



## Reducing Red Tape: Advancing Economic Liberty and Accountability

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### **Executive Summary**

The growing volume and complexity of government regulation at the state and local levels threaten economic freedom, entrepreneurial innovation, and democratic accountability. State regulations, often issued by unelected officials in executive agencies, accumulate over time, creating significant "hidden taxes" on small businesses and families within the state.

This policy brief outlines a set of proven, nonpartisan, free-market reforms that could modernize and streamline state-level and agency regulatory processes. These best practices, successfully adopted in states such as Virginia, Arizona, and Ohio, focus on promoting transparency, accountability, and regular review. Major recommendations include enacting a State-Level REINS Act, creating an Office of Regulatory Management (ORM), and introducing sunset clauses for regulations. These reforms seek to restore a proper balance of power, strengthen the state economy, and ensure that the regulatory state genuinely serves, rather than overrides, the public's interests.

## The Challenge of Regulatory Accumulation and the Democratic Deficit

The cumulative impact of state-level regulations—known as regulatory accumulation or "red tape"—serves as a significant obstacle to economic growth and reduces a state's overall competitiveness. While Nebraska isn't as badly affected as some other states, state agencies, operating under broad mandates delegated by their legislatures, often issue rules and guidance documents that function as law, sidestepping the thorough legislative process of debate, compromise, and public approval.

### The Economic Cost

The costs of regulation extend far beyond the agency's budget. Economists refer to these costs as a significant "hidden tax" on the private sector, including producers and consumers of products and services. They include:

- **Compliance Costs:** Businesses must spend on labor, capital, and technology to comply with regulations, diverting resources from innovation and hiring. These costs are especially high for small businesses and startups, often acting as a significant barrier to entry.
- **Opportunity Costs:** Regulations may impede entrepreneurial innovation by making it difficult or too expensive to pursue new methods or technologies, ultimately sacrificing potential economic growth and consumer benefits.
- **The Price Effect:** Compliance costs are ultimately passed on to consumers through higher prices for goods and services, acting as a regressive tax that disproportionately harms low-income families.

### The Intra-State Democratic Deficit

In a constitutional republic, the power to make laws should lie with the people's elected representatives. Legislatures often delegate implementation authority to executive agencies. However, giving extensive power to unelected state agency officials creates a "democratic deficit." This leads to situations where major policy decisions affecting a state's economy are made without direct legislative oversight or approval. Furthermore, state regulations often remain on the books indefinitely, becoming outdated or conflicting, yet they continue to hinder local innovation and job growth.

## Restoring Accountability: Legislative and Executive Oversight

Systemic reform requires structural checks to restore the proper balance of power among the branches of government and to promote efficiency. Versions of both initiatives listed below were introduced in Nebraska's 2025 legislative session.

### Legislative Check: State-Level REINS Act (Regulations from the Executive in Need of Scrutiny)

A core principle of good governance is that those who make the laws should be directly accountable to the people. A State-Level REINS Act would reinforce this by requiring clear legislative approval of any "major rule" issued by a state executive agency.

- **Definition:** A "major rule" is defined differently across states in proposals. Usually, a "major rule" impacts the broader economy by between \$250,000 and \$1 million annually.
- **Mechanism:** A State REINS Act could require a clear, public, and recorded vote of the State Legislature, signed by the Governor, before a major rule can be implemented.
- **Benefit:** This guarantees that the state's economy is not burdened financially without direct democratic approval, upholding the principle of no costly regulation without representation.

### **Executive Streamlining: The Office of Regulatory Management (ORM)**

While the legislature offers external oversight, an internal executive-level mechanism is crucial for managing a high volume of state regulations. The Virginia Office of Regulatory Management (ORM) serves as an example of centralized oversight.

