



# Structural Reform for a More Prosperous Florida:

## Common Sense Solutions for Better Government

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## Introduction

In June 1982, the valedictorian of Miami's Palmetto High School gave what would be considered a relatively typical graduation speech. Much of it has been forgotten. However, in the concluding paragraphs, he made a bold claim – that he would change the world. Not that his class would, not that his generation would, that *he* personally would change the world.

And like many other graduates of Florida high schools in the early '80s, he promptly left the state for college and to seek out his path in life. He eventually landed, of all places, in Washington State. Florida lost him, and so many others like him. But what is so spectacular about this one Miami high school graduate? Well, about 12 years after giving his speech, he decided to get into the burgeoning World Wide Web and start a small online bookstore

■ Examining just the past 20 years, the Sunshine State consistently has one of the best business climates in the United States, our education system is improving through public school reforms and the expansion of school choice, and our state government has one of the most efficient and effective operations in the entire country.

United States, our education system is improving through public school reforms and the expansion of school choice, and our state government has one of the most efficient and effective operations in the entire country. And the results illustrate this success – over the past 20 years, more than \$125 billion in annual income has migrated from states like Illinois, New Jersey, and Connecticut to Florida.

Why is that?

The answer lies in the decisions we made as a state over that period. Somewhere around the mid- to late-'90s, Floridians made decisions about the state that they wanted to live in, and the future we wanted. We made conscious and unconscious decisions in who we voted for, what values we had as communities, and what we wanted for our kids, grandkids, and their grandkids.

And unlike states like Illinois and Connecticut and others

that chose paths of fiscal destruction, Florida chose to move in the direction of limited government, free markets, and economic liberty. We chose to say no to a state income tax, and to live with a state budget that corresponds to that decision. Presently, Florida and New York are very close in population – Florida is slightly ahead of New York (the population of New York is actually declining). However, examining the size of state government, the contrast could not be clearer. Florida's budget is roughly \$87 billion. New York? \$163 billion.

Nevertheless, while we do get much correct in the policy trajectory, Florida is by no means perfect.

## The Right to Earn a Living Act

Of all the rights Americans cherish, the freedom to earn a living receives the least protection under the law. At the same time, regulators often stifle entrepreneurship by requiring a government stamp of approval before individuals may work in a wide range of lawful occupations.

Politicians of all stripes talk of the need to “create more jobs.” Indeed, job creation and fostering an environment for entrepreneurship is often a touchstone for policymakers at all levels. Yet it is often government restrictions put in place by those same policymakers – in the form of occupational licenses – that make the ability to get a job difficult for everyday Americans.

An occupational license is a government permission slip to work in one's chosen field. Occupational licenses have been required for some professions, such as doctors and lawyers, for many decades. The historical justification for requiring government permission before engaging in such occupations is that government regulators can protect the public from harm or fraud by requiring that certain standards be met prior to engaging in dangerous or risky professions. Increasingly, however, there has been a growing trend toward prohibiting people from working or starting a business without first asking permission from government -- even if they aren't posing any health or safety threat to the public.

In the 1950s, only five percent of jobs required an occupational license. Today, roughly one in four jobs require government permission.<sup>1</sup> While fewer than 30 occupations are licensed in all 50 states (most of which are in the medical, dental, and mental health professions), over half of all state-licensed occupations are licensed in only one state—occupations including graphic designers, audio engineers, braille instructors, and travel agents.<sup>2</sup> States require occupational licenses for professions as innocuous as chimney sweepers (in Vermont),<sup>3</sup> bed salespeople (in West Virginia),<sup>4</sup> or florists (in Louisiana).<sup>5</sup> Other examples abound of occupational licensing requirements that lack any apparent health or safety nexus including: interior designers, locksmiths, alarm installers, landscapers, horseshoers, and furniture upholsterers. In



other words, many of these licenses are not serving a legitimate public safety need, but rather protect existing industries from competition.

