

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1930
OFFERED BY M. _____**

Strike all after the enacting clause and insert the following:

1 SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Federal Advisory Committee Transparency Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Ensuring independent advice and expertise.
- Sec. 3. Preventing efforts to circumvent the federal advisory committee act and public disclosure.
- Sec. 4. Increasing transparency of advisory committees.
- Sec. 5. Managing federal advisory committees.
- Sec. 6. Comptroller general review and reports.
- Sec. 7. Application of federal advisory committee act to trade advisory committees.
- Sec. 8. Definitions.
- Sec. 9. Technical and conforming amendments.
- Sec. 10. Effective date.
- Sec. 11. No additional funds authorized.
- Sec. 12. Determination of budgetary effects.

6 SEC. 2. ENSURING INDEPENDENT ADVICE AND EXPERTISE.

7 (a) BAR ON POLITICAL LITMUS TESTS.—Section 9
8 of the Federal Advisory Committee Act (5 U.S.C. App.)
9 is amended—

10 (1) in the section heading, by inserting “MEM-
11 BERSHIP;” after “ADVISORY COMMITTEES;”;

1 (2) by redesignating subsections (b) and (c) as
2 subsections (e) and (f), respectively; and

3 (3) by inserting after subsection (a) the fol-
4 lowing:

5 “(b) APPOINTMENTS MADE WITHOUT REGARD TO
6 POLITICAL AFFILIATION OR ACTIVITY.—All appointments
7 to advisory committees shall be made without regard to
8 political affiliation or political campaign activity, unless re-
9 quired by Federal statute.”.

10 (b) MINIMIZING CONFLICTS OF INTEREST.—Section
11 9 of the Federal Advisory Committee Act (5 U.S.C. App.),
12 as amended by subsection (a) of this section, is further
13 amended by inserting after subsection (b) (as added by
14 such subsection (a)) the following:

15 “(c) PUBLIC NOMINATIONS OF COMMITTEE MEM-
16 BERS.—

17 “(1) Before making an appointment to an advi-
18 sory committee, the head of an agency shall—

19 “(A) solicit nominations for potential com-
20 mittee members;

21 “(B) if the head of the agency is required
22 to publish a notice under subsection (a)(2), in-
23 clude in the notice a solicitation for nomina-
24 tions of potential committee members; and

1 “(C) provide in the notice under subpara-
2 graph (B) a mechanism for interested persons
3 to comment through a publicly available website
4 of the agency.

5 “(2) The head of an agency shall consider any
6 comments submitted in accordance with paragraph
7 (1)(C) in appointing the members of an advisory
8 committee.

9 “(3) The head of an agency shall solicit nomi-
10 nations under paragraph (1) not less frequently than
11 once every 2 years.

12 “(4) Notwithstanding paragraph (1), if a va-
13 cancy in an advisory committee occurs before the
14 next scheduled solicitation for nominations under
15 this subsection, an agency may appoint a member
16 from among individuals that were previously nomi-
17 nated to be a member of the advisory committee.

18 “(d) DESIGNATION OF THE COMMITTEE MEM-
19 BERS.—

20 “(1) An individual appointed to an advisory
21 committee who is not a full-time or permanent part-
22 time officer or employee of the Federal Government
23 shall be designated as—

1 “(A) a special Government employee, if the
2 individual is providing advice based on the indi-
3 vidual’s expertise or experience; or

4 “(B) a representative, if the individual is
5 representing the views of an entity or entities
6 outside of the Federal Government.

7 “(2) An agency may not designate committee
8 members as representatives to avoid subjecting them
9 to Federal ethics rules and requirements.

10 “(3) The designated agency ethics official for
11 each agency shall review the members of each advi-
12 sory committee that reports to the agency to deter-
13 mine whether each member’s designation is appro-
14 priate, and to redesignate members if appropriate.
15 The designated agency ethics official shall certify to
16 the head of the agency that such review has been
17 made—

18 “(A) following the initial appointment of
19 members; and

20 “(B) at the time a committee’s charter is
21 renewed, or, in the case of a committee with an
22 indefinite charter, every 2 years.

