
PIONEER ACT

The power of the executive branch has been unconstitutionally expanding for years. Congress has allowed this to happen through broadly crafted statutes, ambiguous grants of power, and increased funding. The executive branch—comprised of unelected bureaucrats—has taken advantage of these concessions by crafting, interpreting, and enforcing federal laws through the regulatory process. The direness of this situation is amplified by recent research which shows that regulations affect economic growth as much or even more than tax policy,¹ which has historically been considered the primary lever for economic growth. Multiple states have recognized this trend and have attempted to combat it by instituting what are called “regulatory sandboxes.”

Generally, a regulatory sandbox is a “space” where participating businesses are not subject to regulations (with a few exceptions)² for a specified period of time. This allows businesses to “play” in the sandbox and innovate freely. Typically, after a one-year window, lawmakers will evaluate what works and what does not, and therefore what regulations a business must follow once it is out of the sandbox. Utah entertained the regulatory sandbox idea by first implementing one for their FinTech industry in 2019 after Wyoming and Arizona did the same.³ Following positive feedback, Utah extended sandbox privileges to all industries in March of 2021, making Utah the first state to do so.⁴⁵

In an attempt to restore the federal government’s proper regulatory role, Senator Lee has introduced his Promoting Innovation and Offering the Needed Escape from Exhaustive Regulations (PIONEER) Act, a federal regulatory sandbox modeled after the industry wide sandbox in Utah.

Bill Specifics:

- Defines the federal regulatory sandbox as a program under which individuals and businesses can apply to have regulations waived for a period of two years in order to incentivize business success, expand economic opportunities, create jobs, and foster innovation.
- Establishes the “Office of Regulatory Relief” headed by a director tasked with receiving applications, filing decisions, and monitoring the health and safety of the public, among other administrative duties.
- Defines a process by which applications to the sandbox are considered:
 - Once an application is submitted, the director must forward it to the federal agency that has jurisdiction over the regulation(s) an applicant is seeking to waive.
 - The agency must then seek input from a bipartisan advisory board composed of 10 private sector individuals (half of which represent small businesses) during the consideration process.
 - If the agency decides to deny an application, they must notify the applicant if there are changes that can be made in order to fix the application. If no changes are possible and the application is denied, the applicant can appeal directly to the Office of Regulatory Relief.
- Allows approved applicants to renew their waiver up to four times, for a potential of 10 years.
- Provides safeguards for consumer health, safety and financial well-being, and allows the Office of Regulatory Relief to take action if they determine that any of these are at risk.
- Requires an annual “Special Message” be sent to Congress which must include a list of regulations that the Office recommends for repeal. This message is provided privileged parliamentary procedures, allowing for the expedited consideration to adopt all or a portion of the recommendations.

¹ <https://www.sciencedirect.com/science/article/abs/pii/S1094202520300223>

² Examples of regulations that would still apply in a “sandbox” include public health, safety, or consumer protection laws.

³ <https://www.consumerfinancemonitor.com/2019/06/11/utahs-new-regulatory-sandbox/>

⁴ <https://www.law.com/americanlawyer/2020/08/14/utah-justices-give-ok-to-regulatory-sandbox/?slreturn=20210807165021>

⁵ <https://www.americanactionforum.org/insight/utah-regulatory-sandbox-proposal-is-first-of-its-kind/>