Often, licenses serve as barriers to entry into a profession, shielding incumbent industries that have become powerful special interest groups from would-be competition. For example, so-called certificate-of-need laws require new entrants into a market to demonstrate that the existing companies cannot meet demand before the government will allow them to compete. But no one can determine whether the public needs a new business. In reality, these laws are designed to bar competition against established businesses, regardless of their quality or skill. States have adopted certificate-of-need schemes to cover a variety of industries, including taxicabs, where companies must obtain government permission, sometimes called a medallion, before they can serve customers. In 1937, New York City set the number of taxi medallions to 13,566. Today, despite tremendous growth in the city's population, the number of taxi licenses issued in New York is roughly the same as it was over eighty years ago, as the incumbent taxi companies have used occupational licensing to insulate themselves from competitors.<sup>6</sup> This artificial shortage of taxicabs allows existing license-holders to charge customers above-market rates. And, for many, it makes breaking into the market cost-prohibitive: Because of artificially restricting the number of taxis that can operate in the city, in 2011, prior to the introduction of alternative transportation technologies such as Uber and Lyft, taxi medallions were selling for nearly *\$1 million each*.<sup>7</sup>

The problem is compounded when state regulatory boards – comprised not of elected lawmakers, but of unelected,

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unaccountable bureaucrats – impose onerous and often irrational licensing requirements through rules and regulations. Decades of bad court decisions have rendered these regulations nearly immune from legal challenge. As a result, government regulators can decide when and where people can work with little consequence or accountability for those decisions.

Unfortunately, entrepreneurs, business owners, and others looking to earn an honest living face an uphill battle when trying to protect their rights in court. When laws or regulations restrict people's freedom of speech or religious freedom, courts examine a challenge to that government requirement under what is called "strict scrutiny." In other words, the court will require the government

to prove that the restriction is narrowly tailored to accomplish a compelling government interest. Under this standard of review, a regulation that undermines a constitutional right is susceptible to being struck down.

The is true for laws or regulations that restrict economic freedom and the right to earn a living. Courts examine these restrictions under a much more lenient "rational basis" test, under which a court will presume the law is constitutional and require the victim of the regulation to disprove every imaginable justification for the law. Under this relaxed standard of review, regulations will be upheld in all but the most exceptional circumstances. In fact, the standard is so deferential to the regulators that if the government is unable to offer reasons to support the regulation, courts in many parts of the country are obligated to come up with reasons for the government.

That's not how the Land of Opportunity should work. Our system should presume in favor of the rights of entrepreneurs and require regulators to at least provide some good reason when they undermine a person's freedom to get a job.

## THE SOLUTION

Fortunately, there is a solution. The Right to Earn a Living Act, developed by the Goldwater Institute and recently enacted in Arizona,<sup>8</sup> corrects this accountability problem and restores the right to earn a living to its status as a protected right. The Act can serve as a model for Florida lawmakers looking to provide greater freedom in the area of occupational licensing.

The Right to Earn a Living Act rights the wrongs of the current legal landscape by putting the burden of proof back where it

belongs – on the regulators who restrict economic freedom, instead of the job-seeker. Whenever bureaucrats restrict people’s right to use their skills to provide for themselves and their families, the Act requires government to show that there is a true public need for that restriction. If the government cannot prove that the regulation is necessary to serve the public, people are presumed free to pursue the occupation of their choice.

The burden of proving that government restrictions on free enterprise are excessive should not be placed on those who want to earn an honest living; instead regulators should bear the burden of justifying their restrictions. In other words, the law is designed to give job license applicants the presumption that the business they want to start or profession they want to pursue is legal.

The Right to Earn a Living Act accomplishes two goals. First, any regulation that limits participation in a job or profession must be necessary to address a public health, safety, or welfare concern.<sup>9</sup> This limits the government’s power to regulate to traditional police powers, such as the protection of public health or safety. By contrast, economic protectionism – favoring incumbent license holders over others – is not a legitimate government interest.