23 “(4) The head of each agency shall inform each
24 individual who is not a full-time or permanent part-
25 time officer or employee of the Federal Government

1 appointed to an advisory committee that reports to
2 the agency whether the individual is appointed as a
3 special Government employee or as a representative.
4 The agency head shall provide each committee mem-
5 ber with an explanation of the differences between
6 special Government employees and representatives
7 and a summary of applicable ethics requirements.
8 The agency head, acting through the designated
9 agency ethics official, shall obtain signed and dated
10 written confirmation from each committee member
11 that the member received and reviewed the informa-
12 tion required by this paragraph.

13 “(5) The Director of the Office of Government
14 Ethics shall provide guidance to agencies on what to
15 include in the summary of ethics requirements re-
16 quired by paragraph (4).

17 “(6) The head of each agency shall, to the ex-
18 tent practicable, develop and implement strategies to
19 minimize the need for written determinations under
20 section 208(b)(3) of title 18, United States Code.
21 Strategies may include such efforts as improving
22 outreach efforts to potential committee members and
23 seeking public input on potential committee mem-
24 bers.

1 “(7) Nothing in this subsection shall be con-
2 strued to supersede the inapplicability of this Act
3 with respect to peer review groups appointed under
4 paragraph (16) of section 402(b) of the Public
5 Health Service Act, as described in the flush text
6 following paragraph (25)(B) of such section.”.

7 (c) REGULATIONS IMPLEMENTING FACa.—Section
8 7(c) of the Federal Advisory Committee Act (5 U.S.C.
9 App.) is amended by inserting “promulgate regulations
10 and” after “The Administrator shall”.

11 (d) ENSURING INDEPENDENT ADVICE AND REC-
12 COMMENDATIONS.—The Federal Advisory Committee Act
13 (5 U.S.C. App.) is amended—

14 (1) in section 8—

15 (A) in the section heading, by inserting
16 “INDEPENDENT ADVICE AND REC-
17 COMMENDATIONS;” after “RESPONSIBIL-
18 ITIES OF AGENCY HEADS;”;

19 (B) by redesignating subsection (b) as sub-
20 section (e); and

21 (C) by inserting after subsection (a) the
22 following:

23 “(b) The head of each agency shall ensure that the
24 agency does not interfere with the free and independent
25 participation, expression of views, and deliberation by

1 committee members. Each advisory committee shall in-
2 clude a statement describing the process used by the advi-
3 sory committee in formulating the advice and rec-
4 ommendations when they are transmitted to the agency.”;
5 and

6 (2) in section 10—

7 (A) in the section heading, by inserting “;
8 CHAIR” after “ATTENDANCE”; and

9 (B) by inserting after subsection (f) the
10 following new subsection:

11 “(g) The chair shall not be an employee of the agency
12 to which the advisory committee reports, unless—

13 “(1) a statute specifically authorizes selection of
14 such an employee as the chair; or

15 “(2) the head of the agency directs an employee
16 to serve as the chair.”.

17 **SEC. 3. PREVENTING EFFORTS TO CIRCUMVENT THE FED-**
18 **ERAL ADVISORY COMMITTEE ACT AND PUB-**
19 **LIC DISCLOSURE.**

20 (a) SUBCOMMITTEES.—Section 4 of the Federal Ad-
21 visory Committee Act (5 U.S.C. App.) is amended by
22 striking subsection (a) and inserting the following:

23 “(a) APPLICATION.—The provisions of this Act or of
24 any rule, order, or regulation promulgated under this Act
25 shall apply to each advisory committee, including any sub-

1 committee or subgroup thereof, except to the extent that
2 any Act of Congress establishing any such advisory com-
3 mittee specifically provides otherwise. Any subcommittee
4 or subgroup that reports to a parent committee estab-
5 lished under section 9(a) is not required to comply with
6 section 9(f).”.

7 (b) COMMITTEES CREATED UNDER CONTRACT.—
8 Section 3(2) of the Federal Advisory Committee Act (5
9 U.S.C. App.) is amended in the matter following subpara-
10 graph (C) by adding at the end the following: “An advi-
11 sory committee is considered to be established by an agen-
12 cy, agencies, or the President if it is formed, created, or
13 organized under contract, other transactional authority,
14 cooperative agreement, grant, or otherwise at the request
15 or direction of an agency, agencies, or the President.”.

