

118TH CONGRESS  
2D SESSION

# S. 4987

To codify Chevron deference.

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IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2024

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

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## A BILL

To codify Chevron deference.

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 “Restoring Congres-  
5 sional Authority Act”.

6 **SEC. 2. SCOPE OF JUDICIAL REVIEW OF AGENCY ACTIONS.**

7 (a) IN GENERAL.—Section 706 of title 5, United  
8 States Code, is amended—

9 (1) by striking “To the extent necessary” and  
10 inserting the following:

11 “(a) IN GENERAL.—To the extent necessary”; and

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

1       “(b) DEFERENCE TO REASONABLE INTERPRETATION  
2 OF AGENCY.—

3           “(1) DEFINITION OF COVERED PROVISION.—In  
4 this subsection, the term ‘covered provision’, with re-  
5 spect to an agency, means a statutory provision that  
6 the agency has authority to implement.

7           “(2) LIMITATION ON RELIEF.—In reviewing  
8 under subsection (a) an agency action that is alleged  
9 to violate a covered provision, if the agency action  
10 complied with the covered provision as interpreted  
11 by the agency, the reviewing court may order relief  
12 only if the interpretation by the agency of the cov-  
13 ered provision was not reasonable.

14           “(3) CONSIDERATION OF CONGRESSIONAL IN-  
15 TENT.—

16           “(A) IN GENERAL.—In reviewing the rea-  
17 sonableness of an agency’s interpretation of a  
18 covered provision under paragraph (1), the re-  
19 viewing court shall consider congressional intent  
20 with respect to the covered provision.

21           “(B) DETERMINATION OF CONGRESSIONAL  
22 INTENT.—In order to determine congressional  
23 intent with respect to a covered provision under  
24 subparagraph (A), the reviewing court shall

1 consider, in addition to the text of the covered  
2 provision, only—

3 “(i) any statement about the legisla-  
4 tion that created the covered provision—

5 “(I) made—

6 “(aa) by a Member of Con-  
7 gress during deliberation of an  
8 applicable congressional com-  
9 mittee regarding the legislation;  
10 or

11 “(bb) in the report of an ap-  
12 plicable congressional committee  
13 with respect to the legislation; or

14 “(II) made by a Member of Con-  
15 gress on the floor of the Senate or the  
16 House of Representatives;

17 “(ii) any letter about or relating to  
18 the legislation that created the covered  
19 provision circulated by the Member of Con-  
20 gress who sponsored the legislation, includ-  
21 ing—

22 “(I) a letter commonly known as  
23 a ‘Dear Colleague letter’; or

24 “(II) a letter sent to a Federal  
25 agency that would be impacted by the

1                   legislation, the response to which in-  
2                   formed the drafting of the legislation;

3                   “(iii) any press release issued by a  
4                   Member of Congress about the legislation  
5                   that created the covered provision; and

6                   “(iv) any statement, letter, or press  
7                   release that satisfies the requirements  
8                   under clause (i), (ii), or (iii), respectively,  
9                   except that the statement, letter, or press  
10                  release was about or relating to (as appli-  
11                  cable) companion legislation, or other near-  
12                  ly identical legislation, to the legislation  
13                  that created the covered provision.

14               “(c) FAST-TRACK CONSIDERATION OF LEGISLATION  
15               OVERTURNING CERTAIN COURT DECISIONS.—

16               “(1) DEFINITIONS.—In this subsection:

17               “(A) COVERED DECISION.—The term ‘cov-  
18               ered decision’ means a decision of a court of ap-  
19               peals of the United States under subsection (a)  
20               that an agency action violated a covered provi-  
21               sion (as defined in subsection (b)) because the  
22               agency’s interpretation of the covered provision  
23               was not reasonable, as described in subsection  
24               (b)(2).