The second piece of the Act pertains to enforcement. If an existing regulation violates the Right to Earn a Living Act, anyone can petition the agency or local government to repeal or modify the restriction. If the agency decides not to change or repeal the regulation, the individual who requested the review may challenge the regulation in court. Courts must rule in favor of the challenger (and invalidate the regulation) if: (1) the challenged regulation burdens entry into or participation in an occupation or particular profession; and (2) the regulation is not demonstrated to be necessary to specifically fulfill a public health, safety, or welfare concern. “Necessary” and “specifically” refer to whether the means fit the ends. Is the rule related to a specific profession, or is it unrelated to the products or services provided? If the court determines that the regulation is not designed to advance a legitimate health, safety, or welfare concern, the regulation will be invalidated.

The law would help entrepreneurs like Lauren Boice, a former

hospice nurse’s assistant and cancer survivor who, after serving her homebound patients and winning her own battle with cancer, opened a business called Angels on Earth Home Beauty. When she discovered that there were no businesses in Arizona that provided salon services to homebound people, Lauren devised a service to connect the elderly or terminally ill with independent, licensed cosmetologists who could perform haircuts, manicures, or massages for them right in their homes.<sup>10</sup> Even though Lauren did not cut anyone’s hair or do anyone’s makeup – her business merely provided a means of communication between homebound

customers and licensed cosmetologists – the Arizona Board of Cosmetology told Lauren that she needed to obtain a salon license and open a physical salon to operate her business.<sup>11</sup> While the Board might have an interest in clean and safe salons, this regulation made no sense because Lauren did not operate a salon – she merely dispatched licensed cosmetologists. Lauren received appointment requests and then contacted independent cosmetologists with the appointment time and location—nothing more. As such, her business was purely an information assembly and dissemination service. In other words, the regulatory means did not fit the end of purported public health and safety in clean salons.

In 2011, Lauren filed a lawsuit challenging the Board’s authority to impose a licensing requirement on her.<sup>12</sup> After a year and a half of litigation, the Board backed down and agreed to cease regulating Angels on Earth and other services that simply connected cosmetologists to patients confined to their homes or care facilities. Sadly, Lauren spent years

batTLing the cosmetology board, in and out of court, just to arrive at the commonsense conclusion that a cosmetology board does not have the power to regulate a phone dispatch business. That’s because Arizona had not yet enacted the Right to Earn a Living Act, so the deck was stacked against Lauren from the moment she challenged the Board.

Tennessee also enacted a version of the Right to Earn a Living Act.<sup>13</sup> That law directs all state agencies to review existing occupational regulations to determine whether they in fact advance a legislate health, safety, or welfare objective, and then to



■ The growth of the regulatory state has come not at the hands of elected legislators, but is the work of an unaccountable bureaucracy

report those findings to the legislature.<sup>14</sup> Although the law does not include a cause of action, or an enforcement mechanism for people who have been harmed by occupational licenses, it is a step in the right direction and based on the same premise as Arizona's more robust law: the government must justify its restrictions on economic freedom and only impose occupational regulations that actually protect the public.

The problem of occupational regulation is a problem of accountability. Because regulators know it is unlikely that their regulations will be challenged, or that challenges will be unsuccessful, they are free to regulate at will, no matter how burdensome or irrational the rule may be. The Right to Earn a Living Act holds those decision-makers accountable and therefore results in better, more informed and less burdensome regulatory decisions.

Within months of its passage, the Right to Earn a Living Act was already helping job seekers in Arizona. After Annette Stanley, a behavioral health counselor in the state of Kansas, moved to Arizona in 2014, she sought a license to practice in her new state. But because Stanley had owned her own practice, the state of Arizona would not recognize hours accumulated for her Kansas license. Although the Arizona licensing board recognized that she was fully qualified, this arbitrary requirement prevented her from receiving her license.

Relying on the Right to Earn a Living Act, Annette Stanley asked the Board to review the regulations that prevented her from working in the field of her choice even though she was fully qualified. Rather than face the possibility of a lawsuit where the Board would have to justify its restrictions, the Board resolved to modify its own rules, eliminating the prohibition of having an "ownership interest" in a firm where a licensee received supervision and agreeing to allow out-of-state hours in this category to count for in-state purposes. Annette was able to pursue a career in her new home state without ever having to see the inside of a courtroom.<sup>15</sup>

## AN OPPORTUNITY

The State of Florida also has an opportunity to pass its own Right to Earn a Living law as an amendment to the state constitution.

