

THE JOURNAL

Fall 2021 | Number 64

THE GREAT SORTING

A satellite-style map of North America is the background. Overlaid on the map are several blue arrows that originate from various points across the United States and all point towards the state of Florida. The arrows originate from the West Coast, the Midwest, the Northeast, and the South, all converging on Florida.

The James Madison Institute

Trusted Solutions for a Better Florida

Founded in 1987 by Dr. J. Stanley Marshall, The James Madison Institute is a non-partisan policy center dedicated to advancing the free-market principles of limited government, individual liberty, and personal responsibility.

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PUBLISHER **J. Robert McClure III, Ph.D.** President & CEO of The James Madison Institute

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The Journal of The James Madison Institute

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A Heartfelt Dedication...

Dr. J. Robert McClure **PRESIDENT & CEO**

The JMI Journal is typically published in hardback annually. So, it has been a while since our last edition. I would be remiss if I didn't share that during the interim a great friend of the Institute passed away, George Gibbs. George led a magnificent life, believed completely in the mission of JMI and was part of a small group of board members who decided to hire me 17 years ago. I remember driving

from Tallahassee to Jacksonville early on for a meeting with George and I was late because I had gotten a speeding ticket. Typically, a man of few words, all he said was "Well, I bet that was expensive."

George, and his lovely wife Ann, who still spends her time with friends, family and her favorite causes have been supporters of the Institute for over two decades. Kind, generous, smart and devoted to one another

and to the cause of freedom, I will always be grateful to what they've meant to me both personally and professionally.

George Gibbs descended from a long line of Jacksonville natives and shipbuilders. He was immersed in the industry from an early age, working for his father's and grandfather's shipyard and shipbuilding companies.

Both companies, Atlantic Marine and Atlantic Dry Dock, provided critical industrial infrastructure to downtown Jacksonville, Mayport and Fort George Island.

At the age of 27, George followed his dream of forming his own shipyard, Atlantic Marine.

During its early years, Atlantic Marine mainly built steel-hulled fishing boats. As the company grew, Atlantic Marine expanded its capability and expertise to include aluminum patrol and steel research vessels, tugboats, ferries and supply boats.

Notably, the company was one of the first shipyards in the country to build casino boats. The company also built two shuttle-booster retrieval ships for NASA — the Liberty Star and the Freedom Star.

In 1966, George expanded the business to include Atlantic Dry Dock, as he sought to provide the best in ship repair and conversion. Atlantic Dry Dock performed hundreds of overhauls on U.S. Navy vessels ranging from small minesweepers to mighty aircraft carriers, including the USS Forrestal and USS Saratoga. George's work culminated in the largest reconstruction job ever performed outside a Navy shipyard on the USS Kennedy.

Following the successful conversion

of the Miami yacht, The Floridian, the mega-yacht world discovered Atlantic Dry Dock, which led to many other successful overhauls.

With his sharp business acumen, George continued to expand his shipyard business in 1990 by acquiring a shipyard facility in Mobile, AL. Under George's leadership, the new construction shipyard greatly expanded their services by adding an 853-foot dry dock capable of lifting 40,000 tons. This addition enabled the company to work on some of the largest ships in the world such as Royal Caribbean's Monarch of the Seas and Carnival's Imagination.

Under his quiet and strategic leadership, his companies became highly successful, all while becoming globally recognized for their careful consideration of each customer's time schedule and budget considerations.

In total, Atlantic Marine built 350+ new construction vessels for businesses all over the world. During Atlantic Marine's peak, the two locations had over 3,000 employees.

In addition to his own business enterprises, he was deeply involved in Jacksonville's business and civic community. In 1982, he served as the Vice-President of Business and Industry for the Chamber of Commerce, and later served on the boards of Jacksonville Federal Reserve, The James Madison Institute and the Episcopal School of Jacksonville. George never took for granted the business environment that allowed him to create his own success through his entrepreneurial endeavors and firmly believed in maintaining these opportunities for generations to come. He believed in and

lived out the principles of free markets, property rights and personal responsibility.

Serving on The James Madison Institute Board of Directors for 18 years, George supported several organizations that upheld his belief that the free-market system must be preserved and that the government that “governs least, governs best.”

In addition to spending his workdays around boats, George’s favorite past-time activities always involved being close to the water. He was an avid sailor his entire life and owned many sailboats and trawler boats. While he explored many areas via sailboat, he was always drawn to cruising

the Bahamas and the British Virgin Islands.

Before passing, George committed a Legacy Society gift to The James Madison Institute.

By making a planned gift, George joined the distinguished few that have made the decision to join JMI’s Legacy Society.

I am truly grateful to George and Ann for their commitment to JMI over the last two decades. The Institute has lost a friend and I have lost a mentor. However, there is no doubt that George’s memory will live on through his generous Legacy gift in defense of the principles we shared.



The ‘Big Sort’ Is On: How COVID, Crime, and Cost Drive Americans to Florida

Christopher C. Hull

PH.D., PRESIDENT & CAMPAIGN MANAGER, ISSUE MANAGEMENT INC.

The rush into Florida continues full steam ahead. Will those rushing in bring their home states’ politics with them? If they do, is the Sunshine State destined to become the next California, a once conservative state that attracted an avalanche of left-leaning residents, who in turn turned the Golden State into a Leftist “utopia” of crime, corruption, and COVID craziness?

Tens of thousands of Americans are making the move to Gov. Ron DeSantis’ “free” state – almost 1,000 people a day, he says. Other reports suggest the precise figure is around 900 new residents daily. Since 2015, Florida has numbered among the top 12 destination states for interstate moves, according to North American Moving Services. In both 2017 and 2018, the Sunshine State ranked #1 among top

destinations of those from other states looking to move, separate studies have concluded. In fact, the latter year, a towering 12.4 percent nationwide of all mortgage requests for out-of-state movers were for Florida. By 2020, the state had climbed in destination rank every year for half a decade. Finally, many companies are also making the move, setting up shop in less costly – and warmer – places, in turn drawing more workers with them.

The concern would be that those fleeing other states would bring beliefs that wrecked their prior communities. After all, all five of the most expensive places in the country to live are controlled by Democrats. In part as a result, the top financial fear of those in the Northeast is that they will live in debt forever – the only region of the country where that's true.

For example on taxation, before his ignominious ouster from office, Gov. Andrew Cuomo, D-N.Y., specifically mentioned Florida as an attractive alternative for New Yorkers unhappy with higher taxes. “New Yorkers fleeing to Florida need to leave their terrible blue state policies behind as well,” one wag warned. Indeed, according to the Wall Street Journal, “Preliminary data show a jump in Florida home purchases by buyers from high-tax states.”

Likewise on crime, Polk County Sheriff Grady Judd asked those moving in, “Do me a favor...don't vote the way the majority of the people voted from where you came or you'll

have here what you had there. Guaranteed.” Compare and contrast: Whereas in the Sunshine State, Gov. DeSantis has signed an anti-riot bill he called “the strongest anti-rioting, pro-law enforcement piece of legislation in the country,” the Portland City Council last year voted to cut at least \$15 million from the police bureau, effectively eliminating 84 positions in the department. As one might expect, this year Portland's murders saw an increase of 600 percent compared to the same period last year – at the same time Florida's crime rate dropped for the 50th straight year.

Florida State House Rep. Blaise Ingoglia (R) agrees with Sheriff Judd on New Floridians: “I can only hope that they leave any liberal ideology at the border.” Ingoglia pleads, “Please don't ‘New York our Florida.’ Don't turn this great state into the state you fled from.”

On the other hand, perhaps the new Floridians in particular are part of the decades-long “Big Sort,” in which Americans left neighborhoods where others on average disagreed with them, moving to locales that better matched their politics. (Granted, some contend such a sort is not taking place, or if it is that its effects would be less important than those concerned about it fear.) Such a sort would help explain increasing ideological polarization in the U.S. Senate, for instance, which unlike the House does not have a gerrymandering problem driving a wedge between the aisles.

So, are new Floridians simply sorting

themselves away from the COVID-crazed Chardonnay Antifa increasingly commandeering coastal communities in the Northeast and West? DeSantis seems to think so, reporting anecdotally that those moving to Florida are “overwhelmingly” registering as Republicans.

According to Florida’s Governor, at the pandemic’s outset, media outlets overwhelmingly howled, “Florida’s bad,” to damage both him and the then-president, insisting, “Florida is doing worse than New York.” In fact, said DeSantis, “New York was like 10 times worse.” As a result, “The people that buy those phony narratives for these media, they probably aren’t coming to Florida,” DeSantis argued. Moreover, the governor contended, “I also have come across a lot of people who, quite frankly, were Democrats. The lockdowns turned them into Republicans.” Their argument? “I was a Democrat because of education, and I’m in California, and they’re locking my kids out of school. I come to Florida, they’re in school. People are free. People are happy.” Concluded DeSantis, “If you have a political party that puts the interest of teachers’ unions over the interest of kids being able to just access an education at all, that tells you all you need to know about the modern Democrat Party.”

Again, Representative Ingoglia agrees: “We are definitely seeing the trend of people fleeing blue ‘lockdown’ states for the ‘free state’ of Florida.”

What do the data tell us? In the long

term, they suggest that Florida GOP registration has gained significant ground on the state’s Democrats, who tend to have higher numbers of partisans but lower turnout. Specifically, since 2017, the number of registered Sunshine State Republicans rose over 13 percent, while Democrats rose only eight percent.

Granted, in 2021 in particular, registration of both Democrats and Republicans has dropped, with No Party Affiliation (NPA) and minor parties increasing more than 46,000. Still, Democrats dropped by more than 48,000, faster than Republicans, who lost under 41,000. This means overall registration actually dropped in the state this year, despite the influx of new Floridians – likely an artifact of voter rolls being cleaned up earlier in the summer. Regardless, the result has narrowed Democrats’ historic registration lead to the lowest in Florida’s history.

This evidence in turn thus suggests new Floridians, on average, have seen the light: Not just of the sunshine, but of the wisdom of prudential conservative governance.

Will the Sunshine State’s newcomers leave their old state’s politics behind? It does appear to be the case, and that should be a relief to anyone in Florida who wants low taxes, less crime, and fewer masks forced on three-year-olds.



2022 JMI Policy Priorities

The Future IS Florida...

Policy Team

Turning the page from 2020 to 2021, it wouldn't have been out of line to feel a sense of relief or optimism for the onset of a new year and to plan for a return to something resembling normalcy. Well, to borrow a phrase from the faithful, "God laughs hardest at those who make plans."

The 2021 Florida legislative session was, without question, one of the most unique and odd in recent memory. A closed capitol, committee hearings viewed on closed circuit from the Civic Center, and an overall odd sense of quiet permeated an otherwise traditional legislative calendar. And while the achievements made despite

the circumstances were extraordinary, there was a sense that much was left to be done.

Looking ahead, it is vital to affirm, both for JMI and the 22 million (and growing) Floridians, that the mission moves forward. In the 2022 cycle, we will see the legislature tackle reapportionment, add a congressional district, pass a new budget, and (hopefully) continue advancing the Sunshine State as the best place to live, work, and start a business. That doesn't happen without a commitment to fiscal integrity, low taxes, minimal regulation, and legislative leadership to preserve the principles and reason for more than 800 new residents every single day.

We often say that “the Florida story” is one that needs to be exported. We are seeing that across the country as new states expand choice and opportunity for parents of schoolchildren, as they lower or eliminate state income taxes, as they increase the supply of healthcare delivery through free market principles, as they restore trust in their election systems. These things are happening all around us – in West Virginia, in Georgia, in Texas, in Arizona – and as states advance freedom and liberty for their residents, they look at the Sunshine State for direction and leadership. For so many Americans seeking to escape the dictatorial mandates of Leftism, the future is right here in Florida.

In so many ways, we count ourselves fortunate to do what we do in Florida. We have the pleasure of hosting policymakers of all stripes at our events and engaging often with many who we disagree with on issues. This is a blessing. We do not take for granted that, with almost no exception,

our part-time legislators possess a genuine and deep commitment to their constituents and their state. Whether republican or democrat, conservative or liberal, young or old, they all hold their roles in esteem and seek to make the right policy decisions for the people they represent and the greater good of Florida. That doesn't mean that they agree on the methods or issues – in fact, that is often not the case. They campaign vigorously, and yes, politics isn't for the faint of heart. But at the end of the day, when they gather in the Capitol each session, the robust debates, substantive coalition building, and honest brokering creates a state we can all be proud of.

Our team will continue pressing for common sense, practical policy ideas that place Florida on an economic path of expanded opportunity and prosperity. Florida is, in fact, the future. And we don't say that lightly. In a state of 22 million that grows by 6,000 a week, it is vital that policy matches the needs of the people and the economy. We are a hub of technological innovation, of international commerce, of tourism, and so much more. That reality requires a deliberate and intentional commitment to advancing freedom and liberty. To that end, we have compiled a robust and visionary set of policy priorities for 2022 that reinforce our principles of limited government, economic liberty, and individual freedom. We hold firm to the belief that free market capitalism, private property rights, and the rule of law is the single biggest prosperity engine in human history.

It is our pleasure to provide our policy priorities for 2022.

1. Cultivate Innovation

1. Adopt a vision statement outlining the commitment to “permissionless innovation.”
2. Continue to oppose government-owned broadband networks in favor of private market solutions to connectivity.
3. Expand use of regulatory sandboxes to promote new industry development and further diversify Florida’s economy.
4. Update money transmission regulations to create an environment where cryptocurrency innovations can flourish.
5. Foster new rules to oversee new technological governance mechanisms such as “decentralized autonomous organizations” (DAOs).
6. Identify sources and limit regulatory friction in industries that would create new economic paths for entrepreneurs and opportunity for job seekers.
7. Encourage legal certainty via defining limited liabilities for commercial drone operators.

2. Advance Educational Opportunity and Academic Excellence

1. Expand the availability of all existing K-12 scholarship programs to serve greater numbers of Floridians.
2. Offer flexible, student-based funding to parents interested in microschooled, pod learning, hybrid homeschooling, and other “DIY Education” options.
3. Honor Florida’s most legendary educator by naming a K-12 scholarship program after Mary McLeod Bethune.
4. Make permanent changes to the Hope Scholarship program so that no child ever has to attend a school that his or her parents consider unsafe.
5. Strengthen civics education by elevating the role that non-governmental voluntary associations play in solving social problems and in modeling a more constructive form of civic engagement than that offered by “protest civics” activism programs.
6. Tie higher education performance funding to objective measures of healthy campus culture so that Florida universities are rewarded for distinguishing themselves as havens for free expression, intellectual diversity, and the robust exchange of ideas.

3. Protect Good Governance

1. Promote the principles of the “Conservative Florida Budget” committing to hold growth to no more than population growth plus inflation.
2. Improve regulations to ensure public sector unions are truly representing workers.
3. Reform Florida’s public retirement system to both modernize it for new employees and ensure it can meet its obligations to public employees
4. Advance conservative reforms to Florida’s juvenile and adult criminal justice systems that both protect public safety and taxpayer dollars.
5. Improve Florida’s Personal Injury Protection (PIP) rules to encourage greater transparency and consistency and limit frivolous torts.
6. Protect the freedom of individuals to donate to causes they support without fear of retribution.