1           “(B) COVERED RESOLUTION.—The term  
2           ‘covered resolution’ means only a joint resolu-  
3           tion—

4                   “(i) introduced during the period be-  
5                   ginning on the date on which a covered de-  
6                   cision is issued and ending 60 days there-  
7                   after (excluding days either House of Con-  
8                   gress is adjourned for more than 3 days  
9                   during a session of Congress); and

10                   “(ii) the matter after the resolving  
11                   clause of which contains only—

12                           “(I) a citation to the covered de-  
13                           cision;

14                           “(II) a statement that Congress  
15                           disapproves the covered decision; and

16                           “(III) any language necessary to  
17                           overturn the covered decision and au-  
18                           thorize the invalidated agency action.

19           “(2) REFERRAL.—A covered resolution shall be  
20           referred to the committees in each House of Con-  
21           gress with jurisdiction.

22           “(3) SENATE PROCEDURES.—

23                   “(A) DISCHARGE OF COMMITTEE.—In the  
24                   Senate, if the committee to which is referred a  
25                   covered resolution has not reported the covered

1 resolution (or an identical joint resolution) at  
2 the end of 20 calendar days after its introduc-  
3 tion, the committee may be discharged from  
4 further consideration of the covered resolution  
5 upon a petition supported in writing by 30  
6 Members of the Senate, and the covered resolu-  
7 tion shall be placed on the calendar.

8 “(B) FLOOR CONSIDERATION.—

9 “(i) IN GENERAL.—In the Senate,  
10 when the committee to which a covered  
11 resolution is referred has reported, or when  
12 a committee is discharged (under subpara-  
13 graph (A)) from further consideration of a  
14 covered resolution, it is at any time there-  
15 after in order (even though a previous mo-  
16 tion to the same effect has been disagreed  
17 to) for a motion to proceed to the consider-  
18 ation of the covered resolution, and all  
19 points of order against the covered resolu-  
20 tion (and against consideration of the cov-  
21 ered resolution) are waived. The motion is  
22 not subject to amendment, or to a motion  
23 to postpone, or to a motion to proceed to  
24 the consideration of other business. A mo-  
25 tion to reconsider the vote by which the

1 motion is agreed to or disagreed to shall  
2 not be in order. If a motion to proceed to  
3 the consideration of the covered resolution  
4 is agreed to, the covered resolution shall  
5 remain the unfinished business of the Sen-  
6 ate until disposed of.

7 “(ii) DEBATE.—In the Senate, debate  
8 on the covered resolution, and on all debat-  
9 able motions and appeals in connection  
10 therewith, shall be limited to not more  
11 than 10 hours, which shall be divided  
12 equally between those favoring and those  
13 opposing the covered resolution. A motion  
14 further to limit debate is in order and not  
15 debatable. An amendment to, or a motion  
16 to postpone, or a motion to proceed to the  
17 consideration of other business, or a mo-  
18 tion to recommit the covered resolution is  
19 not in order.

20 “(iii) VOTE ON FINAL PASSAGE.—In  
21 the Senate, immediately following the con-  
22 clusion of the debate on a covered resolu-  
23 tion, and a single quorum call at the con-  
24 clusion of the debate if requested in ac-  
25 cordance with the rules of the Senate, the

1 vote on final passage of the covered resolu-  
2 tion shall occur.

3 “(iv) RULINGS OF THE CHAIR ON  
4 PROCEDURE.—Appeals from the decisions  
5 of the Chair relating to the application of  
6 the rules of the Senate to the procedure re-  
7 lating to a covered resolution shall be de-  
8 cided without debate.

9 “(C) EXPIRATION OF PROCEDURES.—In  
10 the Senate, the procedure specified in subpara-  
11 graph (A) or (B) shall not apply to the consid-  
12 eration of a joint resolution respecting a cov-  
13 ered decision—

14 “(i) after the expiration of the 60 ses-  
15 sion days beginning with the date on which  
16 the covered decision is issued; or

17 “(ii) if the covered decision is issued  
18 during the period referred to in subsection  
19 (d)(1), after the expiration of the 60 ses-  
20 sion days beginning on the 15th session  
21 day after the succeeding session of Con-  
22 gress first convenes.

23 “(4) COORDINATION WITH ACTION BY OTHER  
24 HOUSE.—If, before the passage by one House of a  
25 covered resolution of that House, that House re-



1 ceives from the other House a covered resolution,  
2 then the following procedures shall apply:

3 “(A) The covered resolution of the other  
4 House shall not be referred to a committee.