Florida possesses more vehicles for amending its state constitution than any other state. Three of those vehicles are of significant importance. The State Legislature can place an amendment on the November ballot if 60 percent or more of each chamber agree to do so. In addition, the citizens can institute a ballot initiative by gathering petition signatures. To qualify, a petition must be signed by a minimum of eight percent of the total number of statewide votes cast in the most recent Presidential election. Once the signatures have been validated by the Secretary

of State (and the ballot language has been certified by the Florida Supreme Court), the initiative will be placed on the ballot. Lastly, every 20 years, the Constitution Revision Commission (CRC) convenes to review the Florida Constitution and propose modifications to Florida's voters.<sup>16</sup>

The 2017-2018 CRC considered a proposal to create a new section to the state constitution that "establish[es] the inalienable right of all persons to pursue an honest trade, vocation, occupation, or career."<sup>17</sup> The provision would require the government to demonstrate, with evidence, that any restriction on the right to pursue an occupation or trade must advance "an important government interest" and that less restrictive means were considered. While ultimately the proposal did not make it through the full CRC, the visibility the initiative garnered make the other two vehicles more possible in future years. A ballot initiative, regardless of the vehicle used, would require a 60 percent majority of voters to be enacted.

## CONCLUSION

A hallmark of American freedom is the right to pursue one's chosen profession and provide for oneself and one's family. This is as true today – where new technologies make entrepreneurship easier than ever – as it was at our country's founding.

Of course, government should protect the public against unqualified or dishonest businesses, and the Right to Earn a Living Act does not stop government from doing so. But regulators shouldn't be free to impose arbitrary restrictions on hard-working entrepreneurs and job-seekers without good reason.

The Right to Earn a Living Act restores the proper balance between freedom and legitimate government regulation, ensuring that economic opportunity for all is not merely a promise, but a reality.

## The REINS Act

The steady increase in the volume of agency rules at the federal and state levels over recent decades has placed undue burden on American businesses and households. The Competitive Enterprise Institute estimates the cost of Federal regulation and intervention at \$1.9 trillion annually<sup>18</sup>. Moreover, there is an even greater true cost of such regulations--the losses in investment, growth, and innovation accumulated over time--that is more difficult to assess. The growth of the regulatory state has come not at the hands of elected legislators, but is the work of an unaccountable bureaucracy. Prior to 1967, the number of pages in the Federal Register did not exceed 20,000. By 1980 that figure was greater than 80,000--a more than four-fold increase in less than 20 years. In 2016, there were over 96,000 pages in the Federal Register

and 185,000 in the Code of Federal Regulations. A study from the Mercatus Center at George Mason University found that the U.S. economy would have been 25 percent larger in 2012 if regulation had been held constant at the level observed in 1980—a difference of \$4 trillion or \$13,000 per capita<sup>19</sup>. The delegation of regulatory authority to executive agencies has granted bureaucrats outsized legislative powers, imposed considerable economic costs, and served to weaken the legislature. In response to these developments, the REINS Act (Regulations from the Executive in Need of Scrutiny) has been proposed to allow for greater congressional oversight of new agency rules.

■ By allowing non-elected officials to author and enact federal rules without the scrutiny of elected officials, there is a conspicuous disconnect between the will of the people and the laws that govern them.

The REINS Act finds its roots in the Tea Party movement and was a feature of the Republican Party's Pledge to America in 2010.<sup>20</sup> Sponsored by Rep. Doug Collins in the House and Sen. Rand Paul in the Senate, the REINS Act was first introduced in the 112<sup>th</sup> Congress and has been reintroduced each year since. Most recently, the REINS Act was introduced in the 115<sup>th</sup> Congress as H.R.26 and passed in the House on January 5, 2017. Previous versions of the REINS Act have passed in the House, but in May 2017, S. 21 became the first version to be approved by a Senate committee.