16 (c) ADVISORY COMMITTEES CONTAINING SPECIAL
17 GOVERNMENT EMPLOYEES.—Section 4 of the Federal Ad-
18 visory Committee Act (5 U.S.C. App.), as amended by
19 subsections (a) and (b) of this section, is further amended
20 by adding at the end the following new subsection:

21 “(d) SPECIAL GOVERNMENT EMPLOYEES.—Com-
22 mittee members appointed as special Government employ-
23 ees shall not be considered full-time or permanent part-
24 time officers or employees of the Federal Government for

1 purposes of determining the applicability of this Act under
2 section 3(2).”.

3 **SEC. 4. INCREASING TRANSPARENCY OF ADVISORY COM-**
4 **MITTEES.**

5 (a) INFORMATION REQUIREMENT.—Section 11 of the
6 Federal Advisory Committee Act (5 U.S.C. App.) is
7 amended to read as follows:

8 **“SEC. 11. DISCLOSURE OF INFORMATION.**

9 “(a) IN GENERAL.—With respect to each advisory
10 committee, the head of the agency to which the advisory
11 committee reports shall make publicly available in accord-
12 ance with subsection (b) the following information:

13 “(1) The charter of the advisory committee.

14 “(2) A description of the process used to estab-
15 lish and appoint the members of the advisory com-
16 mittee, including the following:

17 “(A) The process for identifying prospec-
18 tive members.

19 “(B) The process of selecting members for
20 balance of viewpoints or expertise.

21 “(C) The reason each member was ap-
22 pointed to the committee.

23 “(D) A justification of the need for rep-
24 resentative members, if any.

1 “(3) A list of all current members, including,
2 for each member, the following:

3 “(A) The name of any person or entity
4 that nominated the member.

5 “(B) Whether the member is—

6 “(i) designated as a special Govern-
7 ment employee;

8 “(ii) a representative; or

9 “(iii) a full-time or permanent part-
10 time officer or employee of the Federal
11 Government.

12 “(C) In the case of a representative, the
13 individuals or entity whose viewpoint the mem-
14 ber represents.

15 “(4) A list of all members designated as special
16 Government employees for whom written certifi-
17 cations were made under section 208(b) of title 18,
18 United States Code, a copy of each such certifi-
19 cation, a summary description of the conflict necessi-
20 tating the certification, and the reason for granting
21 the certification.

22 “(5) Any recusal agreement made by a member
23 or any recusal known to the agency that occurs dur-
24 ing the course of a meeting or other work of the
25 committee.

1 “(6) A summary of the process used by the ad-
2 visory committee for making decisions.

3 “(7) Detailed minutes of all meetings of the
4 committee and a description of committee efforts to
5 make meetings accessible to the public using online
6 technologies (such as video recordings) or other
7 techniques (such as audio recordings).

8 “(8) Any written determination by the Presi-
9 dent or the head of the agency to which the advisory
10 committee reports, pursuant to section 10(d), to
11 close a meeting or any portion of a meeting and the
12 reasons for such determination.

13 “(9) Notices of future meetings of the com-
14 mittee.

15 “(10) Any additional information considered
16 relevant by the head of the agency to which the advi-
17 sory committee reports.

18 “(b) MANNER OF DISCLOSURE.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), the head of an agency shall make the in-
21 formation required to be disclosed under subsection
22 (a) available electronically on a publicly available
23 website of the agency and to the Administrator at
24 least 15 calendar days before each meeting of an ad-
25 visory committee. If the head of the agency deter-

1 mines that such timing is not practicable for any re-
2 quired information, such head shall make the infor-
3 mation available as soon as practicable but no later
4 than 48 hours before the next meeting of the com-
5 mittee. An agency may withhold from disclosure any
6 information that would be exempt from disclosure
7 under section 552 of title 5, United States Code.

8 “(2) WEBSITE AVAILABILITY.—The head of an
9 agency shall make available electronically, on a pub-
10 licly available website of the agency, detailed min-
11 utes and, to the extent available, a transcript or
12 audio or video recording of each advisory committee
13 meeting not later than 45 calendar days after such
14 meeting.

