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(Original Signature of Member)

118TH CONGRESS  
2D SESSION

# H. R.

To provide for certain reforms pertaining to Chevron deference.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. PFLUGER introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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# A BILL

To provide for certain reforms pertaining to 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 “Returning Power to  
5 the People Act of 2024”.

6 **SEC. 2. GAO REPORT ON CHEVRON CASES.**

7 Not later than 180 days after the date of enactment  
8 of this Act, the Comptroller General of the United States  
9 shall submit to Congress a report identifying matters

1 wherein Chevron deference was implicated. The report  
2 shall compile a list of the statutes and rules implicated  
3 in each such matter that are in effect as of the date of  
4 the report. The analysis will consider and report on the  
5 private party interests that were or would be impacted as  
6 a result of the court according such deference.

7 **SEC. 3. AGENCY PREDICTABILITY AND ACCOUNTABILITY.**

8       Each Federal agency shall conduct a review of any  
9 matter to which the agency was a party since the decision  
10 was issued in *Chevron U.S.A., Inc. v. Natural Resources*  
11 *Defense Council, Inc.*, 467 U.S. 837 wherein the agency  
12 was accorded Chevron deference. The agency shall identify  
13 the statute or rule implicated, the interpretation of the  
14 agency, and what alternative interpretations were asserted  
15 by another party. The agency shall reassess the interpreta-  
16 tion of the agency in a written, published memorandum  
17 supporting, reversing, or modifying such interpretation.

18 **SEC. 4. LEVELING THE PLAYING FIELD.**

19       In any civil action before a Federal court, the court  
20 may not show greater deference to the interpretation of  
21 a statute by one party to the civil action. Instead, the  
22 court shall issue its own interpretation pursuant to the  
23 principles of statutory interpretation.

1 **SEC. 5. PROPER DELEGATION.**

2 No agency may issue a rule except to the extent that  
3 the authority to do so has been explicitly conferred by stat-  
4 ute. To the extent that no such authority has been con-  
5 ferred, the agency shall assume that no such authority has  
6 been conferred.

7 **SEC. 6. AGENCY EMPLOYEE INTERPRETATION ACCOUNT-**  
8 **ABILITY.**

9 Each agency shall evaluate officers and employees to  
10 identify any officer or employee who substantially and per-  
11 sonally contributes to the interpretation of a statute or  
12 rule. Any such officer or employee shall be considered to  
13 be exercising duties reserved for members of the excepted  
14 service.

15 **SEC. 7. OVERCRIMINALIZATION REDUCTION.**

16 No agency may make a rule if any provision of law  
17 imposes a criminal penalty for an offense and an element  
18 of such offense involves a violation of such rule unless the  
19 rule also includes a specified mens rea. In the case of any  
20 such rule in effect as of the date of enactment of this Act,  
21 no person may be prosecuted for such an offense.

22 **SEC. 8. CONGRESSIONAL DIRECTION IN CIVIL PENALTIES.**

23 No agency may collect any administrative fine or civil  
24 monetary penalty for the violation of a rule, except to the  
25 extent that the statute or the rule provides for a mens  
26 rea standard for any violation thereof.

1 **SEC. 9. ACCESS TO INDEPENDENT COURTS.**

2 Any determination by a Federal agency in a pro-  
3 ceeding before that agency shall be subject to direct appeal  
4 to a Federal district court unless a statute explicitly speci-  
5 fies an administrative process that must be exhausted.

6 **SEC. 10. FAIRNESS IN ADMINISTRATIVE ADJUDICATION.**

7 In the case of any proceeding before an agency, if  
8 an appeal may not be taken to a Federal district court  
9 or a Federal Court of Appeals until the final exhaustion  
10 of all administrative remedies, any appeal thereafter shall  
11 be reviewed de novo and the record of proceedings before  
12 the agency shall, at any party's request, be supplemented  
13 or set aside for a trial de novo.

14 **SEC. 11. TRANSPARENCY IN AGENCY ACTION.**

15 Any final agency action may only rely on pre-pub-  
16 lished, publicly available and accessible materials in the  
17 form of rules, agency guidance, memorandum or other  
18 types of agency policy documents. If a court determines  
19 that an agency action is not clear and accessible to a mem-  
20 ber of the general public on a website or similar database  
21 prior to the decision being made, the agency action relying  
22 on such inaccessible policy guidance shall be considered  
23 void.

24 **SEC. 12. DEFINITIONS.**

25 In this Act—

1           (1) terms used have the meanings given such  
2 terms in section 551 of title 5, United States Code;

3           (2) the term “matter” means a case before a  
4 Federal court, a proceeding before an agency, or an  
5 agency decision; and

6           (3) the term “Chevron deference” means def-  
7 erence accorded by a court to the interpretation of  
8 a Federal statute by a Federal agency pursuant to  
9 the decision in *Chevron U.S.A., Inc. v. Natural Re-*  
10 *sources Defense Council, Inc.*, 467 U.S. 837.