The REINS Act amends the 1996 Congressional Review Act (CRA) to require congressional approval of new “major” agency rules. The CRA currently allows Congress to review existing regulations and override them through a joint resolution. Under the REINS Act, agencies would be required to publish information about rules in the Federal Register for public access and include



in their reports to Congress and the Government Accountability Office (GAO) a classification of proposed rules as major or non-major and a cost-benefit analysis for each new rule including net effects on private and public employment.<sup>21</sup> Agencies would also be required to offset additional costs imposed by new regulation by eliminating or revising existing rules. A rule is considered major if it has resulted in or is likely to result in:

- (A) an annual cost on the economy of \$100,000,000 or more, adjusted annually for inflation;
- (B) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or
- (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets<sup>21</sup>.

## REINS ACT IN THE STATES

The rising tide of executive regulations and their associated costs is not limited to the federal level. Compliance with state regulations also imposes a considerable burden on business, stifling growth and development. In response, some states have taken measures to limit regulatory growth and strengthen legislative oversight. According to the National Conference of State Legislatures, 41 states have some form of authority to review agency regulations, but not all have the power to veto a rule through a joint resolution without a signature from the governor. There have also been several legal challenges to state legislatures' veto authority. The Idaho Supreme Court upheld the legislature's authority to veto administrative rules without the governor's signature in *Mead v. Arnell* under the reasoning that rules held a lesser status than statutory laws. On the other hand, in *Missouri Coalition for the Environment v. Joint Committee on Administrative Rules*, the Missouri Supreme Court ruled against the legislature's authority to unilaterally suspend rules pending review by the Joint Committee on Administrative rules<sup>22</sup>.

In 2017, Wisconsin became the first state to implement a version of the REINS Act. The Wisconsin REINS Act imposes similar legislative review measures to the federal proposal, but with a lower threshold for major rules. Agencies must submit a statement of scope to the Department of Administration (DOA) to determine if the agency has the authority to promulgate a proposed rule. Then, the agency is required to comply with a comment and hearing period on the statement of scope. As with the federal proposal, the Wisconsin REINS Act requires agencies to produce an economic impact analysis. Any rule determined to have a potential compliance and/or implementation cost greater



than \$10 million over 2 years is considered a major rule and must be approved by the Wisconsin Legislature<sup>23</sup>.

In November 2017, the Wisconsin Institute of Law and Liberty (WILL) filed a law suit against the Wisconsin Superintendent of Public Instruction, Tony Evers, alleging that he and the Wisconsin Department of Public Instruction (DPI) had failed to comply with the statement of scope provision of the REINS Act. They cited the failure of DPI to submit statements of scope to the DOA or to the governor. In their defense, DPI argued that the Wisconsin Supreme Court ruling in *Coyne v. Walker*--decided prior to passage of the REINS Act--exempted DPI from the REINS Act.<sup>24</sup> In *Coyne v. Walker*, the court ruled that the 2011 Wisconsin Act 21--which limited the power of state agencies including DPI--violated the Wisconsin State Constitution Article X, Section 1 which states that "the supervision of public instruction shall be vested in a state superintendent and such other officers as the legislature shall direct; and their qualifications, powers, duties and compensation shall be prescribed by law."<sup>25</sup> As interpreted by the Court, the Superintendent has the constitutional authority to supervise public instruction--an authority granted by the legislature. WILL argues that "[w]hat the legislature gives it can curtail, or even take away completely."<sup>26</sup> A ruling is yet to be made in the case.

## REINS ACT FOR FLORIDA

Aside from the regulatory burden imposed by federal agency rules, Florida businesses are obligated to understand and comply with an additional layer of state rules and regulations. A recent study from the Mercatus Center found that, in 2017, the Florida Administrative Code contained 173,974 restrictions and over 11 million words.<sup>27</sup> While this is considerably less than the over 104 million words contained in the Code of Federal Regulations, any unnecessary regulatory burden is harmful to Florida businesses and families. The Florida Legislature has the authority to repeal existing state agency rules, however legislative approval is not necessary for the promulgation of new rules. Given the complexity

of regulatory issues and the brevity of legislative session, the power to repeal is insufficient to relieve the growing weight of regulation. To stem the tide of executive agency rules and bureaucratic red tape, a REINS Act should be considered for the State of Florida. Action would be possible through the legislature or via ballot initiative. The legal challenges experienced in Wisconsin--and in regard to legislative oversight more generally--suggest that a constitutional amendment may be prudent. State agencies and offices whose mandates are enshrined in the State Constitution could credibly challenge the application of a REINS Act as illustrated through the example of Wisconsin.

