

# Holding Regulatory Agencies Accountable

**State regulations crafted by unelected bureaucrats contain more than **416 MILLION WORDS** and impose roughly **138,000 RULES PER STATE**.<sup>1-2</sup> These state-level burdens stack atop the more than **\$2.1 trillion** in compliance costs imposed by federal regulations.<sup>3</sup>**

In most states, bureaucrats—not elected representatives—write the rules every citizen must follow to comply with the law. And courts often do not intervene when agencies overstep their regulatory authority, refusing to scrutinize agency legal decisions in a process called “deference.”



**Unchecked regulatory overreach enables bureaucrats to write and enforce regulations that hinder economic growth, binding job creators with layers of red tape.**

1. <https://www.usnews.com/news/best-states/articles/2020-11-03/which-state-has-the-most-regulations>

2. <https://www.mercatus.org/regsnapshots24>

3. <https://cei.org/studies/ten-thousand-commandments-2024/>

## THE SOLUTION

States should amend their administrative procedures acts to adopt delegation-dependent deference. This would ensure that, unless the state legislature specifically asks an agency to write a regulation, the agency could only enforce the current law.

### Clear Delegation

When the legislature explicitly gives executive branch agencies authority to fill in statutory gaps, agencies must promulgate rules, and courts should defer to the agencies' interpretations.

### No Delegation

Unless the legislature clearly delegates regulatory authority to an agency, that agency may only enforce the statute as written. The courts should strike down any regulation that oversteps the statute, regardless of agency expertise.

### Unclear Delegation

If agencies think they need to regulate but lack legislative delegation, the legislature should vote on whether to approve the agency's rules before they go into effect.

Much like states with REINS (Regulations from the Executive in Need of Scrutiny Act)-style laws, the legislature must vote on whether to approve any regulation where the agency cannot point to an explicit delegation of authority.

**This model allows lawmakers to delegate rulemaking when agencies are best equipped to regulate, ensures that agencies only regulate when explicitly authorized to do so, and establishes judicial protections.**

## WHY IT MATTERS

Regulators cannot be voted out, and judges sideline themselves using blanket deference. Consequently, the average citizen is powerless to fight the regulatory onslaught.

Establishing clear boundaries for agency authority **ensures that regulatory agencies are accountable to voters and subject to legal action** when they overstep the laws.

## THE BOTTOM LINE:

**Elected representatives of The People, not unelected bureaucrats, must have the final say in critical regulatory decisions that affect people's lives and livelihoods.**