- **Core Mandate:** An ORM functions as the primary clearinghouse, reviewing all proposed and existing regulations for compliance with the Governor's priorities and the principles of economic efficiency.
- **Economic Analysis:** It requires a comprehensive cost-benefit analysis for all proposed regulations, especially considering impacts on small businesses, families, and local governments.
- **Regulatory Reduction:** An ORM should be tasked with setting and achieving ambitious, measurable goals for reducing regulations. For instance, Virginia's ORM set a goal to cut regulatory requirements by 25% and surpassed it, leading to significant annual savings for the state's economy.

### **Mandatory Review and Rationalization: Data-Driven Policymaking**

There are tools available that require state agencies to demonstrate a regulation's necessity and effectiveness both before and after implementation, transforming rulemaking from a random activity into a data-driven process.

#### **Pre-enactment Impact to the Economy Report (PIER)**

To ensure that state regulation is a deliberate and economically rational action, the rulemaking process should be preceded by a thorough, objective, and public economic impact analysis. This serves as an essential check against agency overreach. One way to achieve this is to require an

economic analysis report for any bill that anticipates regulatory action, along with the fiscal note.

- **Goal:** Provides data on the cost of a policy for the state's economy, holding regulators and lawmakers accountable for the net economic impact.
- **Key Components of a Robust PIER:**
  - **Baseline Definition:** A clear explanation of the current environment without the proposed regulation.
  - **Cost Quantification:** A fair assessment of compliance costs (labor, capital, technology) and indirect costs (price increases, lost innovation).
  - **Benefit Quantification:** An approximate monetary estimate of all the benefits of the regulation.

### **Ongoing Review and Elimination (Sunsets and PAYGO)**

To prevent regulatory backlog and keep the state's regulatory code up to date, regular mandatory reviews are needed. Nebraska has started this process by requiring periodic reviews, but more action is necessary to make sure the reviews are effective.

- **Regulatory Sunsets:** Require that all state regulations automatically expire after a set period, such as 7 to 10 years, unless the agency can demonstrate that the rule remains necessary, effective, and justified in terms of cost for reauthorization. This places the burden of proof on the agency rather than the public.
- **Retrospective Review (The Ohio/Pennsylvania Model):** Implement a Pay-as-You-Go (PAYGO) system. The state requires agencies to show that for every new dollar of regulatory cost they propose, they have eliminated an existing regulatory burden of equal or greater value. This creates a functional "regulatory budget" and encourages ongoing red tape reduction. A simpler regulatory budget model seeks to reduce regulations by enforcing a "one-in, two-out" rule, which requires agencies to eliminate two regulations for every new one introduced.

## **Reducing Specific Burdens and Improving Compliance**

The following section suggests practical, impactful reforms that directly affect a state's workforce and local businesses.

### **Easing Barriers to Entry: Targeted Occupational Licensing Reform**

State-level occupational licenses affect nearly a quarter of American workers and often act as barriers to competition, blocking job growth and limiting economic mobility within the state.

- **Universal Recognition (The Arizona/Nebraska Model):** Require that the state recognize an occupational license from any other U.S. state in good standing. This immediately promotes labor mobility for skilled workers and military spouses relocating to the state, assisting them in entering the workforce more efficiently. Nebraska adopted broad universal recognition in 2024.
- **The Least Restrictive Means Test:** Regulators must show that less restrictive options cannot adequately protect public safety before granting full licensure. Alternatives like registration (a simple notification to the state) or certification (voluntary attestation of skill) should be prioritized to lessen economic barriers. Nebraska's Occupational Board Reform Act (LB299, 2018) aimed to establish this framework.

### **Reducing Compliance Friction: Improving State Agency Interaction**

The difficulty of navigating the state administrative process—including redundant paperwork, obscure jargon, and siloed agencies—imposes a costly "time tax" on local businesses, especially those without large compliance departments.

- **Single-Portal Access and Digitization:** Create a unified online platform where businesses can handle all state regulatory interactions such as licensing, permitting, and reporting, which helps cut down on redundancy and confusion. Agencies should utilize technology to share data internally, so businesses only have to submit information once.
- **Plain Language and Ombudsman Offices:** Require that all state regulatory guidance and forms use clear, straightforward Plain Language. Create a dedicated Regulatory Ombudsman office within the Executive Branch (perhaps within an ORM) to act as a neutral guide for small businesses navigating complex state requirements. This emphasis on customer service boosts voluntary compliance rates.