15 “(3) GRANT REVIEWS.—In the case of grant re-
16 views, disclosure of information required by sub-
17 section (a)(3) may be provided in the aggregate
18 rather than by individual grant.

19 “(c) PROVISION OF INFORMATION BY ADMINIS-
20 TRATOR OF GENERAL SERVICES.—The Administrator of
21 General Services shall provide, on a publicly available
22 website of the General Services Administration, electronic
23 access to the information made available by each agency
24 under this section.

25 “(d) AVAILABILITY OF MEETING MATERIALS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2) and where prohibited by contractual
3 agreements entered into prior to the effective date of
4 the Federal Advisory Committee Act Amendments of
5 2021, agencies and advisory committees shall make
6 available to any person, at actual cost of duplication,
7 copies of advisory committee meeting materials.

8 “(2) APPLICABILITY.—Nothing in this sub-
9 section shall be construed to require the disclosure
10 of information that is protected from mandatory dis-
11 closure by statute.”

12 (b) CHARTER FILING.—Subsection (f) of section 9 of
13 the Federal Advisory Committee Act (5 U.S.C. App.), as
14 redesignated by section 2(a) of this Act, is amended to
15 read as follows:

16 “(f) No advisory committee shall meet or take any
17 action until an advisory committee charter has been filed
18 with the Administrator, the head of the agency to whom
19 any advisory committee reports, and the standing commit-
20 tees of the Senate and of the House of Representatives
21 having legislative jurisdiction of such agency. Such charter
22 shall contain the following information in the following
23 order:

24 “(1) The committee’s official designation.

1 “(2) The authority under which the committee
2 is established.

3 “(3) The committee’s objectives and the scope
4 of its activity.

5 “(4) A description of the duties for which the
6 committee is responsible, and, if such duties are not
7 solely advisory, a specification of the authority for
8 such functions.

9 “(5) The agency or official to whom the com-
10 mittee reports.

11 “(6) The agency responsible for providing the
12 necessary support for the committee.

13 “(7) The responsibilities of the officer or em-
14 ployee of the Federal Government designated under
15 section 10(e).

16 “(8) The estimated number and frequency of
17 committee meetings.

18 “(9) The period of time necessary for the com-
19 mittee to carry out its purposes.

20 “(10) The committee’s termination date, if less
21 than 2 years from the date of the committee’s estab-
22 lishment.

23 “(11) The estimated number of members and a
24 description of the expertise needed to carry out the
25 objectives of the committee.

1 “(12) A description of whether the committee
2 will be composed of full- or part-time Government
3 employees, special Government employees, represent-
4 atives, or a combination of categories.

5 “(13) Whether the agency intends to create
6 subcommittees and if so, the agency official author-
7 ized to exercise such authority.

8 “(14) The estimated annual operating costs in
9 dollars and full-time equivalent positions for such
10 committee.

11 “(15) The recordkeeping requirements of the
12 committee.

13 “(16) The date the charter is filed.
14 A copy of any such charter shall also be furnished to the
15 Library of Congress.”.

16 **SEC. 5. MANAGING FEDERAL ADVISORY COMMITTEES.**

17 (a) COMMITTEE MANAGEMENT OFFICERS.—Sub-
18 section (c) of section 8 of the Federal Advisory Committee
19 Act (5 U.S.C. App.), as redesignated by section 2(d) of
20 this Act, is amended to read as follows:

21 “(c) The head of each agency that has an advisory
22 committee shall designate an Advisory Committee Man-
23 agement Officer who shall—

24 “(1) be a senior official who is—

1 “(A) an expert in implementing the re-
2 quirements of this Act and regulations promul-
3 gated pursuant to this Act; and

4 “(B) the primary point of contact for the
5 General Services Administration;

6 “(2) ensure the establishment, management,
7 and supervision of the advisory committees of the
8 agency, including establishing procedures, perform-
9 ance measures, and outcomes for such committees;

10 “(3) ensure the assembly and maintenance of
11 the reports, records, and other papers (including ad-
12 visory committee meeting materials) of any such
13 committee during its existence;

14 “(4) ensure any such committee and cor-
15 responding agency staff adhere to the provisions of
16 this Act and any regulations promulgated pursuant
17 to this Act;

