



January 21, 2026

**Statement of Support from Pacific Legal Foundation for H. 3021/S. 254—
Small Business Regulatory Freedom Act**

Chair Campsen and Members of the Senate Judiciary Subcommittee:

My name is Jaimie Cavanaugh, and I am Senior State Policy Counsel at Pacific Legal Foundation (PLF). PLF is a nonprofit public interest law firm dedicated to defending Americans' liberties when threatened by government overreach and abuse. Since its founding more than 50 years ago, PLF has been helping Americans protect their constitutional rights in courthouses and state houses across the country. PLF has 18 victories at the United States Supreme Court, and has worked to enact more than 50 laws nationwide.

As part of its work, PLF has been supporting bills like H. 3021 and S. 254 in other states. For example, PLF has worked to enact legislative review of agency regulations in states like Indiana, Kansas, Kentucky, Louisiana, Oklahoma, Utah, and Wyoming. PLF has also worked to codify the end of judicial deference to agency interpretations of authority in states like Indiana, Kansas, Louisiana, Oklahoma, Tennessee, and Texas. PLF urges this Subcommittee to support H. 3021 and S. 254.

Separation of Powers

One of PLF's missions is to protect the constitutional separation of powers. Writing law and setting broad social and economic policy is the duty of the legislature. The legislature has the sole power to make our laws and state agencies are creatures of statute. Therefore, all agency rulemaking authority comes from the legislature and can be limited by the legislature. But to do this properly, the people's representatives need the power and information to provide meaningful oversight of agency actions.

Regulations from the Executive In Need of Scrutiny

Enter the REINS Act. REINS stands for Regulations from the Executive In Need of Scrutiny and has been introduced at the federal level most sessions since 2009.

The idea behind REINS is simple. Agencies promulgate hundreds of regulations every year. These regulations have the force and effect of law, but are promulgated by unelected government officials. The legislature should take back its legislative authority and approve new regulations to ensure the regulations are aligned with the statutes that delegate authority to the agencies.

H. 3021 and S. 254

The bills before this Subcommittee do more than create REINS-style oversight over new agency regulations. This bill also contains a strong sunset provision—or procedures for reviewing existing regulations.

If adopted, South Carolina would be joining eleven states that already utilize a sunset procedure, including Idaho, North Carolina, Tennessee, Virginia, and West Virginia.¹ Periodic review of existing regulations ensures that regulations don't grow unchecked and will allow South Carolina to shed out-of-date and unenforced regulations. The sunset process curbs arbitrary regulatory power, ensuring that South Carolinians are governed by laws enacted through a transparent, deliberative, democratic process. And it strengthens constitutional governance by reaffirming the legislature's primary role in lawmaking.

Finally, this bill ends judicial deference or what has become known as *Chevron*-deference at the state level. Although the U.S. Supreme Court ended *Chevron* deference in the *Loper Bright* decision, judicial deference remains at the state-level in many places.

Judicial deference was created by the U.S. Supreme Court and requires the judicial branch to defer to agencies' interpretations of laws. The issue often arises when a business or individual sues about a burdensome regulation and the agency is called to court to explain its authority to regulate in the chosen manner.

When courts defer to agencies' interpretations of law, they are granting agencies excessive power and insulating agency decisions from meaningful judicial review. As PLF has documented,² this practice undermines accountability, allowing unelected government officials to expand their authority beyond legislative intent. Deference has resulted in regulatory overreach, chilling economic freedom, and violating property rights.

PLF supports H. 3021 and S. 254, because they place important guardrails on the administrative authority the legislature has entrusted to state regulators. Administrative agencies with insufficient democratic controls do more than fill in technical gaps left by the legislature in regulatory schemes, but instead, often write detailed rules with the force of law that have sweeping social and economic consequences, including imposing significant civil or even criminal penalties on businesses and individuals.

¹ The eleven states are Colorado, Idaho, Indiana, Kentucky, New Hampshire, New Jersey, North Carolina, Tennessee, Texas, Rhode Island, and West Virginia. See Map, https://ballotpedia.org/Agency_dynamics:_States_with_sunset_provisions_for_administrative_rules#Summary_of_findings

² See Nicole W.C. Yeatman, "Three Chevron Deference Nightmares: What happens with courts defer to federal agencies," Pacific Legal Foundation (Sept. 18, 2023), <https://pacificlegal.org/chevron-deference-nightmares-3-examples/>

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South Carolina has the opportunity to curb executive overreach and protect the separation of powers with this bill.

Thank you for the opportunity to testify. I am happy to answer any questions; my contact information is listed below.

Respectfully,

A handwritten signature in black ink, appearing to read "JCA", is positioned above the typed name.

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