



January 5, 2017

RE: Bend the Arc Opposes the Regulations from the Executive in Need of Scrutiny (REINS) Act of 2017 (H.R. 26) and Midnight Rules Relief Act of 2017 (H.R. 21)

Dear Representative/Senator:

As the Director of Bend the Arc Jewish Action, I write to share our strong opposition to the Regulations from the Executive in Need of Scrutiny (REINS) Act of 2017 (H.R. 26) and the Midnight Rules Relief Act of 2017 (H.R. 21).

Bend the Arc Jewish Action is the largest national Jewish social justice organization focused exclusively on domestic policy, bringing together Jews from across the country to advocate and organize for a more just and equal society. Defending our democratic process is a crucial part of our work. We are very concerned about the disastrous impacts that these two bills could have by dramatically changing our regulatory process that protects the public from harm.

The Regulations from the Executive in Need of Scrutiny (REINS) Act would require all major regulations issued by the Executive Branch to be approved by Congress before they can be implemented, within a 70-day window, or be tabled until the next congressional session. Therefore, by simply doing nothing, Congress could prevent a rule from taking effect, despite the years of deliberation that may have gone into its development. This could delay or shut down the implementation of critical new public health and safety safeguards, financial reforms and worker protections, thereby making these industries even less accountable to the public.

Congress already has the first and last word when it comes to agency rulemaking, making the REINS Act needless and redundant. Agencies already may only exercise the authority delegated by Congress in authorizing legislation; and any agency attempt to overstep these bounds is likely to result in judicial scrutiny and reversal of the agency action. Under the Congressional Review Act, Congress already has the authority to review and nullify a rule. Simply put, the REINS Act would make the dysfunction and obstructionism that plague our political process even worse by giving one chamber of Congress veto power over any new significant public health and safety protection, no matter how non-controversial or sensible it may be.

The Midnight Rules Relief Act would radically and dangerously expand Congress' existing ability to use the Congressional Review Act (CRA). This legislation is based on a flawed premise—namely, that regulations which are proposed or finalized during the so-called “midnight” rulemaking period are rushed and inadequately vetted. In fact, the very opposite is true. There are currently dozens of public health and safety regulations that have been in the

regulatory process for years or decades, including many that date from the Obama Administration's first term, implement laws passed in the first term, and some that even predate the Obama Administration entirely. Indeed, according to a report¹ from Public Citizen examining all economically significant rulemakings finalized since 1999, rules issued during the presidential transition period took on average 3.6 years to complete, compared to 2.8 years for all other rules.

Should the Midnight Rules Relief Act become law it would, in effect, require all members of Congress to have adequate expertise on all of the rules that would be targeted by a single en banc disapproval resolution. It would also risk encouraging members to engage in "horse trading" to add still more rules to the en banc disapproval resolution until enough votes have been gathered to ensure the resolution's passage. Surely, this approach to policymaking cannot be defended as superior to that undertaken by regulatory agencies.

Our rulemaking process is lengthy with myriad accountability mechanisms already in place. The REINS Act and Midnight Rules Relief Act are merely false and misleading attempts to add roadblocks to the sensible safeguards that protect the American people. I urge you to vote against these two bills.

Sincerely,



Rabbi Jason Kimelman-Block
Director, Bend the Arc Jewish Action

¹ PUBLIC CITIZEN, SHINING A LIGHT ON THE "MIDNIGHT RULE" BOOGYMAN: AN ANALYSIS OF ECONOMICALLY SIGNIFICANT RULES REVIEWED BY OIRA, (July, 2016), <http://citizen.org/documents/Midnight-Regs-Myth.pdf> 2 Administrative Conference Recommendation 2012-2, Midnight Rules, Adopted June 14, 2012, pp. 1-2, at <http://www.acus.gov/wp-content/uploads/downloads/2012/06/Final-Recommendation-2012-2-Midnight-Rules.pdf>