18 “(5) ensure the maintenance of records on each
19 employee of any such committee and completion of
20 training required for any such employee;

21 “(6) be responsible for providing the informa-
22 tion required in section 7(b) of this Act to the Ad-
23 ministrator; and

24 “(7) carry out, on behalf of that agency, the
25 provisions of section 552 of title 5, United States

1 Code, with respect to the reports, records, and other
2 papers described in paragraph (3).”.

3 **SEC. 6. COMPTROLLER GENERAL REVIEW AND REPORTS.**

4 (a) REVIEW.—The Comptroller General of the United
5 States shall review compliance by agencies with the Fed-
6 eral Advisory Committee Act, as amended by this Act, in-
7 cluding whether agencies are appropriately appointing ad-
8 visory committee members who are not full-time or perma-
9 nent part-time officers or employees of the Federal Gov-
10 ernment as either special Government employees or rep-
11 resentatives.

12 (b) REPORT.—The Comptroller General shall submit
13 to the committees described in subsection (c) two reports
14 on the results of the review, as follows:

15 (1) The first report shall be submitted not later
16 than 1 year after the date of promulgation of regula-
17 tions under section 7(c) of the Federal Advisory
18 Committee Act (5 U.S.C. App.), as amended by sec-
19 tion 2(c).

20 (2) The second report shall be submitted not
21 later than 5 years after such date of promulgation
22 of regulations.

23 (c) COMMITTEES.—The committees described in this
24 subsection are the Committee on Oversight and Reform
25 of the House of Representatives and the Committee on

1 Homeland Security and Governmental Affairs of the Sen-
2 ate.

3 **SEC. 7. APPLICATION OF FEDERAL ADVISORY COMMITTEE**

4 **ACT TO TRADE ADVISORY COMMITTEES.**

5 Section 135(f)(2)(A) of the Trade Act of 1974 (19
6 U.S.C. 2155(f)(2)(A)) is amended by striking “sub-
7 sections (a) and (b) of sections 10 and 11 of the Federal
8 Advisory Committee Act” and inserting “subsections (a)
9 and (b) of section 10 and subsections (a)(7), (a)(8),
10 (a)(9), (b)(2), and (d) of section 11 of the Federal Advi-
11 sory Committee Act”.

12 **SEC. 8. DEFINITIONS.**

13 Section 3 of the Federal Advisory Committee Act (5
14 U.S.C. App.) is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(5) The term ‘special Government employee’
17 has the meaning given that term in section 202(a)
18 of title 18, United States Code.”.

19 **SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.**

20 Section 7(d)(1) of the Federal Advisory Committee
21 Act (5 U.S.C. App.) is amended—

22 (1) in subparagraph (A), by striking “the rate
23 specified for GS–18 of the General Schedule under
24 section 5332” and inserting “the rate for level IV of
25 the Executive Schedule under section 5315”; and

1 (2) in subparagraph (C)(i), by striking “handi-
2 capped individuals (within the meaning of section
3 501 of the Rehabilitation Act of 1973 (29 U.S.C.
4 794))” and inserting “individuals with disabilities
5 (as defined in section 7(20) of the Rehabilitation Act
6 of 1973)”.

7 **SEC. 10. EFFECTIVE DATE.**

8 This Act and the amendments made by this Act shall
9 take effect 30 days after the date of the enactment of this
10 Act.

11 **SEC. 11. NO ADDITIONAL FUNDS AUTHORIZED.**

12 No additional funds are authorized to carry out the
13 requirements of this Act and the amendments made by
14 this Act. Such requirements shall be carried out using
15 amounts otherwise authorized.

16 **SEC. 12. DETERMINATION OF BUDGETARY EFFECTS.**

17 The budgetary effects of this Act, for the purpose of
18 complying with the Statutory Pay-As-You-Go Act of 2010,
19 shall be determined by reference to the latest statement
20 titled “Budgetary Effects of PAYGO Legislation” for this
21 Act, submitted for printing in the Congressional Record
22 by the Chairman of the House Budget Committee, pro-
23 vided that such statement has been submitted prior to the
24 vote on passage.