5 “(B) With respect to a covered resolution  
6 of the House receiving the covered resolution—

7 “(i) the procedure in that House shall  
8 be the same as if no covered resolution had  
9 been received from the other House; but

10 “(ii) the vote on final passage shall be  
11 on the covered resolution of the other  
12 House.

13 “(5) RULES OF SENATE AND HOUSE OF REP-  
14 RESENTATIVES.—This subsection is enacted by Con-  
15 gress—

16 “(A) as an exercise of the rulemaking  
17 power of the Senate and House of Representa-  
18 tives, respectively, and as such it is deemed a  
19 part of the rules of each House, respectively,  
20 but applicable only with respect to the proce-  
21 dure to be followed in that House in the case  
22 of a covered resolution, and it supersedes other  
23 rules only to the extent that it is inconsistent  
24 with such rules; and

1           “(B) with full recognition of the constitu-  
2           tional right of either House to change the rules  
3           (so far as relating to the procedure of that  
4           House) at any time, in the same manner, and  
5           to the same extent as in the case of any other  
6           rule of that House.

7           “(d) FAST-TRACK CONSIDERATION OF LEGISLATION  
8 OVERTURNING CERTAIN COURT DECISIONS ISSUED NEAR  
9 END OF CONGRESSIONAL SESSION OR BETWEEN SES-  
10 SIONS.—

11           “(1) IN GENERAL.—In addition to the oppor-  
12           tunity for legislative review otherwise provided under  
13           subsection (c), in the case of any covered decision  
14           (as defined in that subsection) that is issued during  
15           the period beginning on the date occurring, in the  
16           case of the Senate, 60 session days, or in the case  
17           of the House of Representatives, 60 legislative days,  
18           before the date on which Congress adjourns a ses-  
19           sion of Congress through the date on which the  
20           same or succeeding Congress first convenes its next  
21           session, subsection (c) shall apply to the covered de-  
22           cision in the succeeding session of Congress.

23           “(2) DEEMED DATE OF COURT DECISION.—In  
24           applying subsection (c) for purposes of the addi-  
25           tional legislative review described in paragraph (1)

1 of this subsection, a covered decision described in  
2 that paragraph shall be treated as though the cov-  
3 ered decision were issued on, in the case of the Sen-  
4 ate, the 15th session day, or, in the case of the  
5 House of Representatives, the 15th legislative day,  
6 after the succeeding session of Congress first con-  
7 venes.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

9 (1) CONGRESSIONAL ACCOUNTABILITY ACT OF  
10 1995.—Section 409 of the Congressional Account-  
11 ability Act of 1995 (2 U.S.C. 1409) is amended—

12 (A) by striking “subparagraphs (A)  
13 through (D) of section 706(2)” and inserting  
14 “subparagraphs (A) through (D) of section  
15 706(a)(2)”; and

16 (B) by striking “section 706(2)(B)” and  
17 inserting “section 706(a)(2)(B)”.

18 (2) UNFUNDED MANDATES REFORM ACT OF  
19 1995.—Section 401(a)(2)(A) of the Unfunded Man-  
20 dates Reform Act of 1995 (2 U.S.C. 1571(a)(2)(A))  
21 is amended by striking “section 706(1)” and insert-  
22 ing “section 706(a)(1)”.

23 (3) UNITED STATES WAREHOUSE ACT.—Section  
24 13(d)(2) of the United States Warehouse Act (7

1 U.S.C. 252(d)(2)) is amended by striking “section  
2 706(2)” and inserting “section 706(a)(2)”.

3 (4) TITLE 11, UNITED STATES CODE.—Section  
4 1172(b) of title 11, United States Code, is amended  
5 by striking “sections 706(2)(A), 706(2)(B),  
6 706(2)(C), and 706(2)(D)” and inserting “subpara-  
7 graphs (A) through (D) of section 706(a)(2)”.

8 (5) TITLE 14, UNITED STATES CODE.—Section  
9 2507(b)(2)(A) of title 14, United States Code, is  
10 amended by striking “section 706(1)” and inserting  
11 “section 706(a)(1)”.