4. Expand Healthcare Solutions

1. Continue to advance supply side reforms to Florida’s healthcare system that promote choice and opportunity for patients, lower costs, and retain a necessary safety net.
2. Advance reforms to pharmacy benefit manager policies that can address inequities in drug pricing and supplies patients.

5. Safeguard the values of free markets, choice, and liberty in federal policy

1. Oppose federal attempts to further socialize health insurance and healthcare provision
2. Educate lawmakers and the public on the negative effects of proposed “5G nationalization”
3. Export the Florida model of election integrity and transparency that can serve as a national benchmark for best practices in other states

The team at The James Madison Institute affirms our commitment to working both with those who share our philosophy and those who believe differently. It will be through effective vigorous debate and productive civil discourse that we will all reap the rewards of a better Florida, and ultimately a better country. Because as Florida goes, so goes the country. The future is right here.

We invite you to join us as the mission moves forward in 2022.



Ballot Integrity vs. Jim Crow Labeling: Florida's Election Law as an Example

Julia Van de Bogart

LAW STUDENT, UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW;
SUMMER 2021 INTERN, THE JAMES MADISON INSTITUTE

Recent efforts across the country to restore trust in our election systems have come under intense scrutiny, with some on the far Left even evoking the term “Jim Crow,” making a dubious claim that voter integrity laws somehow create an assault on the right to vote. Lost in the narrative is an important question – when states reform election laws, does it have a negative impact on voter turnout, particularly among ethnic groups? Florida

presents the perfect case study and illustrates through a 20-year history why the claims of those yelling “Jim Crow” are off base. Florida has deliberately sought out sound policy to promote the security of our elections while increasing access, and as a result turnout has increased across the board.

The genesis of Florida’s election reform journey began on November 7, 2000. Excerpting from the recent report *Restoring*

Trust and Security in Florida Elections: From Bush v. Gore to COVID 19:

The 2000 presidential election came down to the results in Florida. Then-Vice President Al Gore and then-Governor George W. Bush each needed Florida's electoral votes to win a majority in the Electoral College and secure the presidency. The election night results showed Bush ahead of Gore by less than 1,800 votes in an election where a total of nearly six million votes had been cast. Over the weeks that followed, a series of legal and political battles occurred, ultimately culminating in the Supreme Court's ruling in *Bush v. Gore*, a ruling that continues to be debated today.

The controversies over the 2000 presidential election stemmed in part from several ambiguous and outdated provisions of Florida's election code. The code allowed the use of antiquated voting systems, contained a vague and underspecified standard for determining the validity of ballots, and provided little guidance concerning ballot design. The use of absentee ballot was heavily restricted, and provisional ballots had not yet been authorized. These and other deficiencies together contributed to one of the closest, mostly hotly contested and heavily scrutinized presidential elections in American history.¹ The 2000 election brought unprecedented national scrutiny to virtually every aspect of the state's election laws, casting their problems into stark relief.

Over the next two decades, the

state legislature overhauled its election code, adopting a variety of fundamental reforms to make the voting process more accessible and reliable; enhance protections against mistake, irregularity, confusion, and fraud; and bolster public confidence in the process. Some of these reforms were invalidated in misguided rulings by an overly aggressive federal court that approached the issue in largely partisan terms.² And a few others eliminated some of the state's election integrity protections. As a whole, however, these reforms gave Florida one of the most robust, successful electoral systems in the nation. In contrast to the chaos accompanying *Bush v. Gore*,³ Florida was able to accommodate and efficiently conduct three statewide recounts during the 2018 election cycle,⁴ as well as a safe, smooth, successful presidential election in 2020 despite the unprecedented challenges presented by COVID-19.⁵

Florida's election system has substantially expanded public participation compared to the 2000 presidential election, notwithstanding the substantial growth in the state's population over that time.

In the aftermath of the 2000 election debacle, Florida's electoral system faced unprecedented scrutiny. Since then, the state has implemented changes for each election. The 2000 election brought about the beginning of change in voter registration. In 2004, changes included the implementation of early voting and a no-witness requirement. Florida brought

about additional flexibility for voting hours in 2008, followed by creating the federal write-in absentee ballot in 2012.¹ In 2016, absentee ballots became vote-by-mail ballots, which then became imperative to the operation of the 2020 election due to the unprecedented challenges presented by COVID-19.² Mail-in ballots made the 2020 election possible. These are merely a few of Florida's electoral system changes over the last 20 years. Because of its commitment to trust, security, and accountability, Florida could accommodate and efficiently conduct three statewide recounts during the 2018 election cycle and a safe and smooth election in 2020. By 2018, Florida was noted by the *New York Times* for being “a paragon of smooth elections,” also calling it a “safe” and “straightforward” system.³ Although no election system is perfect, Florida has and will continue to serve as an example to other states when modernizing their election code.

Voter Turnout in Florida

An important element of the discussion of election reform is the question, “does it create unreasonable obstacles to specific groups attempting to cast ballots?” One would expect, given the claims of the Left regarding the implementation of state-based reforms, voter registration and turnout within specific racial or demographic groups would be hampered.

The tables below, based on data reported each election cycle by the U.S. Census Bureau, show the percentages for both registration and turnout by major demographic category. As the tables illustrate, no such suppression of either

registration or voting has taken place.

With respect to statewide voter registrations, among African Americans in the state, registration increased from 52 to 65 percent, and voter turnout among this group went from 42 to 58 percent between 2000 and 2020. The figures for Hispanic voters fared even better. Registration percentage increased from 37 percent in 2000 to 58 percent in 2020, and voter turnout went from 31 percent to 52 percent.

There have been, over the years, efforts to consolidate and reform electioneering in the U.S. Congress. These attempts have been led by both the left and the right. Recently, the Left has used the current political atmosphere to push for a comprehensive takeover of elections by the federal government. In doing so, they would create a system in which there would be zero accountability or integrity over the ballots cast.⁴ A much better approach is one that is rooted in the founding principles – that of state-based policy.

Why is state-centered policy better than anything the federal government develops? In short, because of federalism.⁵ States can individually promote voter access while restoring and building trust among their citizens, something practically impossible to accomplish on a national level.

Because Florida's changes to its own election system have proven to be successful, leading to an increase in voter turnout, it serves as an example of why state-based policies are the better option. A few factors unique to each state include geography, demographic groups, access needs, and technological infrastructure. Nobody knows a state better than its residents and

Table 1 VOTER REGISTRATION 2000-2020 • STATE OF FLORIDA

	2000	2002	2004	2006	2008	
Demographic Category	Percent Registered	Percent Registered	Percent Registered	Percent Registered	Percent Registered	
White	62.5	63.1	64.7	66.5	71.7	
African American	52.7	59.3	52.6	58.0	63.5	
Asian American	31.7	30.7	37.2	41.8	61.0	
Hispanic American	37.1	32.6	38.2	56.3	69.4	
	2010	2012	2014	2016	2018	2020
Demographic Category	Percent Registered	Percent Registered	Percent Registered	Percent Registered	Percent Registered	Percent Registered
White	63.8	69.4	62.2	69.0	64.2	67.7
African American	61.4	65.8	64.3	55.2	57.9	65.4
Asian American	46.7	48.4	61.5	50.3	48.2	56.4
Hispanic American	59.0	72.1	60.2	62.0	54.8	58.7

Table 2 VOTER TURNOUT 2000-2020 • STATE OF FLORIDA

	2000	2002	2004	2006	2008	
Demographic Category	Percent Voted	Percent Voted	Percent Voted	Percent Voted	Percent Voted	
White	53.8	44.1	58.4	45.5	64.8	
African American	42.3	40.4	44.5	38.7	58.5	
Asian American	22.4	19.4	33.1	23.1	53.1	
Hispanic American	31.4	18.9	34.0	31.4	61.7	
	2010	2012	2014	2016	2018	2020
Demographic Category	Percent Voted	Percent Voted	Percent Voted	Percent Voted	Percent Voted	Percent Voted
White	44.9	62.0	45.0	61.7	54.1	63.0
African American	41.5	57.6	44.0	50.5	47.2	58.7
Asian American	24.7	43.0	43.0	40.4	40.5	55.6
Hispanic American	41.1	62.2	36.0	54.1	44.3	52.7

its legislators. This reasoning adds to why Florida's election policy has become so successful over the last 20 years and why it will continue to promote and rely on its election policy in the future.

Moreover, a policy that serves as an example of why federal policy controlling elections is not ideal compared to state-centered policy is the For the People Act (HR1/S1).⁶ HR1/S1 is a progressive, 791-page bill that includes 60 individual pieces of legislation. It would override state voter laws and decrease the validity and importance of federalism in the U.S., and would also allow anyone to vote without proving they are who they say they are. And if passed, states *must* adhere to it. Those who are conflating voter integrity laws to Jim Crow are trying to scare individuals into supporting this "For the People Act" when, in reality, free and fair elections come from giving citizens a reason to trust the voting process, not fear it.⁷

Looking Ahead

With election reform policies being at the top of many states' legislative agendas in addition to that of the U.S. Congress,

the present landscape is fluid. Florida will continue to promote voter security and accessibility as well as a state-centered voting policy. As a result, we should continue to see upward trends in voter turnout overall, and within demographic groups. Ethical conduct and efficient regulations have proven to be on the forefront of Florida's list of importance when changing election law. Additionally, we can also anticipate others to follow the lead of Florida (as well as Georgia and Texas) by enacting positive election reforms that restore and build trust in the overall system.

Although additional reforms could improve Florida's election system further, the state has come a long way since the election of 2000. The voting system in Florida is now known nationally for its efficiency. Florida's increase in voter integrity parallel to its increase in minority ethnic group voter turnout has proven to reach the common conclusion both sides of the political spectrum are looking for: more American citizens voting. And it has done this by continuously making it easier for American citizens to vote while simultaneously supporting voter security.

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The 2021 U.S. Prosperity Index and the Prosperity of Florida

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The United States Prosperity Index

Now in its 3rd year, the United States Prosperity Index measures the prosperity of all 50 states, Washington D.C., and 1,196 counties in 12 selected states¹, including the 67 counties of Florida.

The Legatum Institute², who produces

the Index, promotes that genuine prosperity is about far more than a society's economy or an individual's financial wealth; it represents an environment in which everybody is able to reach their full potential. Prosperity is therefore a multidimensional concept, captured through three domains, which are the essential foundations of prosperity —

Inclusive Societies, Open Economies, and Empowered People.³

Drawing upon 14 years of producing its global Prosperity Index and informed by the expertise of 40 U.S. advisors⁴, the Legatum Institute created the United States Prosperity Index in 2019, consisting of the three domains, 11 pillars, underpinned by 48 policy focused elements, which are proxied by a total of 215 indicators from over 80 separate publicly available data sources.⁵ The comprehensive set of indicators, at a state and county level, provides a rich and policy-focused dataset, enabling the potential of Florida, all other states and all counties in the selected states, to be identified and understood. This enables much more targeted policy responses that can drive tangible improvements in prosperity.

The Index is intended for national, state, and local governments, business leaders, investors, philanthropists, and civil society leaders across the U.S., to help set their agendas for growth and development, and that others will use it to hold them to account. It is a rich source of information to help inform the appropriation of funds from the American Rescue Plan.

This article sets out the key findings that emerge from the 2021 United States Prosperity Index, for Florida and the nation as a whole. Further information on the Index, including the performance of Florida and its 67 counties, and the full 2021 report, can be found via the U.S. Index website at www.usprosperity.net.

The United States is one of the most prosperous countries in the world

The United States continues to be one of the most prosperous nations globally and is well positioned to prosper in the future. The U.S. business environment actively supports startups, promotes competition and expansion, and encourages innovation and ideation, which results in a very strong global ranking of 4th for Enterprise Conditions. It also ranks 10th in the world for its Investment Environment: U.S. businesses have good access to capital from domestic and international sources, and there are strong property rights and protections in place for investors.

In addition to its many strengths, however, the nation faces challenges that are holding it back from performing even more strongly on the global stage. In particular, the United States ranks 66th on Safety and Security, on par with Morocco, and 59th on Health, weaker than Croatia. These weaknesses, which are experienced across many parts of the country, are acting as a brake on further progress.

Florida's Prosperity And How It Distributes Across The State

Florida (which ranks 31st out of 51 on prosperity) is the 6th most prosperous state of the 15 Southeastern states, which is also where the weakest performing states are located. Mississippi was the weakest-performing state in 2021 and in five of the past 11 years, and **Arkansas (50th)** the weakest in other years. The Northeastern states exhibit the highest levels of prosperity, with Massachusetts almost always the top-

performing state over the past decade. Outside the Northeast, **Minnesota (3rd)** and **Utah (5th)** also perform well. The distribution of prosperity within Florida varies considerably—see the text box, *Florida Focus*.

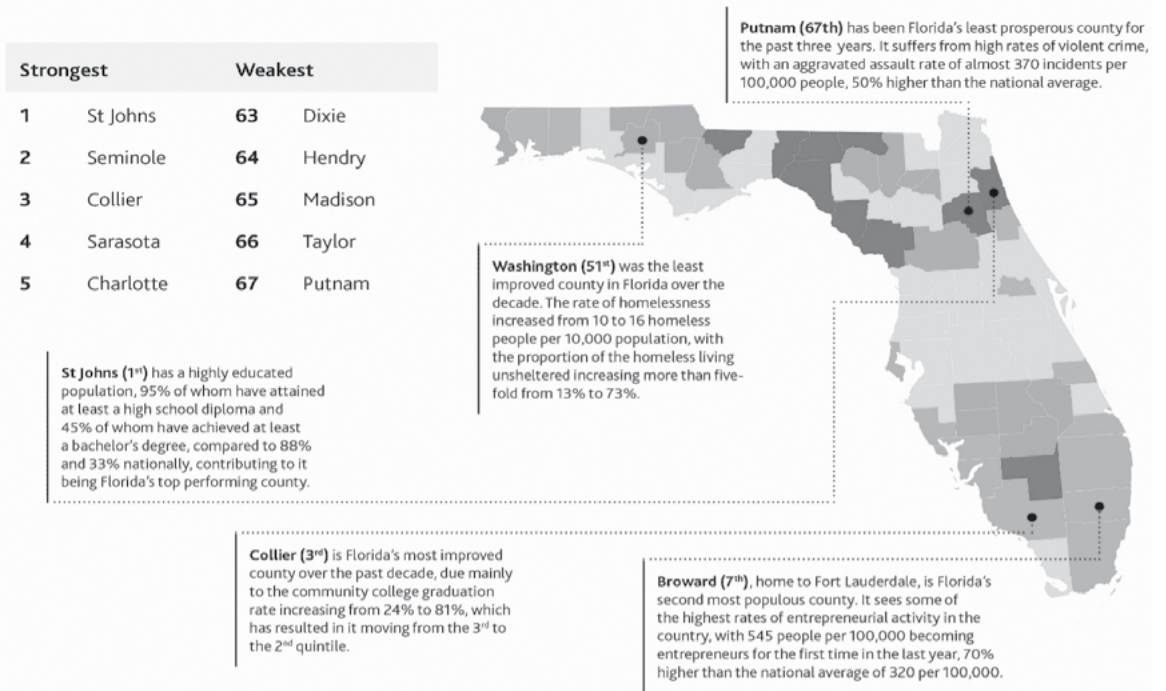
Florida Focus⁶

On the whole, urban counties within the county Index are more prosperous than rural counties, although this is not universally the case. For example, Gilchrist County, not far from Gainesville, has a population of less than 20,000 but ranks 25th of all counties in the state and sits in the 3rd quintile of the county-level Index,

whereas Putnam has a population of 75,000 and ranks last in the state. In particular, Gilchrist performs well on Safety and Security and the Natural Environment and also has strong Social Capital.

