shall testify about the
6 rule before each standing committee of Con-
7 gress with jurisdiction under the rules of the
8 House of Representatives or the Senate to re-
9 port a bill to amend the provision of law under
10 which the rule is issued.

11 “(B) WAIVER.—

12 “(i) IN GENERAL.—The chair of a
13 committee may waive the requirements of
14 subparagraph (A) on a case-by-case basis
15 with respect to such committee.

16 “(ii) WRITTEN DETERMINATION.—If
17 the chair waives such requirements, the
18 chair must issue a written determination
19 that such testimony is unnecessary and
20 would not be beneficial to Congress in car-
21 rying out its legislative function.

22 “(C) RULE OF CONSTRUCTION.—Nothing
23 in this paragraph shall be construed to impact
24 the appearance of other Federal officials at
25 committee hearings at other times and for pur-

1 poses other than the times and purposes de-
2 scribed in subparagraph (A).”.

3 **SEC. 3. TESTIMONY FOR SENATE-CONFIRMED NOMINEES.**

4 (a) IN GENERAL.—Subchapter III of chapter 33 of
5 title 5, United States Code, is amended by adding at the
6 end the following:

7 **“SECTION 3349f. NOMINEE TESTIMONY.**

8 “(a) IN GENERAL.—Except as provided in subsection
9 (b), each person nominated to a position that requires the
10 advice and consent of the Senate shall testify in a hearing
11 before the committee of the Senate with jurisdiction under
12 the rules of the Senate over such nomination. Such hear-
13 ing shall be held before the nomination may be confirmed
14 by the Senate.

15 “(b) WAIVER.—

16 “(1) IN GENERAL.—The chair of a committee
17 may waive the requirements of subsection (a) on a
18 case-by-case basis with respect to such committee.

19 “(2) WRITTEN DETERMINATION.—If the chair
20 waives such requirements, the chair shall issue a
21 written determination that such testimony is unnec-
22 essary and would not be beneficial to Congress in
23 carrying out its legislative function.

24 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion shall be construed to impact the appearance of other

1 Federal officials at committee hearings at times and for
2 purposes other than the times and purposes described in
3 subsection (a).”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subchapter III of chapter 33 of title 5, United States
6 Code, is amended by inserting after the item relating to
7 section 3349e the following:

“3349f. Nominee testimony.”.

8 **SEC. 4. RETROSPECTIVE COST-BENEFIT REVIEW.**

9 Section 801(a) of title 5, United States Code, as
10 amended by section 2, is amended by adding at the end
11 the following:

12 “(7) RETROSPECTIVE REPORT.—

13 “(A) AGENCY REPORT.—

14 “(i) IN GENERAL.—Not later than 5
15 calendar years after the effective date of a
16 major rule, the Federal agency that pro-
17 mulgated the major rule shall submit to
18 each House of Congress, the Comptroller
19 General, and the Office of Information and
20 Regulatory Affairs and publish on the
21 website of the Federal agency a report con-
22 taining a retrospective analysis of the rule
23 based on the report submitted under para-
24 graph (1)(B).

1 “(ii) CONTENTS OF REPORT.—The re-
2 port submitted under subparagraph (A)
3 shall include, at minimum—

4 “(I) an updated cost-benefit anal-
5 ysis of the rule, describing the actual
6 costs and benefits of the rule in quan-
7 tified and monetized terms when pos-
8 sible, and otherwise in qualitative
9 terms;

10 “(II) an explanation of any mate-
11 rial differences between the initial
12 cost-benefit analysis and the updated
13 cost-benefit analysis of the rule;

14 “(III) recommendations for
15 changes to the rule, if any, based on
16 the actual costs and benefits of the
17 rule since the effective date;

18 “(IV) an updated regulatory
19 flexibility analysis of the rule, describ-
20 ing the actual significant economic
21 impact on a substantial number of
22 small entities, if any; and

23 “(V) an updated analysis of the
24 actual costs resulting from the rule
25 imposing Federal mandates upon

1 State, local, and Tribal governments
2 and the private sector, if any.

3 “(B) OIRA REPORT.—Not later than 60
4 days after the end of each fiscal year, the Ad-
5 ministrator of the Office of Information and
6 Regulatory Affairs shall submit to each House
7 of Congress and to the Comptroller General a
8 report containing—

9 “(i) a summary of all reports sub-
10 mitted pursuant to subparagraph (A) dur-
11 ing the previous fiscal year; and

12 “(ii) a quantitative and qualitative
13 analysis of the reports, which shall include,
14 at minimum—

15 “(I) recommendations to improve
16 future cost-benefit analyses conducted
17 by Federal agencies promulgating
18 such rules;

19 “(II) recommendations to im-
20 prove future economic or regulatory
21 impact analyses conducted by Federal
22 agencies promulgating such rules;

23 “(III) any other recommenda-
24 tions for agencies for future
25 rulemakings based on the analysis of

1 the reports compiled pursuant to
2 clause (i).