12 (6) FEDERAL TRADE COMMISSION ACT.—Sec-  
13 tion 18(e) of the Federal Trade Commission Act (15  
14 U.S.C. 57a(e)) is amended—

15 (A) in paragraph (3), in the matter pre-  
16 ceding subparagraph (A), by striking “section  
17 706(2)” and inserting “section 706(a)(2)”; and

18 (B) in paragraph (5)(C), by striking “sec-  
19 tion 706(2)(E)” and inserting “section  
20 706(a)(2)(E)”.

21 (7) FEDERAL HAZARDOUS SUBSTANCES ACT.—  
22 Section 3(e)(3)(C) of the Federal Hazardous Sub-  
23 stances Act (15 U.S.C. 1262(e)(3)(C)) is amended  
24 by striking “section 706” and inserting “section  
25 706(a)”.

1           (8) POISON PREVENTION PACKAGING ACT OF  
2           1970.—Section 5(b)(3) of the Poison Prevention  
3           Packaging Act of 1970 (15 U.S.C. 1474(b)(3)) is  
4           amended by striking “section 706” and inserting  
5           “section 706(a)”.

6           (9) TOXIC SUBSTANCES CONTROL ACT.—Sec-  
7           tion 19(c)(1)(B) of the Toxic Substances Control  
8           Act (15 U.S.C. 2618(c)(1)(B)) is amended by strik-  
9           ing “706” each place it appears and inserting  
10          “706(a)”.

11          (10) FASTENER QUALITY ACT.—Section 6(b)(3)  
12          of the Fastener Quality Act (15 U.S.C. 5408(b)(3))  
13          is amended by striking “section 706(2)” and insert-  
14          ing “section 706(a)(2)”.

15          (11) NORTHERN PACIFIC HALIBUT ACT OF  
16          1982.—Section 8(b) of the Northern Pacific Halibut  
17          Act of 1982 (16 U.S.C. 773f(b)) is amended by  
18          striking “section 706(2)” and inserting “section  
19          706(a)(2)”.

20          (12) SOUTH PACIFIC TUNA ACT OF 1988.—Sec-  
21          tion 8(b) of the South Pacific Tuna Act of 1988 (16  
22          U.S.C. 973f(b)) is amended by striking “section  
23          706(2)” and inserting “section 706(a)(2)”.

24          (13) MARINE MAMMAL PROTECTION ACT OF  
25          1972.—Section 109(c)(4) of the Marine Mammal

1 Protection Act of 1972 (16 U.S.C. 1379(c)(4)) is  
2 amended by striking “section 706(2) (A) through  
3 (E)” and inserting “subparagraphs (A) through (E)  
4 of section 706(a)(2)”.

5 (14) MAGNUSON-STEVENSON FISHERY CONSERVA-  
6 TION AND MANAGEMENT ACT.—Section 308(b) of  
7 the Magnuson-Stevens Fishery Conservation and  
8 Management Act (16 U.S.C. 1858(b)) is amended  
9 by striking “section 706(2)” and inserting “section  
10 706(a)(2)”.

11 (15) ANTARCTIC MARINE LIVING RESOURCES  
12 CONVENTION ACT OF 1984.—Section 308(c) of the  
13 Antarctic Marine Living Resources Convention Act  
14 of 1984 (16 U.S.C. 2437(c)) is amended by striking  
15 “section 706(2)(E)” and inserting “section  
16 706(a)(2)(E)”.

17 (16) ALASKA NATIONAL INTEREST LANDS CON-  
18 SERVATION ACT.—Section 1002(g)(2) of the Alaska  
19 National Interest Lands Conservation Act (16  
20 U.S.C. 3142(g)(2)) is amended by striking “section  
21 706(2)(E)” and inserting “section 706(a)(2)(E)”.

22 (17) FISHERIES ACT OF 1995.—Section 108(d)  
23 of the Fisheries Act of 1995 (16 U.S.C. 5507(d)) is  
24 amended by striking “section 706(2)” and inserting  
25 “section 706(a)(2)”.

