

Calendar No. 438

118TH CONGRESS
2D SESSION**S. 4727**

To amend title 5, United States Code, to clarify the nature of judicial review of agency interpretations of statutory and regulatory provisions.

IN THE SENATE OF THE UNITED STATES

JULY 11 (legislative day, JULY 10), 2024

Mr. SCHMITT (for himself, Mr. CRAMER, Ms. ERNST, Mr. CRUZ, Mr. BRAUN, Mr. BUDD, Mr. TUBERVILLE, Mr. HAGERTY, Mr. THUNE, Mrs. BLACKBURN, and Mr. PAUL) introduced the following bill; which was read the first time

JULY 23, 2024

Read the second time and placed on the calendar

A BILL

To amend title 5, United States Code, to clarify the nature of judicial review of agency interpretations of statutory and regulatory provisions.

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 “Separation of Powers
5 Restoration Act of 2024” or “SOPRA”.

1 **SEC. 2. JUDICIAL REVIEW OF STATUTORY AND REGU-**
2 **LATORY INTERPRETATIONS.**

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

5 (1) by striking “To the extent necessary” and
6 inserting “(a) To the extent necessary”;

7 (2) in subsection (a), as so designated—

8 (A) by striking “decide all relevant ques-
9 tions of law, interpret constitutional and statu-
10 tory provisions, and”;

11 (B) by inserting after “of the terms of an
12 agency action” the following “and decide de
13 novo all relevant questions of law, including the
14 interpretation of constitutional and statutory
15 provisions, rules made by agencies, and inter-
16 pretative rules, general statements of policy,
17 and all other agency guidance documents. Not-
18 withstanding any other provision of law, this
19 subsection shall apply in any action for judicial
20 review of agency action authorized under any
21 provision of law. No law may exempt any such
22 civil action from the application of this section
23 except by specific reference to this section”; and

24 (3) by striking “The reviewing court shall—”
25 and inserting the following:

26 “(b) The reviewing court shall—”; and

- 1 (4) by striking “In making the foregoing deter-
- 2 minations” and inserting the following:
- 3 “(c) In making the foregoing determinations”.

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