## The Congressional Review Act

Quietly enacted on March 29th, 1996 as a subtitle of the Clinton administration's Small Business Regulatory Enforcement Fairness Act, the Congressional Review Act would not make its legislative debut until the arrival of the Bush administration five years later. In 2001, President George W. Bush used the Congressional Review Act (CRA) to overturn OSHA's ergonomics rule, which was passed under the Clinton administration the year prior. The ergonomics rule had presented a unique challenge to the Republicans during its passage. Originally, the ergonomics rule was used by the Clinton administration as a bargaining chip for passing a "midnight rule" concerning regulations on business. Responding to industry fears that the cost of the ergonomics rule (\$123 billion) would far outweigh its cost-saving benefits (\$9.1 billion annually), the Republicans agreed to a compromise in which the ergonomics rule would not take effect until June 1st the next year, under the incoming Bush administration. Ultimately, the Republicans recognized that allowing for this provision would make it harder to overturn the rule in the future, as it would have technically taken effect while they held the presidency. The GOP pulled out of the deal, and the rule was passed with immediate enactment. Holding out proved fortuitous for the Republicans, as President Bush was able to repeal the rule on March 20th, 2001 using the CRA.<sup>28</sup>

Although the CRA proved useful in quickly overturning a previous administration's rule in 2001, it would not be used successfully again until 2017. This could be due, in part, to the ambiguity of the powers bestowed by the CRA. Mechanically, the CRA is identical to Article I of the Constitution in that it requires a two-thirds majority in both the House and the Senate to override a presidential veto when considering the overturning of a rule. However, the CRA is specifically targeted towards rules made by independent agencies (like OSHA). The reason for this focus is crucial because it stems from the repeal of the legislative veto. Previously, the legislative veto allowed Congress to exercise checks and balances on independent agencies which had lawmaking

powers, but not an elected body.<sup>29</sup> By allowing non-elected officials to author and enact federal rules without the scrutiny of elected officials, there is a conspicuous disconnect between the will of the people and the laws that govern them. After the legislative veto was repealed, the CRA was passed with the intention of providing Congress with a means to exercise control over rules brought forth by independent agencies.

## HOW THE CRA WORKS

The CRA requires administrative agencies to submit any rule to Congress before it takes effect. Congress is then given 60 days (formerly 30 days under the Administrative Procedure Act of 1946) to review the rule. If necessary, Congress puts forth a “resolution of disapproval” concerning any rule instated by a federal administrative agency. The resolution must either: 1) be passed by both houses of Congress and signed by the president or 2) obtain a two-thirds majority in both houses to override the presidential veto. If the resolution meets these standards, the appropriate rule is overturned.

Although there exist striking similarities between the CRA and other structural reform legislation, the former is differentiated in a few critical areas:

1) Succeeding administrations are given an easier way to overturn previous administrations’ rules. This means that the “midnight rule” strategy is far less effective now than before. Indeed, the Obama administration passed its toughest rules and regulations in the last months of holding the presidency. This was often the case for outgoing administrations, for a couple of reasons:

It is far easier for a sitting president to pass strong legislation when the political responsibility and consequences of such legislation is minimized. While many presidents remain a presence in the political sphere after their tenure in office, they no longer bear the responsibility for upholding a political record. Knowing this, outgoing presidents will pass a laundry list of failed

or postponed policy ideas before their exit.

Outgoing presidencies will attempt to capitalize on the bureaucratic lag caused by the changing of administrations. Laws are likely to have a longer lifespan if passed before the changing of presidencies, accounting for the time needed to complete the adjustment.

2) When the House presents a disapproval resolution to the Senate (or vice versa), the Senate cannot refer the resolution to a committee. This ensures that the vote is entirely representative.

