

118TH CONGRESS
1ST SESSION

H. R. 288

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2023

Mr. FITZGERALD (for himself, Mrs. MILLER of Illinois, Mr. DUNCAN, Mr. McCLINTOCK, Mr. BURGESS, Mr. BUCK, Mr. TIFFANY, Mr. BISHOP of North Carolina, Mr. JACKSON of Texas, and Mr. CLINE) introduced the following bill; which was referred to the Committee on the Judiciary

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 2023”.

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

8 Section 706 of title 5, United States Code, is amend-
9 ed—

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

3 (2) by striking “decide all relevant questions of
4 law, interpret constitutional and statutory provi-
5 sions, and”;

6 (3) by inserting after “of the terms of an agen-
7 cy action” the following “and decide de novo all rel-
8 evant questions of law, including the interpretation
9 of constitutional and statutory provisions, and rules
10 made by agencies. Notwithstanding any other provi-
11 sion of law, this subsection shall apply in any action
12 for judicial review of agency action authorized under
13 any provision of law. No law may exempt any such
14 civil action from the application of this section ex-
15 cept by specific reference to this section”; and

16 (4) by striking “The reviewing court shall—”
17 and inserting the following:

18 “(b) The reviewing court shall—”.

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