The socioeconomic differences that exist across the United States are reflected by race and ethnicity, as well as by place. For example, prior to the pandemic, one in two adults in a White family were degree-educated, compared to less than one in four for a Black family.⁷ Furthermore, among those without college education, a Black American was nearly twice as likely as a White American to be unemployed (15.4% vs. 8.4%).⁸ How these national patterns

Prosperity of Florida's counties 2021



are experienced at a local level is therefore important. For example, the infant mortality rate for African American mothers in Los Angeles County is three times the rate of White mothers, whereas in less urban Solano County, it is closer to twice the rate.

Florida Has Led The Increase In U.S. Prosperity, Which Had Been Rising Continuously For More Than A Decade

All states saw an improvement in prosperity since 2011, although Florida experienced the greatest improvement due to significant improvements in Governance and Health, as well as large reductions in certain types of crime, rising five places in the prosperity rankings as a result. The year-on-year rise in U.S. prosperity, prior to the pandemic, was more broadly due to long-term improvements across many aspects of U.S. society including the economy, education and crime, and as a result of Americans smoking and drinking less.

Improved skills

The long-term improvement in prosperity was also the result of an increase in the skills of the adult population, as people became more educated. In Florida, the percentage of adults that held a degree increased from 26 percent in 2009 to 31 percent in 2019. This compares with 28 percent and 33 percent respectively for the U.S. as a whole, resulting in 20 million more degree-educated Americans in 2019 than a decade previously. There was significant variation across Florida, however, with over 40 percent of adults in Leon, St. Johns and Alachua Counties degree educated, whereas

in Taylor, Hendry and Hamilton it was less than 10 percent. The percentage of adults in Florida that had a high-school diploma also increased over the same time period, from 86 percent to 88 percent, compared with 85 percent to 89 percent across the U.S. as a whole. The strengthening of Adult Skills was widespread, with all states and nearly 94 percent of counties experiencing improvement.

Reductions in smoking and drinking

The rise in prosperity over the past decade has also been a consequence of Americans becoming healthier overall, as rates of smoking and alcohol and pain-reliever abuse have all fallen. All states experienced a reduction in smoking rates since 2011, with Florida seeing nearly a five-percentage points reduction. In addition, Florida, and all but three other states, saw a reduction in the percentage of residents who have an alcohol-use disorder, with Arizona, Kansas and New Jersey seeing the biggest decrease. Furthermore, all states but Iowa saw a reduction in pain-reliever abuse.

Falling property crime

Another contributor to improving prosperity prior to the pandemic was falling rates of property crime, with Florida and Massachusetts seeing the biggest aggregate reduction. Burglary rates in Florida, for example, fell from 955 to 292 incidents per 100,000 population over the last decade. Eight states experienced an increase in rates of property crime, since 2011, with North Dakota experiencing the biggest increase, due in part to motor vehicle

thefts increasing from 133 to 234 thefts per 100,000 population and rates of larceny also increasing.

Increased productivity

The U.S. economy responded strongly following the global financial crisis, enjoying the longest period of economic growth in its history. The increase in prosperity was in part due to a steady increase in productivity and competitiveness across all but 6 states. Florida's improvement in productivity and competitiveness was due to Labor productivity increasing, although the per-capita value of both exported manufactured and non-manufactured goods fell, which resulted in Florida falling six places in the rankings for the Productivity and Competitiveness element. This contrasts with the per-capita value of exported goods increasing by over 10 percent, for the U.S. as a whole, and the export value of non-manufactured goods increasing by over 60 percent. Maryland and Massachusetts were among the 10 most improved states, with several other states seeing an increase in Gross Value Added per capita due to the fracking boom.

Prosperity weakened between 2020 and 2021 as COVID-19 impacted many aspects of U.S. society

The direct and indirect impacts of the pandemic have resulted in many aspects of prosperity deteriorating over the past year across the United States and many other nations. As the pandemic took hold, all but a handful of U.S. states introduced restrictions that curtailed other aspects of

prosperity. Governor Ron DeSantis issued an executive order on April 1, 2020, to restrict activities within the state, which remained in place until the end of September. From September, businesses were allowed to open to full capacity, but local health bodies had the ability to apply local restrictions. In May 2021, Governor DeSantis suspended all remaining restrictions adding "We are no longer in a state of emergency." At the time of writing, however, the number of COVID-19 cases and deaths arising from the virus are increasing across many states, including Florida, despite 55 percent of the U.S. population being fully vaccinated.

Social Wellbeing, the economy, and institutional strength have all been impacted by the pandemic and how states have responded to it. Nonetheless, the U.S. entrepreneurial spirit has risen to the challenge, and the number of new business applications has been the highest on record, which bodes well for a post-pandemic recovery.

Health

As of May 2021, COVID-19 death rates in Florida were 171 per 100,000 population. The highest rates were in New Jersey and in New York at 295 and 271 per 100,000 respectively, and lowest in Hawaii and Vermont, at 35 and 41 per 100,000. Overall, the mortality rate for those aged 15-64, which were already on the rise prior to the pandemic, increased from 288 to 347 per 100,000 population between 2019 and 2020, and the likelihood of a 65-year-old dying before they reach the age of 85, which had been falling in recent years, increased substantially from 49 percent to 57 percent.

COVID-19 has also had a significant impact on U.S. mental health. In a survey conducted by the Centers for Disease Control and Prevention (CDC) in June 2020, one in four young adults reported having seriously considered suicide in the 30 days before completing the survey.⁹ Initial estimates show that more than 90,000 Americans died from overdoses in the 12-month period to October 2020, compared to roughly 70,000 drug deaths during the same period a year earlier.¹⁰

Education

On March 16, 2020, Florida's schools were closed to in-person instruction and remained closed for the remainder of the 2019-2020 academic year. This activity was mirrored in many other states, resulting in millions of American pupils being denied a normal education. According to one study, a total of 24.2 million children aged 5 to 11 years were enrolled at public schools that were closed during the 2020 pandemic, losing a median of 54 days of teaching.¹¹ Another study estimates that by the end of June 2021, students could lose five to nine months of learning, on average.¹²

Living conditions

The national poverty rate increased from 15 percent in February 2020 to 16.7 percent in September 2020.¹³ In addition, figures from the U.S. Department of Housing and Urban Development show that the rate of homelessness increased by 2.2 percent between 2019 and 2020. Consequently, in 2020, 18 Americans in every 10,000 were homeless, equating to over 550,000 people — roughly equivalent to all residents

of Wyoming being homeless. Florida accounted for nearly 30,000 homeless — the 3rd highest of any state. However, after taking account of the differences in state populations, it ranks 15th with a rate of 13.2 homeless per 100,000 population, three and a half times less than the rate in New York.

Economic quality

Prosperity also weakened as restaurants, bars and non-essential retail closed. Shutting down certain parts of the economy resulted in 20 million non-farm workers losing their jobs across the nation. As a result of this action, Florida's unemployment rate increased from 4.9 percent in March 2020 to 14 percent in April 2020 but has since fallen back to around five percent. According to one study, Florida lost 605,900 jobs between February and July 2020.¹⁴ No state was spared job losses, but some were hit harder than others. Nevada's unemployment peaked at nearly 30 percent, Michigan rose to nearly 24 percent and unemployment in a number of Northeastern states, including New York and Massachusetts, rose above 15 percent. All states have seen unemployment rates fall back since the peak in April 2020, although the rate of progress has been uneven, and across the U.S. as a whole it is over 50 percent higher than it was pre-pandemic.

The number of new business applications saw an initial sharp decline from late March through May 2020. However, there was a resurgence in applications in June 2020, which continued through to May 2021 with new applications especially numerous in Florida, Georgia, and Texas. As a result, new business applications in 2020 were 20

percent higher than in 2019 and this was the highest annual figure since records began in 2004,¹⁵ which is an encouraging sign for a post-pandemic economic recovery.

Safety and security

Rates of identity theft significantly increased during the pandemic, although robberies and property crime reduced.¹⁶ Over the past few years, rates of identity theft have oscillated around 150 per 100,000 population, but in the latest year the rate rose sharply to nearly 400, with Florida having a rate of 470. In Kansas, Rhode Island and Illinois rates were over 1,000 per 100,000 population. Fraud also increased during the pandemic. In 2019, the Federal Trade Commission received 1.7 million fraud complaints, which increased to 2.2 million in 2020.¹⁷

Even prior to COVID-19, there were some significant challenges acting as a brake on U.S. prosperity

There were a number of long-term challenges that were holding the nation back from performing even more strongly on the global stage even before COVID-19 arrived in the U.S., that was affecting Florida and many other parts of the country.

More mass shootings

The rise in mass killings and injuries over the past decade has devastated many communities and weakened Safety and Security across the nation. The United States ranks 122nd globally for the Mass Killings and Injuries (including terrorism) element, just below Eritrea and just above Iran. Since

2013, death rates from mass killings in the U.S. have increased by over 50 percent, and injuries from such events have increased by 80 percent, although in Florida the increase has been 66 percent and over 200 percent respectively. All but four states and D.C. have experienced at least one mass shooting since 2013 and more than half of all states including Florida, have been subject to at least one mass shooting in every year since 2013. Over 40 percent of counties in Florida experienced at least one mass shooting since 2013, significantly higher than 17 percent of counties across all the 12 states.

Rising obesity

Offsetting the notable improvements mentioned above in certain behavioral risk factors, are high and increasing rates of obesity, which contribute to the United States ranking 165th globally for the Behavioral Risk Factors element. Just over a quarter (27 percent) of adults in Florida self-report as obese. There is significant disparity across the state, however. In Gadsden County, the rate is 43 percent, over twice that in Martin County (20%), although still considerably less than 59 percent in Okfuskee county, Oklahoma, and 53 percent in Candler County, Georgia. Georgia boasts the county with the lowest obesity rate, Taliaferro county at 13 percent, again highlighting the considerable disparity that exists within a state and emphasizing the need to consider more localized policies to address certain challenges. Other states have experienced a much greater rise in obesity than Florida, which saw less than a 0.5 percent point rise since 2011. For example, West Virginia, Tennessee and North Dakota, have all seen

rates rise by seven percentage points over the past decade.

Weakening mental health

All states and D.C. experienced a deterioration in mental health since 2016, with Delaware, Kansas and D.C. seeing the greatest deterioration in the five years leading up to the pandemic. The increase in the number of “deaths of despair” — suicides and drug overdose deaths — was already well documented,¹⁸ claiming tens of thousands of American lives each year. These events have a devastating impact on family, friends and the wider community, but also cost the U.S. nearly \$80 billion a year in healthcare, lost productivity, addiction treatment and criminal justice involvement, according to the CDC. In Florida, drug overdose deaths rose, from 17 to 26 deaths per 100,000 population, although in Delaware, the rate more than doubled to 48 deaths per 100,000 population. All but six of the 1,196 counties analyzed experienced a weakening in mental health since 2016. Over the past decade there has been an increase in illicit drug-use disorders, with all but eight states seeing an increase, although the rate of increase in Florida was less severe than in other states. Over five percent of residents in Colorado are reported to have an illicit drug-use disorder, equivalent to nearly 300,000 people, compared to 2.5 percent in Florida.

Declining social networks

U.S. Social Capital weakened between 2011 and 2016 but had been gradually improving since then, although more nuanced patterns emerge across the

different elements within the pillar. Personal and Family Relationships have continued to strengthen since 2011, benefiting from reductions in divorce and teen birth rates and more frequent contact between friends and family, with all states improving. In Florida, divorce rates fell by 17 percent and teen birth rates fell by nearly 60 percent. However, Social Networks continued to deteriorate over the past decade in all states but Rhode Island, Maine and North Dakota. Just over half the population report frequently talking with neighbors, down from two-thirds a decade ago. In Florida, this decrease is less pronounced, with 58 percent of residents reporting talking frequently with neighbors compared with 64 percent a decade ago. However, general trust in people in the neighborhood in Florida stands at only 47 percent, compared to 56 percent across the U.S. as a whole.

Conclusion

The handling of a global pandemic and its consequences, a presidential election that has been highly contested by a significant proportion of Americans, the attack on Capitol Hill, and the conviction of a police officer for the murder of George Floyd are all likely to be reflected upon as significant moments in U.S. history. These all have an impact on establishing an inclusive society, an open economy and empowered people – the building blocks of prosperity. Even before these more recent events, there were a number of warning signs that were already undermining progress in Florida and across many other parts of the country.

In total, around \$6 trillion has been made available by the Federal Government

to help states and counties recover and rebuild from the pandemic. Although the full impact of COVID-19 on the prosperity of Florida, other states and counties within states is yet to be fully understood and measured, the U.S. Prosperity Index provides a holistic and comprehensive framework for each state and county to identify its challenges and opportunities and determine the appropriate response. A DNA prosperity footprint for Florida and for each of the 67 counties across the state,

as well as for other states and counties, provides a rich source of information to identify areas where prosperity needs to be strengthened.

As it looks to its future, America can draw inspiration and courage from how it has overcome significant challenges in the past and take confidence from a number of long-term improvements it has seen across many parts of its society, to reset and rebuild a more prosperous nation that will benefit all Americans.

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Why James Madison Would Have Loved Soccer *And Other Things I Learned from JMI's Summer Interns*

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If James Madison were alive today, what team sport would be his favorite?

It was, I'll admit, a bizarre question that came out of left field, so to speak.

But the responses it generated, on the fly, left me deeply appreciative of the college students that participate in JMI's summer intern program. And increasingly hopeful

about the future of our country (if students like these are among America's emerging leaders).

Now, before I share with you the lively exchange that my unusual query elicited, I probably ought to provide a little context.

Every semester, JMI sponsors a college intern program that is run by our Executive

Vice President Becky Linder. Since the students who participate in our summer program usually are not taking classes at the same time, Becky always has me lead a “book club” for the summer interns so that JMI can engage with these students around some intellectual content.

In years past, the interns and I have read a number of good books – from Jon Haidt’s “The Righteous Mind” to Robert Nisbet’s “The Quest for Community” – and we’ve had many animated and memorable discussions.

But no conversation has ever delighted – or inspired – me as much as the exchange that arose from my screwball question about which team sport would be Madison’s favorite.

