

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend sections 801 and 804 of title 5, United States Code, to include guidance issued by non-agencies, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. SULLIVAN introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend sections 801 and 804 of title 5, United States Code, to include guidance issued by non-agencies, 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 “Checks and Balances  
5 Act”.

6       **SEC. 2. GUIDANCE ISSUED BY NON-AGENCIES.**

7       Section 801 of title 5, United States Code, is amend-  
8 ed by adding at the end the following:

9       “(h) For purposes of Congressional review under this  
10 chapter—

1           “(1) guidance that directs the operations of a  
2           Federal agency and is issued by an entity with au-  
3           thority delegated by the President shall be consid-  
4           ered a rule; and

5           “(2) the entity that issues the guidance is re-  
6           quired to comply with this chapter in the same man-  
7           ner as a Federal agency.”.

8   **SEC. 3. DEFINITIONS.**

9           Section 804 of title 5, United States Code, is amend-  
10   ed—

11           (1) by striking paragraph (1) and inserting:

12           “(1) The term ‘Federal agency’—

13                   “(A) means any agency as that term is de-  
14                   fined in section 551(1); and

15                   “(B) includes a task force or similar entity  
16                   composed of members of an agency.”; and

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

18           “(4) The term ‘guidance’—

19                   “(A) means an agency statement of gen-  
20                   eral applicability (other than a rule that has the  
21                   force and effect of law promulgated in accord-  
22                   ance with the notice and comment procedures  
23                   under section 553) that—

24                           “(i) does not have the force and effect  
25                           of law; and