1           (18) TARIFF ACT OF 1930.—Section 777(f)(5)  
2 of the Tariff Act of 1930 (19 U.S.C. 1677f(f)(5)) is  
3 amended by striking “section 706(2)” and inserting  
4 “section 706(a)(2)”.

5           (19) FEDERAL FOOD, DRUG, AND COSMETIC  
6 ACT.—Section 912(b) of the Federal Food, Drug,  
7 and Cosmetic Act (21 U.S.C. 387l(b)) is amended  
8 by striking “section 706(2)(A)” and inserting “sec-  
9 tion 706(a)(2)(A)”.

10           (20) TITLE 28, UNITED STATES CODE.—Section  
11 3902 of title 28, United States Code, is amended by  
12 striking “section 706(2)” and inserting “section  
13 706(a)(2)”.

14           (21) MIGRANT AND SEASONAL AGRICULTURAL  
15 WORKER PROTECTION ACT.—The Migrant and Sea-  
16 sonal Agricultural Worker Protection Act (29 U.S.C.  
17 1801 et seq.) is amended—

18                   (A) in section 103(c) (29 U.S.C. 1813(c)),  
19 by striking “section 706(2)(E)” and inserting  
20 “section 706(a)(2)(E)”; and

21                   (B) in section 503(c) (29 U.S.C. 1853(c)),  
22 by striking “section 706(2)(E)” and inserting  
23 “section 706(a)(2)(E)”.

24           (22) DEEP SEABED HARD MINERAL RESOURCES  
25 ACT.—Section 302(b) of the Deep Seabed Hard

1 Mineral Resources Act (30 U.S.C. 1462(b)) is  
2 amended by striking “section 706(2)(E)” and insert-  
3 ing “section 706(a)(2)(E)”.

4 (23) PUBLIC HEALTH SERVICE ACT.—Section  
5 2723(b)(2)(E)(iii) of the Public Health Service Act  
6 (42 U.S.C. 300gg–22(b)(2)(E)(iii)) is amended by  
7 striking “section 706(2)(E)” and inserting “section  
8 706(a)(2)(E)”.

9 (24) SOCIAL SECURITY ACT.—Section 410(c)(2)  
10 of the Social Security Act (42 U.S.C. 610(c)(2)) is  
11 amended by striking “section 706(2)” and inserting  
12 “section 706(a)(2)”.

13 (25) OCEAN THERMAL ENERGY CONVERSION  
14 ACT OF 1980.—Section 302(c)(2) of the Ocean Ther-  
15 mal Energy Conversion Act of 1980 (42 U.S.C.  
16 9152(c)(2)) is amended by striking “section 706(2)”  
17 and inserting “section 706(a)(2)”.

18 (26) REGIONAL RAIL REORGANIZATION ACT OF  
19 1973.—Section 216(c)(3) of the Regional Rail Reor-  
20 ganization Act of 1973 (45 U.S.C. 726(c)(3)) is  
21 amended by striking “section 706(2)” and inserting  
22 “section 706(a)(2)”.

23 (27) MILWAUKEE RAILROAD RESTRUCTURING  
24 ACT.—The Milwaukee Railroad Restructuring Act  
25 (45 U.S.C. 901 et seq.) is amended—



1 (A) in section 5(b)(2) (45 U.S.C.  
2 904(b)(2)), by striking “sections 706(2)(A),  
3 706(2)(B), 706(2)(C), and 706(2)(D)” and in-  
4 serting “subparagraphs (A) through (D) of sec-  
5 tion 706(a)(2)”; and

6 (B) in section 17(b)(2) (45 U.S.C.  
7 915(b)(2)), by striking “sections 706(2)(A),  
8 706(2)(B), 706(2)(C), and 706(2)(D)” and in-  
9 serting “subparagraphs (A) through (D) of sec-  
10 tion 706(a)(2)”.

11 (28) TITLE 46, UNITED STATES CODE.—Section  
12 102(c)(3)(B) of title 46, United States Code, is  
13 amended by striking “section 706(2)(E)” and insert-  
14 ing “section 706(a)(2)(E)”.

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