3 “(C) INTERIM ANALYSIS.—

4 “(i) IN GENERAL.—Not later than 2
5 calendar years after the date of enactment
6 of this Act, each Federal agency shall sub-
7 mit to each House of Congress, the Comp-
8 troller General, and the Office of Informa-
9 tion and Regulatory Affairs and publish on
10 the website of the agency a report con-
11 taining a retrospective analysis of the cost-
12 benefit analyses supporting recent major
13 rules.

14 “(ii) CONTENTS OF REPORT.—The re-
15 port submitted under clause (i) shall—

16 “(I) contain a quantitative and
17 qualitative analysis of that agency’s
18 rulemaking analyses, including plans
19 for prospectively improving such anal-
20 yses based on differences between past
21 analyses and the real-world impact of
22 the applicable rules; and

23 “(II) address the greater of—

24 “(aa) the most recent 20
25 major rules promulgated; or

1 “(bb) all major rules pro-
2 mulgated during the previous 5
3 calendar years.

4 “(D) EFFECTIVE DATE.—The require-
5 ments under subparagraph (A) shall apply to
6 all major rules promulgated on or after the date
7 of enactment of the Upholding Standards of
8 Accountability Act of 2024. The requirements
9 under subparagraph (B) shall apply to the first
10 fiscal year in which reports were submitted pur-
11 suant to subparagraph (A).”.

12 **SEC. 5. INFORMAL RULEMAKING.**

13 Section 553 of title 5, United States Code, is amend-
14 ed by adding at the end the following:

15 “(f) Nothing in this section shall be construed to pro-
16 hibit an agency from communicating with members of
17 Congress regarding a proposed rule outside of the com-
18 ment period provided in subsection (c) and no such com-
19 munication shall be held to be unlawful under section
20 706.”.

21 **SEC. 6. WRITTEN RESPONSE.**

22 (a) DEFINITIONS.—In this section:

23 (1) LETTER.—The term “letter” means written
24 correspondence signed by—

1 (A) the chair or ranking member of any
2 committee of the House of Representatives or
3 the Senate, not to include subcommittees, per-
4 taining to a matter under the jurisdiction of
5 such committee under the rules of the House of
6 Representatives or the Senate;

7 (B) at least 7 members of any committee
8 of the House of Representatives, not to include
9 subcommittees, including at least 3 members of
10 a different political party than the majority of
11 signing members, pertaining to a matter under
12 the jurisdiction of such committee under the
13 rules of the House of Representatives; or

14 (C) at least 5 members of any committee
15 of the Senate, not to include subcommittees, in-
16 cluding at least 2 members of a different polit-
17 ical party than the majority of signing mem-
18 bers, pertaining to a matter under the jurisdic-
19 tion of such committee under the rules of the
20 Senate.

21 (2) AGENCY.—The term “agency” means any
22 agency as that term is defined in section 551 of title
23 5, United States Code.

1 (3) AGENCY OFFICER.—The term “agency offi-
2 cer” means any officer of the United States em-
3 ployed by an agency.

4 (b) RESPONSE BY AGENCY.—Not later than 30 days
5 after the date on which a letter is sent to an agency offi-
6 cer, the agency shall provide a substantive response to the
7 letter in writing.

8 (c) FAILURE TO RESPOND.—

9 (1) IN GENERAL.—If the agency fails to provide
10 a substantive response to the letter on or before the
11 date that is 60 days after the letter is sent, unless
12 the authors of such letter approve in writing an ex-
13 tension of the response deadline, the agency officer
14 to whom the letter is addressed shall appear and tes-
15 tify before the committee of the chair or ranking
16 member who sent the letter pursuant to subsection
17 (a)(1)(A) or the committee of members who sent the
18 letter pursuant to subparagraph (B) or (C) of sub-
19 section (a)(1).

20 (2) PENALTIES.—In the case of a letter that
21 was sent from both the chair or ranking member of
22 a Senate committee and the chair or ranking mem-
23 ber of a House committee, if the agency fails to re-
24 spond to the letter on or before the date that is 90
25 days after the letter was sent, the annual rate of

1 basic pay for the agency officer to whom the letter
2 was addressed shall be \$1 during the period—

3 (A) beginning on the first day of the first
4 applicable pay period beginning after such date;
5 and

6 (B) ending on the day before the first day
7 of the first applicable pay period beginning
8 after the date on which the agency responds to
9 the letter.

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