3) Filibusters of disapproval resolutions are prohibited in the Senate by way of time limits and procedural streamlining. This allows the lawmaking process to become more efficient.

4) For disapproval resolutions that are submitted within the last 60 days of session, a review extension may be granted. In this case, the chamber can disapprove of a rule within 75 legislative days of when the next session of Congress convenes. This was intended to prevent exploitation of expedited lawmaking processes.<sup>28</sup>

## The CRA in 2017

In a stunning comeback from a 16-year hiatus, the CRA was successfully used to pass 14 of the GOP’s 33 proposed resolutions of disapproval against Obama administration laws.<sup>30</sup> Altogether this roundup of legislation included five labor laws, four environment and energy laws, two education laws, one health law, one gun control law, and one telecommunications law that were overturned.<sup>31</sup> A vital part of the GOP’s ability to overturn such a large amount of legislation is the special extension clause of the CRA. In a move that closely resembles the “midnight rules” of outgoing administrations, disapproval resolutions may be submitted by independent agencies during the tail-end of session in order to avoid close inspection by the House and Senate. The special extension clause provides a solution to this problem by granting an extended window of time in which either the House or the Senate can propose a disapproval resolution against a particular rule made by one of these agencies.

## What's in it for Florida?

Florida stands to benefit greatly from this latest round of repeals. Of particular interest to the Sunshine State are the educational and environmental/energy law repeals. With an incredibly diverse and unique geography, Florida has benefitted most saliently from the cooperation between the state government and the energy industry. Daniel Peterson from Florida's premier policy think tank, The James Madison Institute, wrote last year on one of the fruits of private and public collaborations. Peterson detailed how the National Academies of Sciences, Engineering, and Medicine (a private, nonprofit organization) was able to discover an innovative and preservation-focused solution to repeated flooding of Lake Okeechobee. This project now has Congressional oversight, though it is being carried out by the National Academies. Unfortunately, the project has been slow to start due to federal funding hesitation. Peterson brings an interesting perspective to the project funding process; instead of waiting for federal funds to become available and possibly risking permanent environmental damage, the state of Florida should front the costs in the form of a loan to the federal government.<sup>32</sup> By repealing federal regulations and procedures concerning environmental projects, we can allow for these kinds of innovative technological applications and project funding to be fully realized.

With H.J. Resolution 57 repealing some aspects of the Every Student Succeeds Act, education may also benefit from increased innovation. Although a more hands-off approach than No Child Left Behind, the Every Student Succeeds Act (ESSA) still rests on standardized test scores to determine the efficiency, and ultimately the funding, of public schools.<sup>33</sup> By reducing our students' performance to numbers in a database, we are doing a great disservice to their potential as members of society. The idea that a child's future can be determined by every other student's performance besides their own is the assumption upon which the cycle of poverty rests. We cannot eschew the concept of personal responsibility and expect our students to prosper. In this way,

the CRA has provided an excellent opportunity for Florida to undertake educational reform.

The CRA will have a lasting impact on our country's lawmaking procedures and the behavior of our lawmakers. Midnight rules have lost their saliency, and future administrations will become more proactive in their lawmaking. Obama-era laws were susceptible to CRA repeals due to reporting errors made by independent agencies. Because laws are vulnerable to a disapproval resolution within the first 60 days of its reporting to the House or Senate, reporting errors can expand the timeframe of susceptibility. In fact, about 10% of all laws passed between 1996 and 2016 went completely unreported to the House, the Senate, the Government Accountability Office, or a combination of these governing bodies.<sup>29</sup> Each of these discrepancies represents an opportunity for our representatives to temper the legislative power of unelected officials.

## ACKNOWLEDGEMENTS

*We would like to thank Vittorio Nastasi and Julia Quinones for their outstanding research and writing contributions to this paper. Vittorio Nastasi is senior at Florida State University studying Economics and Political Science. Julia Quinones is a senior at Florida State University and graduating with a B.S. in Economics this Spring. They are both policy research interns with the James Madison Institute.*

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