

H.R. 5982, The “Midnight Rules Relief Act” | Common-Sense Reform to Stop Abuse of Midnight Rules - One Pager

Republican Conference • November 14, 2016

The Problem: Midnight Rules that Defy the Will of the Voters or Impose Hurried, Poorly Made Decisions

- Outgoing presidential administrations frequently rush into place high-cost or politically-driven regulations during their last days and months in office. These rules are known as “Midnight Rules.”
- Midnight rules can be issued to defy a new electoral mandate delivered by voters, entrenching a defeated agenda through regulations by the “stroke of midnight” as the administration leaves office.
- The rush to produce midnight rules also undercuts time for sound analysis, public transparency, and responsiveness to public comments suggesting better ways to regulate—or showing that no regulation is needed at all.

The Search for a Way to Curb Abuse of Midnight Rules

- Over the years, multiple approaches have been proposed in Congress to cut down on midnight rules, but none has been enacted.
- Meanwhile, the Congressional Review Act (CRA) has been in place since 1996 to allow Congress to disapprove new rules, including midnight rules. Under current law, however, individual CRA resolutions can only disapprove one rule at a time. A wave of midnight rules thus can overwhelm Congress’ ability to respond with CRA resolutions.

The Solution: the *Midnight Rules Relief Act*

- The “Midnight Rules Relief Act of 2016,” H.R. 5982, solves the problem of midnight rules with one simple stroke, amending the Congressional Review Act to allow CRA resolutions that disapprove of multiple midnight rules to be passed by the incoming Congress.
- H.R. 5982 sets neither a minimum nor a maximum number of midnight rules that a CRA resolution can disapprove. It thus preserves maximum flexibility for a new Congress to respond with a resolution targeting only those midnight rules that truly are problematic—such as those that defy the message sent by the voters or those that have been poorly designed in the haste of the midnight rule period.
- Because the bill establishes a simple, rapid-response method for a new Congress to undo abusive midnight rules, H.R. 5982 also establishes a strong incentive for presidential administrations to avoid issuing problematic midnight rules in the first place. Rather than

tempting fate with abusive rules, outgoing administrations should concentrate their resources instead only on needed, new rules capable of garnering broad support.