



TOP 10 POST-CHEVRON LEGISLATIVE ACTIONS

- 1 REGULATIONS FROM THE EXECUTIVE IN NEED OF SCRUTINY (REINS) ACT**
 - **What:** Require agencies to obtain congressional approval for costly rules and guidance before they can take effect.
 - **Why:** To reduce regulatory spending by the executive branch and return legislative and spending power to Congress in accordance with the Constitution.

- 2 RETURN JUDICIAL POWER TO THE COURTS**
 - **What:** Codify a requirement that courts apply *de novo* review when interpreting the meaning and effect of a statute, rule, or guidance, prohibiting courts from deferring to agency interpretations.
 - **Why:** Under *Chevron* and its progeny, courts are generally unable to override certain agency interpretations of statutes, rules, and guidance. This reform would return authority to the courts to review the entire record of agency action, and not be limited to the same assumptions or interpretations made by the federal agency whose exercise of power is being challenged.

- 3 PROMOTE EFFICIENCY AND COST SAVINGS IN THE FEDERAL AGENCY WORKFORCE**
 - **What:** Make it easier to remove unproductive executive branch employees; codify the president's authority to impose a hiring freeze or eliminate any vacant or nonessential position.
 - **Why:** As the scope of federal agency power narrows with the end of *Chevron* deference, so too should the size of the federal agency workforce to promote efficiency, reduce the deficit, and save taxpayer money.

- 4 JUDICIAL REVIEW FOR NONCOMPLIANCE**
 - **What:** Clarify that courts may step in when an agency fails to comply with requirements of the congressional oversight process, such as submitting a proposed rule for congressional review.
 - **Why:** To prevent agencies from sidestepping congressional oversight.

- 5 TIE GOES TO THE PEOPLE, NOT THE GOVERNMENT**
 - **What:** Codify a requirement that, in any action brought by or against a federal agency, after applying all customary tools of statutory interpretation, the court shall exercise any remaining doubt in favor of a reasonable interpretation that limits agency power and maximizes individual liberty.
 - **Why:** The Constitution provides that the federal government is limited in its jurisdiction, creating a system of ordered liberty. When doubt exists as to whether an agency possesses a power it seeks to exercise, for the sake of liberty, the presumption should be that it does not.

- 6 CRA SECOND LOOK**
 - **What:** Give Congress the authority to re-review a rule invalidated by a federal court after the Congressional Review Act (CRA) window has lapsed.
 - **Why:** If an administrative rule has been vacated as unlawful or unconstitutional or otherwise invalidated (potentially years after its effective date), Congress should have a new opportunity to pass a joint resolution of disapproval to repeal the rule.



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7 REQUIRE AGENCY REVIEW OF AMBIGUOUS PROVISIONS

- **What:** Codify a requirement that agencies examine and rewrite any existing administrative rules previously vacated in district court (i.e., that were never afforded *Chevron* deference) but allowed to stand under a *Brand X* deference in the courts of appeals.
- **Why:** *Brand X* held that agencies are not bound to accept an Article III court's prior interpretation of an ambiguous provision. Even if *Chevron* goes down, existing rules will remain on the books until challenged. This reform provides a ready-made list of administrative actions already held suspect by district courts that could automatically be undone through legislative action.

8 ADDRESS EGREGIOUS EXECUTIVE BRANCH OVERREACH BY REVERSING SPECIFIC REGULATIONS AND GUIDANCE

- **What:** Undo specific costly regulations and guidance advanced through executive branch fiat, such as the Biden administration's income-driven student loan bailout, reevaluation of the Thrifty Food Plan, and the Medicaid Streamlining Rule.
- **Why:** Federal agencies possess only that power granted to the agency by Congress through statute. In a post-*Chevron* world, regulations or guidance advanced by an agency clearly acting outside of the scope of its power but potentially upheld through *Chevron* deference would now be susceptible to legislative action.

9 DE-POLITICIZE FEDERAL AGENCIES BY CLARIFYING THE SCOPE OF THEIR AUTHORITY

- **What:** Curb the power of politicized departments and agencies including the Environmental Protection Agency, Department of Labor, Securities and Exchange Commission, Department of Energy, Department of Health and Human Services, Department of Agriculture, Federal Trade Commission, and Department of Education by amending the key statutes they routinely rely upon to exercise power Congress never intended to give them.
- **Why:** Relying on *Chevron* deference, federal agencies have increasingly exploited statutory ambiguity to increase their authority. Clarifying the scope of power Congress wishes to grant individual agencies will limit the ability of political appointees to deviate from Congress's intentions and unilaterally expand their agency's power to advance their personal political objectives.

10 EQUIP CONGRESS TO REDUCE STATUTORY AMBIGUITY

- **What:** Create a new congressional service division specializing in specific policy crafting to obviate judicial activism in the absence of administrative deference.
- **Why:** Congress relies heavily upon the Office of the Legislative Counsel for the drafting of legislation. Creating a division within the department that specializes in specific policy crafting will produce better legislation from Congress to address inadequate legislative drafting that precipitated *Chevron* in the first place.