I asked this question near the end of a discussion sparked by “What So Proudly We Hail: The American Soul in Speech, Story, and Song,” a fabulous anthology that comprised the focus of our study this summer. On this particular day, we were discussing several entries about America’s system of government, including James Madison’s famous essay, Federalist #10.

Eager to see how well the students understood Madison’s thinking about the Constitution, I asked my screwball question (fully expecting someone to have the good sense to say “baseball” since baseball is the quintessentially American sport, in my view).

The conversation started in a promising direction.

“Since he was the shortest of all our presidents, Madison probably wouldn’t have liked basketball,” one of the students chuckled. “Plus, basketball games often are

dominated by a single player like LeBron James – and I don’t think Madison would have liked that much concentration of power.”

“So far, so good,” I thought to myself.

“I think he would have liked soccer,” another intern offered. “Because the rules of soccer make it very difficult to score a goal, just as Madison’s rules make it very difficult to amend the Constitution.”

I couldn’t argue with that reasoning. Indeed, this intern’s observation reminded me of a silly comment I had once made in a USA TODAY column – that soccer ought to be the “official sport” of the sexual abstinence movement since it promotes good, clean fun ... without any scoring!

Still, I wanted to steer the conversation back to America’s pastime, baseball.

But the soccer enthusiasts started piling on.

“Yes, Madison would have liked soccer,” another intern offered. “Because soccer is a very democratic sport in which the ability to affect the outcome of the game is broadly dispersed,”

“But would Madison have approved of a soccer goalie’s special powers to touch the ball with his hands?,” I asked the group.

“I think so,” one intern quickly answered. “Because these special powers can only be exercised within a very limited area that has well-marked boundaries which are clear to everyone.”

“Yes, the goalie’s special powers are similar to the Supreme Court’s special powers,” another intern added. “They can only be exercised passively when things come to them – they can’t be used aggressively all over the field.”

At this point, I realized there was no steering this conversation away from the soccer field. And why should I try, anyway? For the students had displayed remarkable insight, without any advance preparation, about our nation's Constitutional principles. And I was thoroughly delighted by their observations and good humor.

While the exchange that day may have been the highlight of our summer book club, there were many other discussions that proved memorable. Indeed, one of the things our group most enjoyed about the anthology we read was its inclusion of fictional short stories that speak to the American character. So, in addition to reading many great non-fiction works commonly found in civics and history courses – the Gettysburg Address, MLK's Letter from a Birmingham Jail, and so on – we also read and discussed the themes found in short stories like Kurt Vonnegut's "Harrison Bergeron" (equality v. equity) and O Henry's "Two Thanksgiving Day Gentlemen" (unexamined traditions).

For the final week of our study, we even read and discussed the lyrics to two songs about America – Woody Guthrie's "This Land is Your Land" and Irving Berlin's "God Bless America." This seemed fitting since Guthrie's folk classic – which ends with

several (rarely-sung) verses that question America's goodness – was actually written in response to Berlin's inspirational anthem.

Considered together, these two songs raised a question that we wrestled with all summer long: should greater emphasis be placed on the things that make America exceptional or on the fact that our nation has sometimes failed to live up to its lofty ideals?

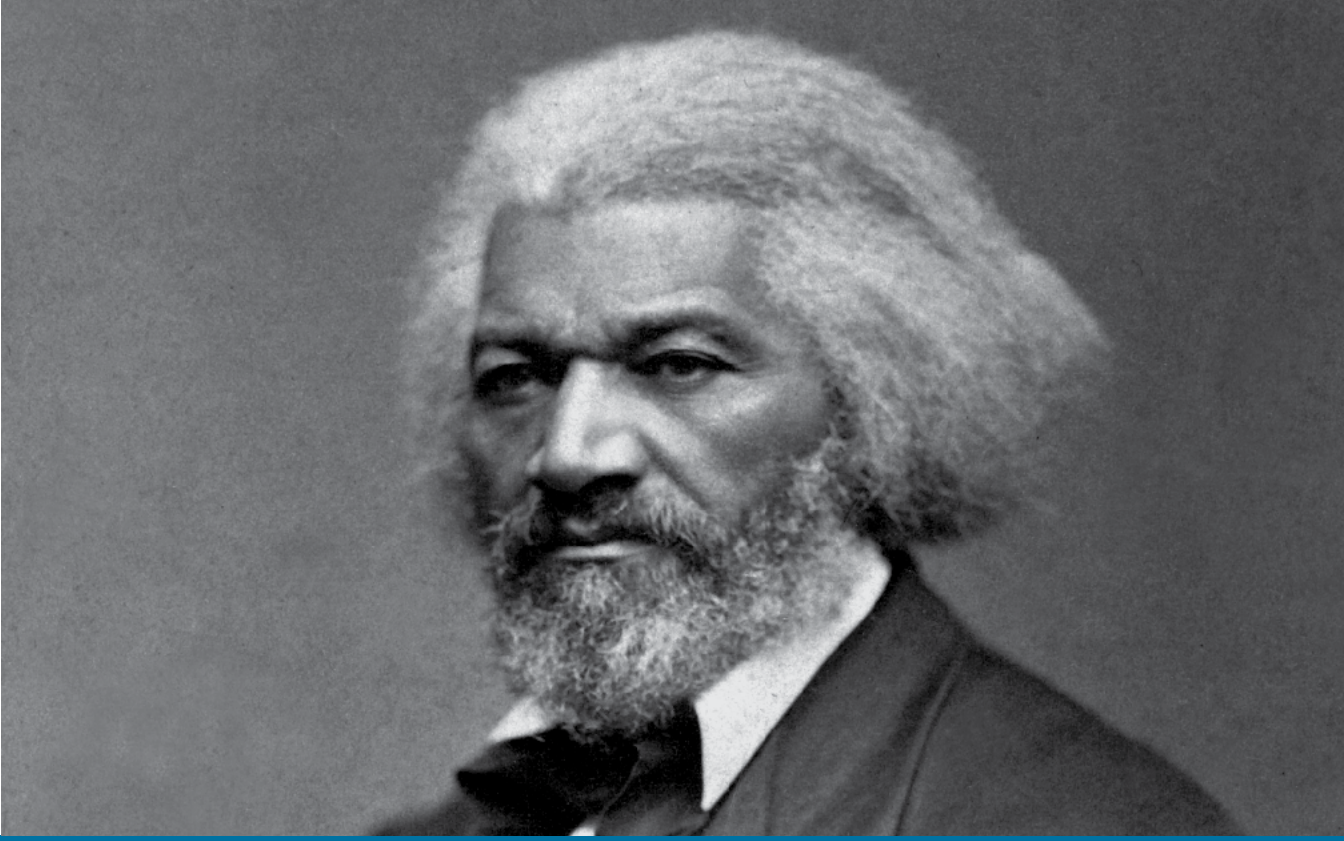
It's a very important question that is at the heart of many of our current cultural struggles.

So, I was pleased when one of our interns made an insightful observation about a familiar line in "God Bless America."

"Even though this song's dominant message is positive and uplifting, it contains within it an implicit acknowledgement that we are very capable of making a mess of things," he said. "For why else would we sing, 'Stand beside her – *and guide her*'?"

It was, I realized, the perfect summation of our summer study. For the dominant message was celebratory; but the sub-theme could not be ignored. Ours is a great nation. But we are still striving to become a "more perfect union."

With insights like those offered by this year's crop of JMI summer interns, we may get there yet.



“Frederick Douglass on Personal Responsibility in Founding Ideals”

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Editor’s Note: In recent years, the state of Florida has distinguished itself by requiring a course in civics education, commemorating a Celebrate Freedom Week focus on the ideals founded in the Declaration of Independence, and launching a new speech and debate initiative to help Florida students articulate America’s founding principles. Going forward, it will be increasingly important for students to see that many of our nation’s most distinguished African American leaders embraced our country’s founding ideals (while simultaneously acknowledging our failure to, at times, live up to these ideals). This article looks at one such African American leader: Frederick Douglass.

As I walk around my university campus, I cannot help noticing the Frederick Douglass statue. It holds its place amongst those of George Washington, Thomas Jefferson, and Ronald

Reagan. It also sparks a question in my head: What does Frederick Douglass have in common with these Americans? While his origins are certainly distinct from these men, his belief in the American experiment,

specifically the Constitution, joins them all. Despite growing up as a black man during the sin of slavery, he still maintained that America's Constitution put forth the true essence of the American experiment. His interpretations of the Constitution led to the doctrine that slavery was essentially against the Constitution's core principles, and with this notion, he endeavored to fight the institution of slavery his entire life. He fought for the claim that "all men are created equal" was true in and of itself (rather than only for white males), and that equality meant every man and woman should have the opportunity to pursue a career and life of their choosing and making. A necessary characteristic for recognizing this goal was personal responsibility -- the ability to decide for oneself -- and he both demonstrated and advocated for this.

Frederick Douglass' life as a slave, recorded in his *Narrative*, portrayed the span of horrors that came from slavery and permeated into every facet of the African-American life.¹ The physical beatings and punishments that slaves endured were part of the larger move to destroy any kind of cultural, historical, and personal history that they might possess. These efforts were directed at breaking spirit and identity, and as Timothy Sandefur says in his biography of Douglass: "Those who desired freedom had to prove themselves worthy of it by struggle and self-determinism. To be fully human means to command oneself and to hazard life for the reward of living."² However, Douglass stands out as being able to rise above those struggles and create a life for himself. Obviously, this was despite numerous injustices, but the

rise came from within him and his sense of agency in the circumstances. Whether it was outsmarting other boys into teaching him to write and read or plotting escape attempts, Douglass sought ways to carve out individual skills and abilities. While this is an extraordinary example of personal responsibility, he demonstrated a desire for independent identity that erupted from his spirit, and that same personal responsibility is something all should seek.

While in Baltimore with his slave owner, Thomas Auld, Douglass worked at a shipyard and bargained his way into a salary, which he used to plan future escapes. This small salary would give hope to Douglass.³ It provided the obvious chance at freedom, but it also served as something unto its own; he went out and worked and achieved something that he could hang his hat on at the end of the day. The principle of a hard day's wage served as a cornerstone to his political philosophy on equality, which he believed to be founded in the Constitution, and which would set up his famous "Self-Made Man" speech. What Douglass had taught himself about reading eventually bore fruit when he got his hands on a copy of *The Columbian Orator*: "...inspir[ing] in Douglass a passion for liberty. It taught him to view slavery as wrong in principle-- not merely a personal fate, but a systematic evil."⁴ In fact, the very language of systematic evil over personal fate demonstrates Douglass' belief that it was something that could be altered and not an inevitable fate. His initiative to learn to read and write led to this understanding and started his career as a speaker and advocate for the abolition of slavery. After recognizing the responsibility

that he possessed as a man, he was able to rise and achieve success.

Another such example of the grasping for independence that Douglass displays is recorded in his essay, "The Last Flogging."⁵ Within the literal revolt against his master, he regains the independence and agency that was taken from him during his years as a slave. However, during the entire essay, he carefully dictates a view that simultaneously embodies revolt and personal responsibility; he recognizes that he must act to change his fortunes, which starts with taking responsibility for his actions. Consider the narrative: "Covey [the master] soon cried out lustily for help; not that I was obtaining any marked advantage over him, or was injuring him, but because he was gaining none over me, and was not able, single handed, to conquer me."⁶ His ability to stand up for himself completely counteracts everything that Covey does and throws off the typical order of the plantation. After accounting for the horrible physical harms done to him, Douglass resolves to resist any further harms, and when he fights back at the next instance, he is able to win and assert himself. Douglass' victory causes him to recount: "He can only understand the effect of this combat on my spirit, who has himself incurred something, hazarded something, in repelling the unjust and cruel aggressions of a tyrant."⁷ His actions led to a lifting of his own spirits, despite the hardships and injustices that he faced, and these actions formed that platform that enabled him to later escape from slavery. This kind of episode characterizes the value of personal initiative and action that Douglass placed on the black man. His vision for his people

was that they "stand upon [their] own legs, work with [their] own hands, and eat bread in the sweat of our own brows."⁸

In a lecture entitled "Unspeakable Truths about Racial Inequality Recent in America," Dr. Glenn Loury of Brown University echoed Frederick Douglass' emphasis on the "self-made man." Invoking language that mirrors many of the sentiments of Douglass, Loury declares, "The right idea—if only fitfully and by degrees—is to carry on with our march toward the goal of 'race-blindness,' to move toward a world where no person's worth is seen to be contingent upon racial inheritance."⁹ This kind of race-blindness stands out in Douglass as well. In his comments on the Preamble to the Constitution, Douglass said, "Its language is 'we the people'; not we the white people, not we the privileged class, not we the high, not we the low, but we the people..."¹⁰ This fundamental truth that Douglass articulates, that African Americans are equal citizens, requires a striving toward American virtues of full citizenship. This sense of citizenship eliminates prejudices in favor of a people united behind common virtues and goals. Douglass believed in the intentions of the Constitution to stand against slavery implicitly and considered the proper fulfillment of the document to be one of anti-slavery.

During a time when communities of all types are quick to assign blame to others, Douglass and Dr. Loury provide a reminder of every individual's responsibility and agency. Between these two men, there is a wealth of personal experiences of racism, and both are quick to acknowledge the persisting issues within the country.

Nevertheless, both refuse to allow all issues to be a product of a culture of systemic oppression. Instead, their call is simple: Each of us should accept responsibility for the consequences of our personal choices in addition to fighting against discrimination in society and politics. Both Douglass and

Loury emphasize the impact such a world view will have on the creation of a strong, personal American identity, and through this there can be a true revival of citizenship and reconciliation over the wrongs of slavery, and racial discrimination.

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Hot Homes...

How Florida can be hospitable for workforce housing and super charge our prosperity

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Everyone is moving to Florida!

Okay, even if that isn't precisely true, sometimes it feels like it is. Regardless of whether it's our booming economy, our sun and sand, or our cultural and lifestyle diversity across the state, we are a state that's in high demand.

The numbers are striking. As noted in a column I authored in *Gulfshore Business*, the University of Florida's Bureau of Business and Economic Research estimates Florida's population grew by 15 percent during the decade ending on April 1, 2020. That's adding about 280,000 people every year for

10 years.

And here in Southwest Florida, where I live, growth rates are even higher. Lee County (home to Fort Myers and Florida Gulf Coast University) added 131,739 people: that's a 10-year increase of over 21 percent. And Collier County (home to Naples) has seen similar increases, with more than 20 percent growth in the same period.

For most people who are relocating here from chillier parts of the country like the Northeast or the upper Midwest, life is great. Even in a tight housing market they can afford to come be part of all the exciting things that are happening here—even during a pandemic!

But what about most Floridians? For example, what about the people we rely on to serve us with a smile during a weekend dinner out with friends? Or recent graduates of FGCU and other colleges and universities who are trying to start their careers and families here in the Sunshine State?

Floridians are famous for our hospitality when it comes to vacationers and snowbirds. Can we be just as hospitable to our workforce throughout the state, and make sure they have the affordable housing we often talk about but rarely deliver on?

