

FEDERAL AGENCY REGULATORY REVIEW AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses state agency review of federal regulations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain state agencies to identify federal regulations impacted by the judicial doctrine of Chevron deference;
- ▶ requires certain state agencies to report all federal regulations impacted by Chevron deference to the Office of the Attorney General; and
- ▶ addresses a potential United States Supreme Court decision overturning the judicial doctrine of Chevron deference and the bringing of litigation by the attorney general in regard to federal regulations impacted by Chevron deference.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- ▶ to Department of Natural Resources - Public Lands Policy Coordinating Office - Public Lands Policy Coordinating Office as a one-time appropriation:
 - from the General Fund, One-time, (\$1,000,000)
- ▶ to Attorney General - Contract Attorneys - Contract Attorneys as a one-time appropriation:
 - from the General Fund, One-time, \$1,000,000



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **63C-4a-406**, Utah Code Annotated 1953

33 REPEALS:

34 **63C-4a-401**, as enacted by Laws of Utah 2013, Chapter 101



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **63C-4a-406** is enacted to read:

38 **Part 4. Constitutional Defense Litigation**

39 **63C-4a-406. Challenges to federal regulations -- Chevron deference.**

40 (1) As used in this part:

41 (a) "Chevron deference" means deference given to a federal agency's interpretation of a
42 federal statute by a court because the court determined that:

43 (i) the federal statute is ambiguous; and

44 (ii) the federal agency's interpretation is based on a reasonable interpretation of the
45 statute.

46 (b) "Federal agency" means an agency, bureau, board, commission, council,
47 department, office, or other instrumentality of the executive branch of the United States
48 government.

49 (c) "Federal regulation" means a regulation adopted by a federal agency and published
50 in the Code of Federal Regulations or the Federal Register.

51 (d) "State agency" means:

52 (i) the Department of Environmental Quality;

53 (ii) the Department of Agriculture and Food; and

54 (iii) the Department of Natural Resources.

55 (2) On or before January 1, 2025, each state agency shall:

56 (a) identify any federal regulation impacting that state agency for which:

57 (i) a federal agency issued the federal regulation to implement a federal statute; and

58 (ii) the federal agency received Chevron deference in the agency's interpretation of the

59 federal statute; and

60 (b) report any federal regulation identified under Subsection (2)(a) to the Office of the
61 Attorney General.

62 (3) The attorney general may file suit on behalf of the state challenging any federal
63 regulation impacted by Chevron deference if:

64 (a) before July 1, 2025, the United States Supreme Court:

65 (i) holds that a court may not give Chevron deference to a federal agency's
66 interpretation of a federal statute; or

67 (ii) limits the deference that a court may give a federal agency's interpretation of a
68 federal statute; and

69 (b) the attorney general determines that the state can successfully challenge the federal
70 regulation.

71 (4) On or before July 1, 2025, the attorney general shall report to the Federalism
72 Commission regarding any suit that the attorney general files, or intends to file, on behalf of the
73 state under Subsection (3).

74 Section 2. **Repealer.**

75 This bill repeals:

76 Section **63C-4a-401, Title.**

77 Section 3. **Appropriation.**

78 The following sums of money are appropriated for the fiscal year beginning July 1,
79 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for
80 fiscal year 2025.

81 Subsection 3(a). **Operating and Capital Budgets.**

82 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
83 Legislature appropriates the following sums of money from the funds or accounts indicated for
84 the use and support of the government of the state of Utah.

85 ITEM 1 To Attorney General - Contract Attorneys

86 From General Fund, One-time \$1,000,000

87 Schedule of Programs:

88 Contract Attorneys \$1,000,000

89 The Legislature intends that the \$1,000,000 of one-time appropriations in Item 1 be used:

90 (1) by the Office of the Attorney General to file suit as described in Section [63C-4-406](#)
91 in this bill; and

92 (2) only if the United States Supreme Court holds, before July 1, 2025, that a court may
93 not give Chevron deference to an federal agency's interpretation of a federal statute or limits the
94 deference that a court may give a federal agency's interpretation of a federal statute.

95 ITEM 2 To Department of Natural Resources - Public Lands Policy Coordinating
96 Office

97 From General Fund, One-time (\$1,000,000)

98 Schedule of Programs:

99 Public Lands Policy Coordinating (\$1,000,000)
Office

100 Section 4. **Effective date.**

101 This bill takes effect on May 1, 2024.