



12/03/2024

Dear 118<sup>th</sup> & 119<sup>th</sup> Congress,

On June 28, 2024, in *Loper Bright v. Raimondo*, the United States Supreme Court overturned the 40-year-old *Chevron* doctrine, which granted agencies tremendous discretion to reinterpret the scope of their own authority, leading to unprecedented regulatory uncertainty and executive overreach. In overturning *Chevron*, the Supreme Court affirmed Congress's exclusive authority to make law, restoring the appropriate separation of powers as established by the constitution.

Given this landscape change, Americans for Prosperity and eighteen partners first write to thank those who responded to the post-*Chevron* landscape with supportive statements and actions. Additionally, we extend thanks to those who worked to remove regulatory barriers and restore proper checks and balances prior to *Chevron* being overturned (e.g., the REINS Act 2023 introduced by Rep. Kat Cammack, the GOOD Act 2023 introduced by Rep. James Comer, the REPUBLIC Act 2024 by Sen. Rand Paul).

Secondly, with *Chevron* vanquished and a growing nationwide demand to dismantle the administrative state and its crippling regulatory barriers, we write to recommend prioritizing the actions below to build a strong foundation for Congress to meet the challenges of a post-*Chevron* landscape.

- Congress should reassert its Article I authority by delegating less authority to agencies in future legislation, making legislative text more explicit about what authority is (and is not) being delegated, and ensuring that its legislative intent is clear. Congress should pass laws that specify clear goals for agencies, clearly delineate agencies' authority to achieve those goals—including where this authority ends—and detail the specific mechanisms the agency may use to achieve its congressionally defined mission.
- Congress should leverage the Congressional Review Act (CRA) to roll back Biden-Harris regulations – especially through the expected midnight rules process during lame duck – to prohibit agencies from implementing similar regulations in the future. Congress should also act to streamline this important legislative mechanism by passing the Midnight Rules Relief Act of 2023 introduced by Rep. Andy Biggs and Sen. Ron Johnson. Currently Congress may disapprove of only a single regulation under a joint resolution, this bill would allow Congress to disapprove multiple regulations under a single joint resolution, preserving floor time while scaling direct congressional action to cut burdensome regulations.
- Continue to support the committee work Majority Leader Steve Scalise initiated immediately following the June decision by supporting increased agency oversight and committee hearings (e.g., upcoming 12/18/24 HVAC hearing “*Restoring Congressional Power over VA After Loper Bright Enterprises v. Raimondo*.”). This oversight and the related hearings should focus on both egregious examples of agency overreach and also situations where the agency has failed to implement the stated will of Congress, as in the case of the Veterans Affairs hearing above.
- The Senate should pass the REINS Act, which gives Congress the final say on whether agencies' proposed rules faithfully implement the laws they have passed, thereby preventing unelected bureaucrats from negatively impacting the economy and society.
- The Senate should pass the GOOD Act which requires agencies to publish regulatory guidance in a searchable, digital format so anyone can easily read the laws governing their lives and livelihoods. Increasing regulatory transparency and congressional oversight in this way prevents federal agencies from sidestepping the Administrative Procedure Act (APA) and refusing to convince U.S. courts of their interpretation of the laws they issue.

These policies are essential, however, more will be needed to achieve the goal of putting elected officials, not bureaucrats, in charge of our governance. Efforts like the administrative state working group led by Sen. Eric Schmitt will be critical to facilitate the type of creative, forward thinking policy development required to keep Congress one-step ahead of bureaucrats' future attempts to regain lost influence and thwart government by the People.

We look forward to working with you on this generational opportunity.

Sincerely,



Brent Gardner, Chief Government Affairs Officer, Americans for Prosperity

Grover Norquist, President, Americans for Tax Reform

Ryan Walker, Executive Vice President, Heritage Action

Brandon Arnold, Executive Vice President, National Taxpayers Union

David McIntosh, President, Club for Growth

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David Williams, President, Taxpayers Protection Alliance

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