We absolutely can. And all that is required is a reduction in some key regulatory features of our housing markets across the state. And if we follow through, Florida can be an even more dynamic powerhouse full of economic opportunity and prosperity – for all of us.

Let's take a closer look at some numbers, and why housing costs can be a real struggle

for many Floridians.

As a recent JMI report indicates, economists usually assume that an average household is made up of 2.5 people. So, if Florida has added 280,000 people – every year – over the last decade, then one would expect that we would have added about 112,000 housing units across the state in the same time frame. After all, that's how markets are supposed to work: higher demand for housing should lead to an increase in the quantity of housing. Any FGCU economics major can tell you that.

But that isn't what we're seeing across the state. In fact, we are adding new Floridians far faster than the rate at which we are adding housing. Instead of adding 112,000 housing units each year, we have averaged only 75,000 each year during the same period. That works out to a shortfall of a whopping 370,000 housing units over a ten-year period.

Which raises a fairly obvious question: Where are these new Floridians going to live? And, even more significantly, where will the future new Floridians live -- the ones who will arrive during the coming 10 years? Will they be able to afford to live and work and raise families here?

One economic fact is obvious: when supply cannot keep up with demand, prices rise. And we are seeing that upward pressure borne out on housing costs across the state. While the Brookings Institute estimates that housing prices across the country usually range between 2.5 and 4 times the median income in an area, JMI recently estimated that housing costs are four to seven times higher than the median income in many parts of Florida.

Recent evidence from here in SWFL is even more striking. FGCU's Regional Economic Research Institute estimates that active real estate listings were down 70 percent in July 2021 compared to July 2020. And single-family home prices increased in all three Southwest Florida coastal counties (Collier, Lee, and Charlotte) increased by a whopping 27-39 percent between July 2020 and July 2021.

Higher home prices also bring higher rental prices. According to an annual report for the Cape Coral-Fort Myers housing market by the U.S. Department of Housing and Urban Development, "...increasing rental demand from strong population and job growth has contributed to rising rents in the Cape Coral HMA since the early 2010s."

So, what can be done? And why isn't the market delivering on more new housing – for lots of different income levels – than it currently is?

The answer lies in what I like to call "artificial scarcity." Wrongheaded regulations – even with good intentions – can lead to bad outcomes for the very individuals we claim to want to live in literal affordable housing.

And the good news is that the solution lies in less government intervention in the housing market rather than more.

For starters, while zoning tends to be less onerous in Florida than elsewhere, municipalities throughout the state need to relax their local zoning ordinances even further so that all kinds of interesting new housing options can be built in all kinds of neighborhoods. We would never, ever, consider creating a law that mandates that certain Florida agricultural acreage can be used only for tomatoes. That would be silly;

market forces should allocate that acreage to its most highly valued use – whether tomatoes or something else. If you restrict the use of agricultural land, you limit its potential.

Yet that's exactly what we do with zoning laws. We limit the potential of buildable land in Florida when we declare that its use be restricted to only one sort of building. And we unleash the economic potential of all resources when we let the market – and not the zoning commission -- decide the best use their productive possibilities.

Other land-use regulations similarly bottle up productive potential in the housing market. Regulations like minimum lot size requirements artificially reduce the availability and affordability of housing for everyone.

Finally, many impact fees in Florida tend to be regressive in their economic incidence – hitting lower-income families hardest. For example, in much of Lee County – where I live – all new single-family homes are charged the same impact fee regardless of how big the home is, the size of the lot, or the number of bedrooms. Such one-size-fits-all policies adversely affect the supply and affordability of starter homes for many families—especially the ones that need affordable housing most.

Let's be as welcoming to potential Florida residents as we are to potential Florida vacationers. When we create opportunities for hard-working, creative, enterprising individuals across the income spectrum to affordably make a life together with us, we all benefit. And we get closer to realizing the full economic potential of our beloved state.



Hybrid Homeschooling: A Guide to the Future of Education

Michael McShane

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Editors' Note: Over the last decade, The James Madison Institute has featured stories about Florida families pursuing "hybrid" and "micro" innovations in K-12 education in a number of policy papers, op-eds, speeches, and short videos. While we always enjoy highlighting what is happening here in the Sunshine State, we were delighted to see a new book by our friend, Michael McShane of EdChoice, which takes a national look at this growing phenomenon. We trust that you will enjoy this article, adapted from McShane's new book, as much as we did.

The 2019-2020 school year was Barbara Freeman's 53rd year in education. After 33 years in public education and a handful more as the leader of a traditional private Christian high

school in Fort Worth, Texas, she received a concerning call from her daughter. Freeman's grandchildren would no longer attend public school. They were being withdrawn and enrolled at Grace Prep, the

local “University-Model” private Christian school that combines homeschooling with regular classes a few days each week and considers parents “the first educator.”

At first, Freeman was concerned. She had heard of homeschooling, but this hybrid model was new to her. But, as she recalled attending sporting events where Grace Prep teams were competing, her skepticism started to ebb. On the sidelines, the students at the traditional Christian private school behaved like typical teenagers. The Grace Prep students were different: they were dressed more appropriately and behaving in ways befitting a Christian school.

“The Christian schools’ sidelines were very similar to what you would see in public school. You saw the same types of cheerleaders, the same types of cheerleader uniforms, the same kind of music. The stands were behaving the same, the coaches were behaving the same.”

Grace Prep was doing something different. As her grandchildren entered the program, Barbara saw the impact of that approach in her own family.

“The first thing that I observed in addition to this, this is an amazing model of education, it's an amazing model because it does give parents the gift of time, but we have structure, we have an amazing schedule that can transfer easily into a college campus. We have parents who are dedicated to being a true partner with the educators in the school. But we had qualified educators and we had high standards and those standards were being based on research in education”

It was the culmination of a long process to develop a private hybrid model with Christian practices at its focus.

Grace Prep was founded by a group of eight families that started sharing their homeschooling challenges in the late 1980s. Most were comfortable teaching elementary and early middle-school grades, but as students got to high school, some parents grew less confident in their ability to provide higher-level mathematics and science courses. Some of them struggled to find outside teachers for more advanced subjects and were driving long distances to cobble together a program for their children. Initially called Parent-Based Education, or PBE, it wasn't a homeschooling co-op. As Freeman put it, “They wanted higher standards, they wanted structure, they wanted continuity and consistency across grade levels, across the curriculum lines, both horizontally and vertically.” The program opened in 1993 and today serves more than 500 students.

Grace Prep met with such success that other families and educators started to take notice and wanted to create their own Grace Prep-like schools. That inspired the organizers to found the National Association of University-Model Schools (NAUMS), to trademark the new name for the school model, University-Model Schools, and provide structure and support for other people who would like to start a similar school.

Today NAUMS, which also does business as UMSI (University Model Schools International) oversees a network of more than 80 schools. Barbara Freeman is its CEO.

NAUMS hosts webinars and board trainings, new school workshops, and a national conference. Perhaps most

importantly, it certifies University-Model schools, granting a valuable internal imprimatur. It also works with accreditation agencies to give an external seal of approval for all of its schools.

NAUMS is proud of its brand and jealously protects it. Certification is central, Freeman argues, to ensure the model isn't watered down.

“Otherwise these schools would be just glorified versions of a homeschool co-op. So we have to have standards in place, policies and procedures, just like any other public school if we are to survive the long term. And so we provide the credibility that these schools need with a trademark, with the certification process.”

A few years after Grace Prep got off the ground in Texas, an innovative partnership cropped up between Denver-area homeschoolers and the Aurora Public Schools. An open-minded principal, Dr. Thomas Synnott, worked with a group of families to create special classes for homeschoolers and in 1999, the Aurora school board approved the Hinkley Optional Program of Education, which later became known as HOPE (the Homeschool Options Program of Education).

The program started with 20 students, but by 2002 had grown to more than 150 students attending classes at a local church. In subsequent years, the district added more locations, expanded to serve other school districts, and grew the number of students enrolled. By 2010, 16 sites served around 1,900 students. Some of these sites were operated by the Options program and others were turned over to their local school district to operate themselves.

One of those programs was the Boulder-area APEX Homeschool Program, operated by the St. Vrain Valley School District. This year, nearly 800 students are enrolled and attend classes onsite at least one day a week. While considered part-time public school students, homeschooling is the foundation of the program. Kim Lancaster, APEX's program director, expresses many of the same attitudes that private school hybrid homeschool leaders possess:

“What we seek to do as a program, our vision and our mission is to come alongside parents who have chosen to be their students' primary educator and provide those opportunities for students and supports for parents that are hard to do at home. So, the kinds of classes that are really popular with our families are things like musical theater, choir, P.E.—things that you can't do with one or two kids at home. Also, things like art, lab sciences, robotics that are equipment heavy or require a special level of artistic skill that a parent may or may not feel like they have.

We're also trying to connect families. So, giving homeschool students the opportunity to have a peer group, to have other homeschool students that they know and connect with, to give them the opportunity to have some of those 'normal high school experiences.' Things like National Honor Society and student council and school dances and a yearbook and things like that, that kids really enjoy and those memories that they build.

We provide support and structure for the parents. We have a curriculum library where they can check out materials for their own use at home. We cannot dictate or

require materials for homeschools because the Colorado Homeschool Law prohibits that. It's a parent's responsibility and privilege to select materials, but we provide some things that they can use on a lending library basis. So, they can check them out, use them at home, and return them when they're done.

We offer classes for students from kindergarten through 12th grade. Everything from, like I mentioned, P.E. up to physics, trigonometry, pre-calculus. And then we have some options within our school district. Our high-school students can connect to some really outstanding additional programming through our district's Career Development Center, which is career technical education, and through our district's Innovation Center, which is biomedical, industrial, internet, computer hardware, airline pilots, all kinds of interesting, really fascinating technical fields that kids can take coursework in. And there are concurrent enrollment programs that allow students to earn dual credits in high school and college.”

What's common among the major hybrid homeschooling players is the primary focus on the home. Families drive decision-making. It is a decidedly humble approach by the schools and agencies that choose to partner with homeschool families, and an always-changing arrangement that can spark creativity and challenges, sometimes in the same day.

The simplest definition of a hybrid homeschool is a school that, for some part of the week, educates children in a traditional brick-and-mortar building, and for some other part of the week has children

educated at home.

Joseph Murphy of Vanderbilt's Peabody School of Education provides a helpful framework for understanding what classifies a child as homeschooled: a homeschooled child is one whose education is funded by their parents, controlled by their parents, provided by their parents, and takes place in their home. Hybrid homeschooled children have an education that is *partially* controlled by their parents, *partially* provided by their parents, and takes place in the home for *part* of the school week. In order to qualify as a hybrid homeschool for our purposes here the arrangement must meet three criteria: *physical*, *regular*, and *substantial*.

A student needs to go to a physical school location, at regular intervals, for a substantial amount of time—at least one school day per week. Students who spend all their time at home but work on an online educational program prescribed by a school or through a home-study curriculum are not hybrid homeschoolers, nor are students and families who participate in homeschool co-op groups that occasionally meet for enrichment classes, field trips, or shared activities. While both cases are interesting interpretations of the homeschooling model, they are not the primary phenomenon under the microscope here.

An example of a hybrid homeschool is The Augustine Academy, which Josh and Rebecca Good helped found in Delafield, Wisconsin in 2016. In the elementary-grade years, Augustine students attend school onsite from 8:20 am until 3:45 pm every Monday, Tuesday, and Thursday. Wednesdays and Fridays are homeschool days, when parents facilitate at-home

learning activities, including those of their own choosing, in their role as “co-teacher.” Older students spend just two days a week onsite and are expected to complete six hours of learning activities on each homeschooling day in partnership with their parents. Officially, the state of Wisconsin considers Augustine students as enrolled in a private school, even though homeschooling is a foundational part of its model.

If this sounds interesting, it is worth looking at your state’s education policies to see if such arrangements are permissible and supported. When it comes to hybrid homeschooling, there are six areas of policy that contribute to either a nurturing or hostile environment: *homeschooling laws, private school regulations and accreditation requirements, competency-based education frameworks, part-time enrollment statutes, charter school authorizing and regulation, and private school choice programs*. Each of these can be used to create a permission structure for hybrid homeschooling to exist. And each can be used to prevent it from ever getting off the ground. It is worth examining all six.

With respect to homeschooling regulations, in many cases, the first iteration of a hybrid homeschool is a more informal co-op, while all the necessary legal work is done to create and register the organization as a private school. In high regulation states, heavy restrictions on what is taught and for how long can prevent the kinds of innovation that hybrid homeschools look to foster. Detailed rules and reporting requirements also can create a barrier to entry for parents, who may opt simply to

send their children to an established private school or keep their kids in public school rather than risk running afoul of a lengthy and byzantine law.

Some states require the accreditation of private schools. Others simply require schools to register. Others require some form of licensing, and still others require state approval for new private schools. All of these can shape whether or not hybrid homeschools can or would want to open in those states. If the curriculum requirement is too prescriptive, schools that teach via integrated subjects like logic and rhetoric, as in the case of classical schools, or via the practical arts in more progressive Waldorf-model schools could find themselves running into problems. Exacting requirements around seat time or instructional hours can get crossways of hybrid homeschools as well.

The flexibility and opportunity to personalize student learning in a competency-based framework is a necessary precondition for public hybrid homeschools. Hybrid homeschools do not meet seat time requirements, so they must be able to demonstrate that their students are meeting necessary benchmarks some other way.

The shape of part-time enrollment statutes will govern the kinds of public hybrid homeschool models that emerge as well. If a state regulates what classes students can and cannot take, it will determine what classes are available to homeschoolers. How the state generates the fraction of funding that a part-time student generates will determine how substantial hybrid programs can be.

In order for there to be more charter hybrid homeschools, authorizers need to be more flexible. They need to realize that their sector is supposed to foster innovation and encourage educators to try new and different things.

Legislators can craft private school choice policies to protect the autonomy of hybrid homeschools while providing the support that their students need. Rather than vouchers, which require the state to directly fund scholarships for students, tax credit scholarship programs leave the management to nonprofit scholarship-granting organizations. Donors give their own private dollars to these private organizations, which then award private scholarships to individual students attending private schools. True, some states place restrictions on who can get scholarships and create some hoops that schools must jump through to receive scholarship students, but the burden is far less than in voucher programs.

Education savings accounts are another tool to provide support without overly entangling the government. In those programs, state education agencies or treasurer's offices create a list of approved

vendors where families can spend their dollars. Because not all the vendors are traditional schools (some are physical therapy providers, tutoring services, or a host of other educators), the types of requirements that states place are more flexible. Vendors must demonstrate that they actually provide the services that they advertise, but families have more latitude to include unique and different experiences in their children's education.

Hybrid homeschoolers are counter-cultural, but they are not opting out of community. They are creating new communities, and new institutions that bind them to one another and enrich the fabric of their lives. These schools can address the urgent needs of some families. They can put the limited time that families have to its best and highest use. And they can tackle the big, weighty, thorny, knotty problems that confront us.

