

Written Testimony of Zach Graves

**United States House of Representatives, Committee on Appropriations, Subcommittee on
the Legislative Branch**

Re: Legislative Branch Appropriations for Fiscal Year 2025

Dear Chairman Valadao, Ranking Member Espaillat, and members of the committee:

Thank you for the opportunity to testify. For forty years, judicial precedent has directed courts to broadly defer to agencies in their interpretation of laws, even where the underlying statute is ambiguous or silent. Overturning this doctrine, known as “[Chevron deference](#),”¹ has been a longstanding goal of conservatives, who see the unrestrained growth of the administrative state as increasingly unaccountable and undemocratic. Compounding the problem, Congress’s capacity for regulatory oversight has only declined. Today, it rarely leads to concrete action such as striking down rules or reforming flawed statutes.

In the next few months, the Supreme Court is set to decide two related cases, [Loper Bright Enterprises v. Raimondo](#)² and [Relentless, Inc. v. Department of Commerce](#),³ where legal scholars and court watchers widely expect *Chevron* to be discarded. If and when this happens, it could significantly reallocate constitutional power to a legislative branch that is woefully unprepared for this responsibility. These concerns were raised in briefings and oral arguments, and echoed by outside pundits who [fear](#) an incapacitation of the federal bureaucracy and breakdown in service delivery.⁴

¹ <https://supreme.justia.com/cases/federal/us/467/837/>

² <https://www.scotusblog.com/case-files/cases/loper-bright-enterprises-v-raimondo/>

³ <https://www.scotusblog.com/case-files/cases/relentless-inc-v-department-of-commerce/>

⁴ <https://www.theatlantic.com/ideas/archive/2024/01/chevron-supreme-court-case/677220/>

Since the *Chevron* decision in 1984, the breadth and complexity of federal regulations have increased, while Congress’s capacity for policy and oversight has atrophied. From 1984 to 2023, the number of pages in the Code of Federal Regulations increased from 50,998 to 90,402, or 77 percent, with the number of economically [significant](#) rules per year skyrocketing from 18 to 78.⁵ Over the same period, Congress lost its capacity to keep up. Staffing on House committees declined by 41 percent.⁶ And key legislative support agencies like the Congressional Research Service and the Government Accountability Office shrunk by 25 percent and 29 percent, respectively.

Next year, the 119th Congress could face urgent pressure to delve into the weeds on regulations. This could require restoring lost capacity, creating new capabilities for regulatory monitoring and oversight, and adjusting rules and processes to fast track fixes to broken regulations. A recent GAO report, “[Options for Enhancing Congressional Oversight of Rulemaking and Establishing an Office of Legal Counsel](#),” considers some of the challenges to strengthening regulatory oversight.⁷ One approach would be to create a new entity to serve as a legislative branch counterpart to the executive branch’s Office of Information and Regulatory Affairs (OIRA). One model for this would be to create a bicameral “Congressional Regulation Office,” an idea [proposed](#) by American Enterprise Institute scholars Kevin Kosar and Philip Wallach.⁸ In an FAI paper, “[Empowering Regulatory Oversight: How the Administrative State Accountable](#),” my colleagues Dan Lips and Satya Thallam evaluate this and other options, including expanding GAO’s existing regulatory functions through a new mission team, or

⁵ <https://regulatorystudies.columbian.gwu.edu/terminology>

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https://www.everycrsreport.com/files/2023-11-28_R43947_fab8394eb2c558b92d9b0331a73e7803a9f65f1a.pdf

⁷ <https://www.gao.gov/assets/d24105870.pdf>

⁸ <https://www.nationalaffairs.com/publications/detail/the-case-for-a-congressional-regulation-office>

creating standalone unicameral offices.⁹ With any approach, duplicative support agency regulatory functions may also need to be consolidated. Beyond support agency capabilities, Congress could also take steps to strengthen its committees, including through [increased staffing](#),¹⁰ expanded detailees from GAO, and the potential creation of a new committee on regulation. Other changes to House rules and organization could also be considered.

If Congress is to reclaim some of its constitutional role under Article I, it must show that it can develop the knowledge, expertise, and capabilities to govern. As we approach this pending shift, it is imperative for Congress to take steps to evaluate gaps in its existing capabilities, consider proposals for reform, and start to make a plan. As this is a multi-stakeholder problem, this could begin by establishing a Congressional Regulation Task Force, bringing together relevant committees, legislative agencies, and other internal stakeholders, as well as consulting with outside experts such as the [Administrative Conference of the United States](#), and in civil society. In addition, following up to its report on strengthening regulatory oversight, GAO could be tasked with creating a plan to establish a new regulatory monitoring and oversight team to proactively keep Congress informed on regulatory matters and provide technical assistance to committees of jurisdiction.

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⁹ <https://cdn.sanity.io/files/d8lrla4f/staging/6731d2e4c7fb69af52edc2c6b179b67ef50ae86e.pdf>

¹⁰ https://administrativestate.gmu.edu/wp-content/uploads/2024/03/PB24_01-Kosar-.pdf