## **Nebraska's Progress and a Proposed Regulatory Roadmap**

Basing the reform discussion on the state's ongoing initiatives demonstrates feasibility and political backing. Nebraska has already achieved significant progress and remains engaged with active proposals aligned with the best practices outlined in this brief.

### **Accomplished Reform: Targeted Occupational Licensing Success**

Nebraska has been at the forefront of high-impact, free-market occupational licensing reform, directly addressing the "permission slip to work" obstacle.

- **The Occupational Board Reform Act (LB299, 2018):** This landmark law requires the Legislature to review all state job licensing laws every five years to identify and adopt

less restrictive alternatives to full licensure. This establishes the "Least Restrictive Means" principle.

- **Universal Recognition (LB 16, 2024):** This law adopts an Arizona-style Universal Recognition model. It requires licensing agencies to recognize occupational licenses issued by any other state for workers relocating to Nebraska, provided they are in good standing. This immediately enhances workforce mobility and helps address labor shortages by making it easier for skilled workers to move.
- **Second Chances:** LB 16 also included important provisions to ensure that criminal convictions can only be used to deny a license if they are directly related to the job, removing vague barriers that prevent rehabilitated individuals from finding work.

### **Proposed Reform: Enhancing Systemic Accountability**

The state must now focus on systemic, process-oriented reforms to control the volume and costs of new regulations.

- **REINS Act Proposals:** Legislative efforts have been initiated to pass a State-Level REINS Act in Nebraska. These proposals seek to prevent executive branch agencies from imposing significant new rules without the clear approval of the Legislature.
- **Legislative Economic Analysis Unit (LEAU) Concept:** Proposals related to the REINS Act often include the creation of a Legislative Economic Analysis Unit (LEAU), led by a Chief Economist. This unit would deliver independent economic analyses of major proposed rules, ensuring that the legislative branch can independently scrutinize costs and benefits.
- **Pre-enactment Impact to the Economy Reports (PIER):** These reports could serve as a simplified analysis of the economic costs related to legislation that anticipates regulatory action and provide an additional piece of information for legislators before they advance bills from committee. Ideally, this would complement the "Fiscal Notes" that Nebraska's legislators see before hearings.

Nebraska has successfully reduced many occupational licensing barriers; the next crucial step is to establish consistent oversight of the volume and cost of all new and existing regulations in other sectors.

### **Looking Ahead**

Unchecked growth of regulation at the state level threatens our economy's competitiveness and vitality. The lack of mandatory, thorough reviews can cause outdated, expensive, and often conflicting rules to accumulate, placing an unnecessary and heavy burden on citizens and businesses.

The reforms described in this brief are not just theoretical ideas but proven state policy initiatives. Nebraska has shown its dedication to reform by pioneering occupational licensing laws. Now, the state must build on this achievement by implementing institutional checks on the regulatory process itself.

We urge Nebraska's Legislature and Governor to prioritize the adoption of a comprehensive regulatory modernization agenda, which includes:

<b>Reform Pillar</b>	<b>Key Policy Action</b>	<b>State Best Practice Model</b>
<b>Legislative Accountability</b>	Enact a <b>State-Level REINS Act</b>	Nine States (Various Models)
<b>Executive Efficiency</b>	Establish a Governor-led <b>Office of Regulatory Management (ORM)</b>	Virginia
<b>Process Control</b>	Implement <b>Regulatory Sunsets</b> and <b>PAYGO</b>	Ohio, Pennsylvania
<b>Economic Analysis</b>	Mandate <b>Pre-enactment Impact to the Economy Reports (or PIER)</b>	

These steps will promote a more competitive economy, create more job opportunities, and improve our state government's accountability. The need for comprehensive regulatory modernization is urgent. We encourage the quick adoption of these reforms to stimulate economic growth and strengthen democratic accountability.

# Sources

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