This is an excerpt adapted from *Hybrid Homeschooling: A Guide to the Future of Education* (Rowman and Littlefield, 2021)



We must protect all voices in the public square—especially the most vulnerable

Heather Lauer

EXECUTIVE DIRECTOR, PEOPLE UNITED FOR PRIVACY FOUNDATION

Margie Christofferson was a manager at a popular 100-year-old restaurant in Los Angeles when her life was upended because of her support for a cause. A devout Mormon, she donated \$100 in support of Proposition 8, a 2008 ballot initiative to ban same-sex marriage in California (this is prior to

the Supreme Court case recognizing all same-sex marriages). Margie wasn't one to talk openly about her politics or religion, but when her donation showed up on a government list, her life changed forever.

Margie was one of numerous Americans who became targets of a harassment campaign because their donations to Prop

8 were published by the government. A boycott against the restaurant where she worked was organized. Activists trashed the restaurant on review sites, and then came the protesters who stood outside the building and shouted “Shame on you” as customers arrived. This harassment escalated to a point where the police had to be called one night to deal with an angry mob that had descended on the business. The mob left eventually, and so did customers.

Ultimately, Margie lost her job due to the disruption to business caused by the protestors. “I’ve almost had a nervous breakdown. It’s been the worst thing that’s ever happened to me,” she told a *Los Angeles Times* reporter.

Despite the harm this caused to Margie and other supporters of Prop 8, and despite United States Supreme Court decisions over the past 60+ years reaffirming our rights to privately exercise free speech and freedom of association, politicians and activists across the country are proposing an expansion of laws that would lead to more people like Margie being targeted for their beliefs.

Transparency is for government. Privacy is for people.

Anonymous speech has been a cornerstone of our democratic process since the founding of the United States. The ability to support causes privately has allowed even the most vulnerable of voices to participate in debate in the public square.

Our Founding Fathers used pseudonyms to ensure the arguments they presented were the focus of debate instead of the personality of the author, and they guaranteed that right

to engage in anonymous debate for future generations within the language of the First Amendment.

While some individuals choose to speak on their own behalf and to voice their views publicly, there are many Americans who prefer to donate to causes or organizations that are better suited to represent their views. Whether someone chooses to speak out individually or rely on an organization to represent their views, their freedom of speech and association are protected under the First Amendment. Yet, in today’s society, countless politicians and activists continue pushing for changes to the law to restrict or eliminate these important rights.

In the landmark 1958 case, *National Association for the Advancement of Colored People (NAACP) v. Alabama*, the Supreme Court was asked to affirm our right to privacy in association. At that time, Alabama Attorney General John Patterson was trying to force the NAACP to report the names and addresses of their supporters. During the height of the fight for civil rights, in a segregated southern state like Alabama, it’s not difficult to imagine how dangerous the release of this information would have been for anyone who appeared on the list. The NAACP’s members would have been targeted for harassment, intimidation, violence, or worse. The NAACP fought the demand for their membership information all the way to the Supreme Court and won.

In an opinion delivered by Justice John Marshall Harlan II, he wrote: “It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as the

forms of governmental action in the cases above were thought likely to produce upon the particular constitutional rights there involved.”

Even though this case helped to discourage attacks on citizen privacy for many years, there is a growing push today -- at all levels of government -- to force nonprofit organizations to disclose the names and home addresses of their supporters for large and small donations alike. Proponents of these laws claim they want to “improve transparency” and “reduce corruption.” What they will accomplish is exactly the opposite. The only reason anyone needs nonprofit donor information is for the purpose of harassing, intimidating and silencing those who disagree with them. There is no other legitimate reason for why the government needs to collect, warehouse, and publicize information about causes and groups that Americans support.

Politicians and activists will use this personal information to build target lists of individuals whose views and opinions differ from theirs. These opponents of First Amendment rights won't stop until they have silenced millions of voices from participating in public debate.

This threat to our First Amendment rights is a serious threat against all Americans, regardless of individual beliefs. Whether you support the American Civil Liberties Union, National Rifle Association, Planned Parenthood, or the Salvation Army, how you spend your time, talent or treasure is a private matter that should not be exploited for political or individual gain.

\$100 Gets Your Name on a Government List ... Forever

Lawmakers and radical activists who are pushing for donor disclosure like to cite examples of billionaires pouring millions of dollars into organizations that these critics oppose. But make no mistake: donor disclosure proposals aren't about billionaires, who almost always will be exposed for their beliefs regardless of disclosure requirements and who have the resources to protect themselves against subsequent attacks. **This is about activists and politicians who want to silence everyday Americans who disagree with them and their policies by canceling our First Amendment rights.**

This has already been playing out for years with donations to political campaigns. Federal law requires that any donations by an individual to a political candidate that total \$200 or more in an election cycle be disclosed in quarterly reports with the Federal Election Commission. This information is available and searchable online.

Some politicians have not hesitated to weaponize this information. Texas Representative Joaquin Castro tweeted the names and employers of 44 San Antonio residents who donated the federal maximum to President Donald Trump's re-election campaign. Representative Castro's goal was to incite public shaming of these individuals and to cause harm to their businesses. These were his own constituents who he was targeting because they disagreed with his policies.

The vast majority of charities and causes in the United States are supported by local

donors who give small gifts. On average, households donate around \$2,500 a year to charitable organizations doing good work or advancing causes in their community. Forcing those organizations to disclose their donors will have a disastrous impact on their ability to raise funds as Americans close their checkbooks for fear that they might be targeted for their \$100 donation to a cause they care about.

There is a homeless shelter in Atlanta, Georgia that houses an average of 500-700 men, women, and children each night. City officials have targeted the shelter for closure and sought to claim the land it sits on via eminent domain to build a combined fire and police station. In 2014, the shelter was behind on its water bill, owing almost \$580,000. Several anonymous donors contributed enough to enable the shelter to pay its bill. The shelter's director told local media the reason the donors wished to remain anonymous: "Any time a donor appears and is public with us, that donor gets attacked."

The threats are real, but there is reason to have hope

In its 2021 ruling in *Americans for Prosperity Foundation (AFPF) v. Bonta*, the United States Supreme Court affirmed that all Americans should have the ability to exercise their First Amendment rights privately. In that case, AFPF challenged the California Attorney General's demand for donor information in annual filings, arguing that the disclosure requirement violated their freedom of association under the First Amendment. There was no state law requiring AFPF to file this information but, in 2010, the state began requiring

nonprofits to include their IRS Form 990 Schedule B form in their registration with the attorney general's office. The state claimed they needed this information for enforcement purposes and promised to keep the information confidential, but it was revealed that donor information was posted online and made publicly accessible.

As Chief Justice Roberts explained in the decision, "We are left to conclude that the Attorney General's disclosure requirement imposes a widespread burden on donors' associational rights. And this burden cannot be justified on the ground that the regime is narrowly tailored to investigating charitable wrongdoing..."

Individuals must be able to express and promote their viewpoints through associational affiliation without being exposed to a political firestorm or governmental retaliation, and this decision upholds those rights.

To ensure this decision remains the law of the land, several states are proactively advancing legislation to protect personal privacy. To date, 10 states have signed bills into law that reinforce the Supreme Court's strong decisions in *AFPF v. Bonta* and *NAACP v. Alabama*. The purpose of these privacy bills is to ensure that state officials don't find themselves in the same situation that the California Attorney General did, resulting in several years of expensive – and ultimately unsuccessful – litigation, in addition to violating the First Amendment rights of American citizens.

By passing privacy protections into law, state legislators can ensure citizen privacy for Americans who choose to give to the causes they support.

It's worth noting that the court's holding, and citizen privacy legislation, have been supported by a bipartisan coalition of groups across the country. In *AFPF v. Bonta*, nearly 300 groups from across the political spectrum filed amicus briefs, which was noted in the majority opinion: "The gravity of the privacy concerns in this context is further underscored by the filings of hundreds of organizations as *amici curiae* in support of the petitioners. Far from representing uniquely sensitive causes, these organizations span the ideological spectrum, and indeed the full range of human endeavors: from the American Civil Liberties Union to the Proposition 8 Legal Defense Fund; from the Council on American-Islamic Relations to the Zionist Organization of America; from Feeding America—Eastern Wisconsin to PBS Reno..."

Every American has the right to support causes he or she believes in without fear of harassment and intimidation, regardless of their beliefs. To change our laws to invade people's privacy and chill their participation in public life is not the way any democracy should operate, let alone the United States. We need transparency from the government, but privacy for individuals is equally, if not more, important to protect. If politicians truly care about fighting corruption, they should focus on corruption in government instead of targeting the private, constitutionally-protected activities of individuals. Furthermore, state legislatures should act immediately in response to *AFPF v. Bonta* by passing laws to ensure citizen privacy remains the law of the land.



Universal Scholarships Can Help Neighborhoods Needing Revitalization

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Even before COVID, families often moved from cities to suburbs to get better school assignments. COVID has increased the urban exodus. A recent Wall Street Journal op-ed, “Why Orthodox Jews Are Leaving Brooklyn for Florida” is one example of a less understood phenomenon.

Some families move to escape any school assignment. In fact, as the focus of the WSJ piece, Jacob’s story represents a general academic finding: school choice programs attract families, improve neighborhoods, and raise property values.

Consider Vermont’s “tuitioning system.”

Vermont has many small school districts. In most of them, children are assigned to the local public school. But dozens of Vermont districts don't have a public school. These communities are referred to as "tuitioning districts" because families in these areas select a private school or an out-of-district public school for their child. The selected school then bills tuition directly to the child's home district. The family pays nothing.

So, here's a telling fact about Vermont's tuitioning districts. According to Census data, families with school-age children make up an unusually large fraction of residents in tuitioning districts compared to districts with assigned schools. Occasionally, Vermont districts have closed public schools due to low enrollment and switched to tuitioning. In these instances, the community commonly records in-migrations of families after the change. It seems likely these families would have avoided the old, assigned school, but they are now attracted by the tuitioning opportunity. As Vermont real estate agents know, research shows the tuitioning program enhances local property values.

Other research shows similar results with a voucher program in Paris, France. The Paris program allows students to attend a private school rather than an assigned public school. However, some parts of the city have very few private schools that can accept the vouchers. In these areas, assigned public school quality strongly affects a home's market value.

In contrast, for areas where several nearby private schools accept vouchers, home values are no longer tied to the quality

of the school. Statistically, the quality of a public school has no detectable effect on home values in these areas. Parisian families can turn to the private school option when they are unsatisfied with their public option. For these neighborhoods, having an underperforming public school nearby may be no more problematic than having a restaurant on the block serving unappetizing food. Families can just choose not to go there.

Charter schools are another school-choice tool that can spark in-migration and economic development in neighborhoods. Real estate developers know this, and some have sponsored charter schools to boost the value of their neighborhoods under development.

Recently, the business community in Duarte, California convinced the Duarte school district to sponsor a new charter school. The new school is a satellite of Santa Ana's renowned Orange County School of the Arts (OCSA). Two decades ago, OCSA moved to Santa Ana from a wealthier Orange County community. OCSA's move sparked a revitalization of Santa Ana's urban core. Duarte has placed a well-researched bet that where OCSA expands, jobs and growth will follow.

And these are just a few documented cases of school choice raising property values or bringing economic vitality to areas with unattractive assigned schools. There are many similar cases with other types of school choice like public school inter-district transfers and even within-district choice programs.

In a post-COVID world, it will become even more important for urban civic leaders

to wake up to the power that school choice can have in arresting the flow of families out of cities. Given these examples, Florida's new perception as a school choice destination is not surprising. School choice attracts families and grows struggling communities. But when middle-class families leave the city because of the public schools, they shrink the tax base while leaving behind impoverished neighborhoods.

Environmentalists should also be concerned that the education refugees moving to the suburbs will have larger carbon footprints than they had as city dwellers. More families in the suburbs means more

traffic and more air pollution. Seen in this light, urban public school dysfunction is one of the biggest environmental problems that we face in the United States today. It drives the sprawling structure of every metropolitan area in the country.

Despite decades of failure by education bureaucrats, mayors and city councils must continue to rely on those bureaucrats to try to fix failing urban public schools. However, if these city leaders are serious about saving their communities, they must accept that bad schools are driving people out of town. They must give urban families choices – many, many choices.



Florida's Security & Prosperity In Jeopardy—This Is How We Protect It

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Illegal trade is not a victimless or petty crime. Criminalized markets and illicit economies are connected by cross-border, shadowy webs of kleptocrats, organized criminals, and networks that threaten our collective security. Some of the world's most insidious criminal and terrorist groups, including the Cartel Jalisco

Nueva Generación (CJNG), Sinaloa Cartel, Mara Salvatrucha (MS-13), Venezuela's corrupt ruling elite, the Taliban, Al-Qaeda, Hezbollah, and other threat networks profit from criminal activities.

Across today's security landscapes, criminals exploit natural disasters like Hurricane Michael, human misery like

that experienced through the ongoing opioid epidemic, and market shocks like those stemming from COVID, for illegal enrichment, and kleptocratic assets driving real estate prices beyond the affordability for most Floridians. But it doesn't stop there. Criminals will traffic anything and everything that will earn a profit while endangering our citizens, including everyday goods like baby formula, cosmetic products, and even orange juice.

Illegal trade is the financial lifeblood of today's greedy bad actors. It enables them to loot revenues, spur violence, kill our youth with deadly fentanyl, corrupt our institutions, and facilitate other crimes—making all our families and communities less safe. It also finances terrorist attacks against our national interests as we have seen through the lucrative cultivation and trafficking in heroin by the Taliban in Afghanistan, or sexual exploitation and trafficking by ISIS in Iraq and Syria.

The 2.2 trillion dollar-a-year industry of transnational crime facilitated by corruption and illegal trade includes the smuggling of and trafficking in persons, narcotics, opioids, weapons, counterfeit and pirated goods; illegal tobacco and alcohol products; illegally harvested timber, wildlife, and fish; pillaged oil, diamonds, gold, natural resources and precious minerals. They are sold on our main streets, on social media, in online marketplaces, and on the dark web every minute of every day. The United Nations has estimated that the dirty money laundered annually from such criminal activities constitutes up to five percent of global gross domestic product, or \$4 trillion.

And these criminals are cunning and ruthless and will engage in murder to hold and expand their illicit markets. Operating with such impunity enables these groups to fund their operations and establish and sustain trade routes for trafficking more dangerous contraband into Florida and across the country. They are nimble enough to avoid law enforcement and enterprising enough to continually establish new revenue streams, recruit vulnerable citizens, buy sophisticated anonymized technologies, and be dynamic in their execution of their criminal enterprises.

The very things that make Florida such a wonderful place to live—a vibrant, populous state with 15 deepwater ports, advanced transportation infrastructure, and of course world-famous beaches and shoreline (the second-longest in the United States)—also make it attractive to smugglers and traffickers. Florida has always been particularly vulnerable to illegal trade and money laundering, and, in the past few years, even more criminal organizations have expanded their illicit operations into the Sunshine State including through dirty money by Chinese, Russian, and Iran-backed criminal syndicates.

The statistics are staggering. In 2019, Florida was the U.S. state or territory with the largest volume of cocaine seizures by weight. From 2015 to 2016, federal law enforcement in Florida seized over \$88 million in smuggled currency, second most in the nation. Even more, and more horrifying, Florida ranks third in the U.S. in human trafficking cases, totaling 4,636 cases since 2007—and those only account for the cases that were reported. While

these and other crimes are often viewed as isolated, all forms of illegal trade are connected and have severe consequences to Florida's security and prosperity. Recently, a Syrian national living in South Florida was indicted for laundering money and bribing Venezuelan officials in exchange for receiving \$250 million in lucrative contracts from Venezuelan government officials.

Illegal trade steals revenue from Florida businesses and state and local government, robbing communities of investments necessary to stimulate economic growth and sustainable development, especially during these volatile economic times. Revenue that could be used to build roads, hospitals, and schools to educate children, instead lines the pockets of criminals and kleptocrats. For example, counterfeit products robbed the U.S. economy of \$131 billion and 325,000 jobs in 2019. Additionally, \$173 million of Florida's tax revenue is lost every year due to illegal tobacco. That's \$173 million that could have gone to supporting our law enforcement, but instead winds up funding the very same criminals they're fighting.

It is important for all market stakeholders to share more data to better understand today's illicit threats that are harming our country. We must also ensure that our law enforcement agencies have the necessary legal authorities and resources to counter cross-border illegal trade, upend anonymized criminal communications, prosecute corruption and money laundering cases, and protect our communities across Florida and other states. We must also elevate our fight in Congress as a national security and foreign policy priority. Concrete actions that can

and should be taken include:

- Develop, implement, and evaluate prevention and risk management strategies that address the underlying causes, drivers, and risk factors that threaten international peace and economic prosperity;

- Strengthen the fight against corruption, illicit trade, and counterfeiting as national security priorities by developing national strategies to prevent and combat criminal profit, threat financing, and illicit financial flows;

- Promote effective measures to deprive transnational criminal organizations and terrorist groups of illicit gains by advocating for robust national frameworks for financial investigation, threat finance, and trade-based money laundering (TBML).

- Strengthen legal authorities, measures, and sanctions to counter new, emerging forms of criminality related to illegal trade, counterfeits, human trafficking, wildlife trafficking, organized crime, corruption, and terrorism.

- Increase public awareness of how convergence of these crimes affects public health and safety, economic recovery and development, and the security and stability of governments and markets;

- Strengthen cross-border cooperation at international, national, regional, state and local levels, to establish formal and informal partnerships with governments, innovators, security experts, civil society and non-governmental organizations (NGOs), academics, business leaders, and other stakeholders that foster trust, cooperation, actionable intelligence, and collective action to combat illicit economies across borders.

Unfortunately, the problem of illegal trade cannot be solved by any one government, agency, or company working alone. We need a whole-of-society approach in order to strengthen the political will in risky and unruly markets to combat illegal trade, confiscate criminally-derived proceeds, promote information-sharing and coordinated enforcement actions, and develop more innovative and smarter supply chain and risk management solutions.

This is why the International Coalition Against Illicit Economies (ICAIE) is committed to strengthening public-private partnerships and implementing a multi-faceted framework that targets illegal trade in source, transit, and demand markets. Doing so leverages actionable intelligence to help unravel the complex criminal networks' infrastructure and operational modalities, identifying the key actors, and collecting evidence of their illicit enterprises to enhance greater disruption and decapitating of these threats.

Furthermore, public education initiatives such as those being advanced by United to Safeguard America from

Illegal Trade (USA-IT)—a coalition of brand enforcement experts, law enforcement agencies, and leading business organizations, including ICAIE, working together in states facing critical illegal trade issues—are so important. Cooperative efforts like this raise public awareness and provide local officials, law enforcement, and other leaders with resources and training in order to protect America's security and prosperity from black markets and the ill-gotten gains of criminals.

By working together, we can unite against the corruptive influence of today's bad actors and threat networks that are sabotaging legitimate commerce and the legal economies in Florida, and across the United States and internationally and to ensure justice, safer communities and safeguard our children from deadly drugs, violence, and criminal recruitment. Let's keep dirty money from kleptocrats and authoritarian states out of our economies, dismantle cartels and gangs destroying our cities and our children's futures, and expose complicit enablers flooding our streets with harmful counterfeits and contraband.



Reforming Florida Law So DAOs Are Not DOA

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If you want to build on Bitcoin, there are few better places to be in America than Miami right now. The 2021 Bitcoin Conference took place in this unofficial capital of Latin America to great fanfare. Many attendees, won over by the city's beauty, energy, and freedom, will decide to stick around. It's already happening: one of the oldest Bitcoin companies, Blockchain.com, recently moved its US offices to the southern end of the Sunshine State.¹

We have public leadership to thank for creating the conditions that made our state so attractive to the innovative cryptocurrency industry.² Florida's regulatory sandbox for financial technology firms, a legislative priority of leadership in both the executive and legislative branches, not only affords a legal space for innovation, it serves as a signal that Florida welcomes innovation.³ Locally, Miami Mayor Frances Suarez has made himself something of a celebrity in

the cryptocurrency world for his embrace of Bitcoin's promise to enrich both the city and Miami's citizens and serve as a lifeline for those in developing countries who desperately need it.⁴ State legislators have likewise begun to thoughtfully update our rules to embrace this exciting wave of innovation.⁵

But "few better places" does not mean "no better place." That honor probably goes to a place that most would not expect: Wyoming.⁶

Although Wyoming may not be the first place that comes to mind when one considers financial technology, it has in truth been an innovator in corporate law for some time. Wyoming was the inventor of the limited liability corporation (LLC) back in 1977.⁷ This new way to limit liabilities for businesses while maintaining certain tax advantages proved wildly popular, and the model eventually spread to every state in the country.

Today, Wyoming again leads the nation in its forward-looking menu of cryptocurrency-specific legislation. The Cowboy State has passed over a dozen separate blockchain-related bills into law so far. These range from the necessary and prosaic—things like defining certain terms in law and updating old regulations to be technology-neutral—to the bold and cutting-edge—including laws that outline new banking and organizational models such as the Special Purpose Depository Institution⁸ (SPDI, pronounced "speedy").

Given Wyoming's careful approach in cryptocurrency policy reform, it is likely that many innovations will prove just as influential as the LLC, and other

states have already started drafting and adopting legislation based on the Wyoming template. But as we will see, not every one of Wyoming's laws should be merely copied and pasted. In particular, legislators should think deeply about a new kind of LLC called a DAO LLC or LAO.⁹

What's a DAO?

Wyoming's DAO LLC is a government creation intended to protect those involved with a special kind of technological arrangement known as a DAO, or a "decentralized (or distributed) autonomous organization." DAOs employ cryptocurrency techniques to automate decisions on behalf of users according to predetermined programmatic rule sets.

Although DAOs are quite new to most policymakers, they have been around in some form in the cryptocurrency community since around 2013.¹⁰ Cryptocurrencies allow users to transfer value directly without the need for a trusted third party—like a bank or central bank—to reconcile transactions or manage money supplies. That "value" is represented by data on a publicly viewable ledger called a blockchain, which is maintained by a distributed network of computers that cannot be controlled by any one party.

The structure of many cryptocurrencies thus lends itself to more complex digital arrangements. Users can deploy what is called a "smart contract"—or a self-enforcing digital agreement—to automate decisions based on some preset external criteria.¹¹ For example, several users could send funds to a smart contract that is programmed to buy an asset when it

hits a certain price level and sell the asset when it hits another price level. This is one example of a DAO, and applications of this technology abound in the field of “decentralized finance,” which uses smart contracts to remove intermediaries in complex financial applications.¹²

DAOs are exciting because they can afford individuals more freedom and granularity in their financial lives. Individuals who are confident in their investment acumen and the code of a proposed DAO can directly invest without needing to pay or trust a financial institution which may be expensive or not always have customers’ best interests in mind.

DAOs are a natural choice for seasoned investors in the fast-moving blockchain space. It is a native investment vehicle for the cryptocurrency world. It was literally built for these technologies: a programmable legal structure to channel programmable money.

A central ethos in the smart contracting universe is that “code is law.”¹³ Users agree to the terms bound in their smart contract—indeed, it is technologically enforced to be immutable. *Caveat emptor*: review the code carefully, lest you find yourself burned. Not only is government intervention to roll back a smart contract seen to be undesirable, if smart contracts are good enough, it will be impossible.

But DAOs can be duds. To restate a common computer science adage: “garbage code in, garbage law out.” The name “DAO” is itself synonymous with an infamous industry failure: an entity confusingly called “The DAO” (which will be written in quotations to distinguish from the general

concept) amassed millions in investment and promotion by leaders in the Ethereum community before being hacked and prompting a reorganization of the Ethereum network in order to restore the funds.

Policymakers’ ears will no doubt be ringing if they are learning of this incident for the first time. “The DAO” invited scrutiny on the grounds of fraudulent and misleading activity, possible securities law violations, and even issues with the Ethereum network that ultimately changed to roll back the hack, thereby undermining the “code is law” spirit.¹⁴

The Good and the Bad of Wyoming Law

It is against this backdrop that the state of Wyoming attempted to address legal uncertainties surrounding DAOs by passing a first-in-the-nation bill integrating this novel technological corporate form into law in 2021.

As a risk-taking first mover, Wyoming has benefitted greatly by attracting investment and talent to its state. It is fantastic that the Cowboy State has decided to lead on cryptocurrency. Hopefully, states like Florida will be motivated to follow its lead and share in the innovation. Yet risks sometimes pan out poorly. This may end up being the case with Wyoming’s DAO law, and other states should take note.

The “Wyoming Decentralized Autonomous Organization Supplement” aims to provide a legal structure in which DAOs can operate.¹⁵ The problem the bill intends to address is the purported lack of a welcoming liability structure for DAOs.¹⁶ By default, DAO participants may be treated as

a general partnership, which exposes actors to high financial liability should the venture turn south.

The new law creates a custom-built legal entity, a DAO LLC or LAO, that applies LLC-like liability protections to DAOs that register as such. But the LAO structure does not create any new protections that are not available in existing LLC structures while imposing new obligations that may prove unattractive to actors in the fast-moving DAO space.

First, DAOs can and have already registered as a traditional LLC.¹⁷ This would grant them the liability benefits that the bill intends to provide without any of the downsides that we will soon discuss. In the best-case scenario, this bill may merely end up being irrelevant. But as we'll see, some of the legal precedents established by this bill could legally complicate smart contracting, as it would introduce government involvement in ways inappropriate for the intentions of the technology.

Second, the LAO structure introduces obligations on DAOs that are unattractive and unnecessary, as crypto lawyers have pointed out.¹⁸ For instance, the LAO form does not allow “algorithmically-managed” DAOs to operate as a manager-management structure, which necessarily limits LAO activities. LAOs would also be required to publish smart contract addresses and update the contracts at least once a year, which could create unnecessary security problems.

More fundamental, however, is the philosophical mismatch between the problems that DAOs aim to solve and the level of government involvement

proposed. Requiring that smart contracts be amendable at government request, for instance, deeply contradicts the “code is law” ethos of smart contracting.

To use a metaphor more lawmakers are by now familiar with, it would be a bit like requiring that all cryptocurrencies be reversible upon government request. Yet one of the core reasons that cryptocurrency was developed was to prevent this kind of central transaction control.

Wyoming's law is still new, so it is hard to see whether or not worst-case scenarios may come to pass, or if early critiques will prove overblown. Fortunately, Wyoming's legislature has proven to be a champion for cryptocurrency innovation, so if the bill does prove problematic, it will surely be eager to fix any flaws. In the meantime, other states can avoid the risks that this approach may pose by passing simpler legislation on which they can build.

How Florida Can Avoid DAOsaster

Despite some of the concerns with the Wyoming law, there is still good reason for states to consider passing their own DAO legislation. Regulatory uncertainty can be its own kind of innovation-killer. The fact that individuals may fear that DAOs are automatically illegal in the state of Florida will often prevent them from moving to and building in our state.

In fact, Florida has much lower hanging fruit to harvest.¹⁹ Recently, the Office of Financial Regulation stated that most cryptocurrency businesses will have to obtain a costly money transmission license to operate legally in the state, even if they do

not hold customer funds.²⁰ The reason for this unintuitive ruling is that Florida has yet to update its definition of “money” in law, which means that an unfortunate precedent set in *State vs. Espinoza* is the prevailing rule.²¹ Legislators should first consider clearing up this very easy problem, as was under consideration in the 2021 session.²²

Next, legislators should consider simple defining legislation that defines what smart contracts and DAOs are in law and states that they are not illegal as such. The reforms could even clarify that DAOs can apply to become LLCs in the state if they meet the same criteria as any other potential LLC. Furthermore, in the interest of consumer protection, legislators could consider a kind of sandbox-like arrangement where potential users are educated about the experimental nature of these arrangements before getting involved.

DAOs are an exciting kind of experimental financial arrangement that could generate great benefits and new opportunities for Floridians. But with reward comes risk, and DAOs could just as easily fail. Legislators should think of themselves as innovators here, too. They can recognize the exciting benefits that DAOs can generate and weigh that against consumer protection and education obligations that they shepherd as public leaders. A hybrid reform that both defines these technologies in law and creates a space for experimentation can provide the kind of protection to which the public is accustomed along with the innovation that is necessary for our state to grow and thrive.

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Florida's Pension Plan Still Needs Fixing, as Other States Lead the Way

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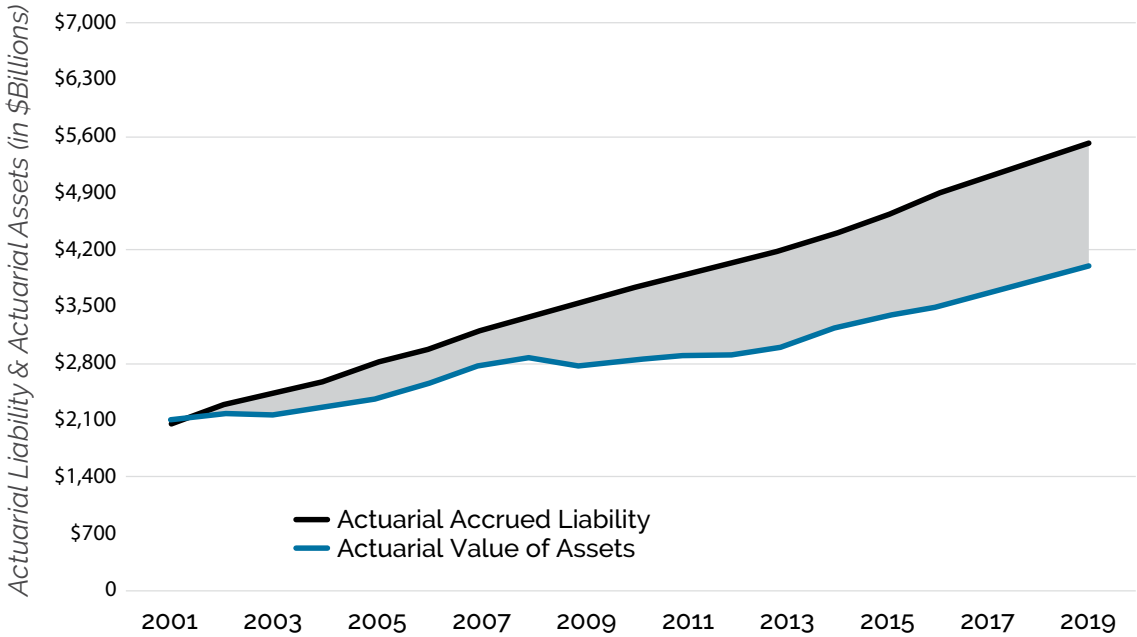
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After 20 years of outdated funding policies, inadequate investment returns, and other factors, state and local government pension systems across the nation are now over \$1.5 trillion in debt that grows and costs more the longer governments take to pay it off.

Pension debt puts a tremendous burden on states trying to balance their budgets.

Each year they not only need to find a way to make that year's regular contributions into workers' pension plans, but they then must make additional debt payments in order to meet their promises to workers. Often that means crowding out other spending items. Just like household debt, paying down pension debt efficiently and quickly is the only way to stop the budget bleeding.

Figure 1: U.S. State and Local Government Pension Plans Assets vs Liabilities



Source: Reason Pension Integrity Project analysis of over 100 state pension systems’ actuarial valuation reports through FY2020.

Since traditional public pension systems are funded by a combination of taxpayer dollars, employee contributions, and investment returns, it’s no surprise that when the state does not contribute enough in a given year, or the plan investments don’t hit their expected returns, pension debts go up.

Fortunately for proponents of financial sustainability in government, some states have successfully reformed their plans to protect worker retirement, get rid of pension debts, and keep the system financially sound.

Texas Leads the Way

While several states debated pension reform in the 2021 legislative session, Texas lawmakers went the furthest by enacting a [major reform bill](#) that paired the rollout of a new and financially sustainable retirement plan for all new state employees with a responsible plan to pay down over \$14 billion in unfunded pension liabilities.

The effort came as plan managers spent the latter part of 2019 and all of 2020 warning lawmakers that their plan was running out of money; the question was not if the system would become insolvent, but when. Retirees also complained about the lost value of their benefits over a

decade without any sort of cost-of-living adjustment.¹

Not only did Texas legislators commit more funds today to protect earned benefits and avoid passing an expensive debt to future generations, but the new law enrolls all future employees into a new, low-risk “cash balance” retirement plan that provides a guaranteed minimum four percent return on investment as long as the employee keeps their account. When combined with already existing supplemental retirement savings plans in the state, new Texas public employees will receive as good a benefit as previous employees, but will also be able to enjoy the portability of their cash balance benefit if they decide not to spend a full career in public employment.

The Texas law took the ideal approach to reforming a large state public pension system, replacing the debt-loaded legacy plan with an updated benefit design, and committing to fully paying for the retirement promises made to generations. The new design considered the fact that only 14 percent of the employees stayed with the state long enough to earn a full, unreduced pension benefit; hence a benefit design built to reward the increasingly scarce full-career public servant is not necessarily an attractive one for the future state workforce. And Texas also set a clear date for when all unfunded liabilities will be fully paid, while also rejecting a hardcoded, statutorily-set employer contribution rate in favor of a dynamic actuarially determined rate.

All that said, the Texas policy package is not perfect. It still leaves needlessly risky assumptions in place likely to distort the cost of benefits over time. But overall, since the

Texas effort addresses so many of the same challenges almost all other public pension plans are facing right now, it’s worth a look.

A Changing Workforce

Meeting the needs of a changing workforce is vital for recruiting and retaining the best and brightest to serve in the public sector just as it is in the private sector. Union groups and their supporters testify every year as to how maintaining a state or municipality’s pension system as is, regardless of debt and cost, is necessary to sustain recruitment and retention of employees.

However, direct data from state personnel offices and the pension systems themselves tell a much different story. In the public sector, generally, less than 20 out of 100 newly-hired public workers will stay in public employment for a full 25+ year career, making retirement savings portability in the direct interest of every new public employee. State and local retirement plans need to keep up with that reality and offer a competitive and sustainable retirement benefit, but one that is portable and does not require lengthy vestment periods.

Florida’s Challenge

At the turn of the century, the Florida Retirement System (FRS) held a \$13.5 billion surplus, but an over-reliance on investment returns and other rosy actuarial assumptions—rather than appropriate employer and employee contributions—meant the recession that followed ended that surplus, and then some. A year after the 2008 financial crisis, FRS held nearly \$20 billion in pension debt. In less than

a decade FRS went from a \$13.5 billion surplus to nearly a \$20 billion debt, a \$33 billion shift in the wrong direction.

Today that debt has grown to \$36 billion despite a historic bull market. Florida lawmakers and system managers have seen major shifts in the states' public pension system over the years and have successfully updated a few elements of the system in response: opening the more portable Florida Investment Plan to new hires in 2000, eliminating unfunded post-retirement benefit increases in 2011, and defaulting short-term employees into the Florida Investment Plan in 2017. Without those changes, the state of FRS would likely be much worse, but \$36 billion in debt and growing is still a massive problem.

Only adopting more realistic actuarial assumptions and investment return goals, making full actuarially determined annual payments into the plan, and amortizing the debt in less than 20 years can put FRS on a [path to pay off](#) the unfunded liabilities.² That will stop the bleeding and allow for a better designed FR pension plan for new workers, with the same level of benefits as the current plan but with features to reduce long-term governmental risks and costs (e.g., 50/50 employer/employee cost sharing and a conservative investment return assumption).

At the same time the FRS Investment Plan needs fixing, as well. This is the defined contribution (DC) option for workers. Financial experts strongly recommend contributions at a rate of about 10 percent to 15 percent of pre-tax earnings in order to secure an effective retirement nest egg. Older workers with a closer retirement horizon and inadequate savings may need to contribute even more. Well-designed DC plans should also offer the correct age-appropriate investment mix. This is generally accomplished by using target date funds that adjust investment risk to the employee's retirement horizon to protect the account's value from market fluctuations as the worker nears retirement.

Florida has taken important steps to protect retirees and taxpayers and put FRS on a sustainable footing, but the job is far from done. The volatile stock market, changing workforce, and budget constraints all continue to apply pressure on FRS managers and stakeholders to constantly look for opportunities to adapt. The 2022 legislative session is a key opportunity to take some important next steps.

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Rural Broadband Deployment in Florida: Recommendations for Reform

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Introduction

Rural broadband deployment has become an urgent policy issue in the U.S. The COVID-19 pandemic demonstrated how important broadband is for work, education, and leisure. Lacking a connection can be socially and educationally

crippling. As of 2018, over 14 million Americans living in rural areas lacked access to a fixed 25 Mbps broadband connection.¹ According to recent Census Bureau data, almost 83 percent of households in rural Florida report having a broadband Internet subscription through a wireline, satellite, or cellular provider.² This slightly exceeds the

national average, but many people have yet to be connected.

While the Federal Communications Commission (FCC) and United States Department of Agriculture (USDA) have long subsidized rural telecommunications deployments, Florida's state government plays an important role in expanding rural broadband to those who are not yet connected. The Florida legislature has taken recent steps to improve rural connectivity.³ These measures include opening access to the public right-of-way, reducing the costs of installing new pole attachments, developing broadband infrastructure along public roads in rural areas, and establishing the state Office of Broadband.

In this article, we offer our recommendations for further reforms that could help Florida close its digital divide. We propose alternatives to directly subsidizing private providers or building government-operated networks.

First, as an alternative to a provider grant program, Florida should establish a broadband voucher fund for rural households and seek flexible use of federal rural telecom subsidies for that purpose. Second, Florida should repurpose existing federal and state funds to construct “dumb infrastructure”—long-lasting, passive equipment like conduit, poles, and other street furniture—along public roads and rights-of-way. Third, the state can fortify federal legal protections and protect residents from excessive county, local, and homeowners association fees and restrictions that residents sometimes face when installing small wireless broadband antennas on their property.

Rural Broadband Vouchers

In 2020, the Florida legislature established the Office of Broadband (“office”) within the Department of Economic Opportunity,⁴ and the Florida Broadband Deployment Act of 2021 updated and expanded the office's duties.⁵ The office identifies opportunities to secure federal funding to support broadband expansion in Florida, and, to that end, maps unserved and underserved regions in the state. Further, the office has the authority to issue \$5 million annually in matching grants, subject to appropriation, to broadband projects in unserved areas that are not supported by federal programs.

The legislature's and office's goals are laudable, but we recommend that Florida take an alternative approach and create a rural broadband voucher program. A household monthly voucher credited to broadband bills would decrease rural residents' broadband bills and induce new buildout by providing rural providers a steady flow of revenue.

The office should explore the idea of transforming the existing federal subsidy programs into a block grant to establish a new state broadband fund. Florida residents pay hundreds of millions of dollars annually in federal universal service fees but most of it leaves the state. If some of those fees could be reclaimed by Florida, it could form the basis of a large rural broadband voucher program for the state.

The poor design of federal telecom programs has serious implications for Florida. Floridians pay nearly \$500 million annually in federal fees on their broadband, phone, and wireless services, money that is

pooled into the federal Universal Service Fund to be distributed nationally.⁶ In 2019, only about \$190 million returned to the state.⁷ Put simply: over \$300 million in federal telecom fees leaves Florida annually to subsidize telecom providers in other states.

Of that \$190 million returning to the state annually, about \$50 million subsidizes telecom providers serving rural Florida.⁸ Our estimates show that on a per-rural-household basis, the FCC's disbursements to Florida are less than half the national average.⁹ With the modest changes we propose to the federal program, rural households in Florida could receive around \$67 million annually in broadband vouchers.¹⁰ For illustration purposes, this would amount to \$9 monthly per rural household (given participation from 100% of rural households) to \$45 monthly per rural household (given participation from 20% of rural households). This monthly federal voucher could be supplemented by state funds.

Germany and the United Kingdom have embraced rural broadband vouchers in recent years.¹¹ Broadband vouchers eliminate significant regulatory overhead for providers and give them a steady revenue stream from new subscribers who pay a discounted rate. In the UK's popular program, for instance, rural households "pool" their vouchers to entice high-speed fiber providers to take on new deployment projects.¹² Residents who have a rural address receive a government-provided discount code to use when paying their monthly bill.

Importantly, the voucher idea avoids

the regulatory overhead, cronyism, and mapping controversies of grant and loan programs that have subsidized rural broadband projects for decades.¹³ Today's federal and state rural telecom programs require years of developing complex cost models, some involving hundreds of economic inputs.¹⁴ These programs also rely on the creation and updating of broadband maps to ensure funds go to unserved areas. These maps are often inaccurate¹⁵ and small providers shy away from these programs because of the administrative burdens. Vouchers eliminate the need for maps altogether by making all rural households—designated by the Census Bureau—eligible.

Vouchers also broaden eligibility for providers and are technology neutral. Provider grant programs have long favored or explicitly targeted fiber deployment because of the fast speeds that fiber-to-the-premise service can provide. However, for the highest cost households that remain unconnected in Florida, the costs of wireline deployment are prohibitive and installing wireless technologies are necessary. Vouchers put consumers in charge of selecting which plan satisfies their needs, meaning that fixed wireless and other technologies can benefit from this program, too. Our next two recommendations, discussed below, would encourage the deployment of wireless facilities.

Pole and Conduit Construction in Rural Areas

In some rural areas, private deployment of broadband infrastructure is not economical. One important step policymakers can take is to reduce the costs

of deploying wireless services by opening access to the public right-of-way. Florida has taken important steps on this front.

First, the 2017 Advanced Wireless Infrastructure Deployment Act allows providers to attach small wireless antennas to utility poles and other infrastructure in a county's or municipality's right-of-way along public roads.¹⁶ Annual fees are capped at \$150 to prevent unreasonable fee increases by local officials.¹⁷

Florida went further with the 2020 Broadband Internet Service Act.¹⁸ That law allows Florida's Turnpike Enterprise within the state Department of Transportation to use up to \$5 million in funding to develop "broadband infrastructure" within or next to multi-use corridors in rural areas. While a good idea, the current law doesn't define "broadband infrastructure" and would benefit if the legislature specified that the state can build only "dumb infrastructure"—long-lasting, passive assets like utility poles, fiber conduit, and underground handholes.

Arizona passed a law¹⁹ in May 2021 that allows the state DOT (by itself or via public-private partnership) to construct and lease out roadside passive infrastructure.²⁰ In particular, the Arizona law allows the state DOT to construct, manage, and lease out passive "telecommunication facilities," which is defined broadly:

“Any cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting equipment, receiving equipment or power equipment or any other equipment, system or device that is used to transmit, receive, produce or distribute by wireless,

wireline, electronic or optical signal for communication purposes.”

Access to all publicly funded passive infrastructure should be non-exclusive to promote competition between telecom and smart city providers. Access to the rights-of-way and infrastructure must also be non-discriminatory, which prevents a public-private partner from favoring its affiliated or favored providers.

It's the most ambitious smart-city and telecom infrastructure deployment initiative we've seen. There have been some smaller projects involving the competitive leasing of roadside conduit and poles, like in Lincoln, Nebraska²¹ and a proposal in Michigan.

These are good examples of how state and local governments can assist broadband expansion and competition without taking on the risk of operating a broadband network. Passive infrastructure projects make it easier for multiple providers to access the rights-of-way and roadside infrastructure to deploy 5G antennas and extend fiber backhaul and Internet connectivity to rural areas.

Wireless Antennas Protections on Private Property

Some rural Internet providers, like wireless ISPs (WISPs), have difficulty getting local permits to construct small antennas on private property.²² Further, some overzealous local officials and homeowners' associations prohibit, regulate, or impose fees on homeowners who want to install small antennas on their property and self-provision TV or Internet services.²³

In January 2021, the FCC voted to give all residents new, substantial freedom to install 5G and other wireless antennas on their rooftops, balconies, and yard poles. The rule,²⁴ called the “over the air reception device” rule is sometimes called the “pizza box rule”—the FCC protects most antennas if they are smaller than 1 meter diameter and have a maximum height of 12 feet above a roofline. Generally, unless there’s a safety or historical preservation issue, local officials can’t restrict or impose fees on small antenna installations on private property, including antennas that provide wireless connections to neighbors.

However, these landowner protections would be stronger if states had similar rules. The FCC rules are a good starting point, but the FCC does not have clear authority over homeowners’ associations, for instance, and is not as responsive to local concerns as a state agency would be to residents or providers who are burdened.

In rural areas, these types of rules help get infrastructure and small broadband antennas installed quickly on private property. Many renters and landowners—especially in rural areas where wireless home Internet makes more sense—want to install wireless broadband antennas on their property, and this law protects them from local rules that would “unreasonably” delay or raise the cost of installation of antennas.

Conclusion

Florida lawmakers have made broadband deployment a priority and taken forward-looking steps to improve competition and coverage for underserved and rural residents. We recommend three further reforms to state policymakers:

1. establish a rural broadband voucher fund as an alternative to hard-to-administer provider grants,
2. construct passive infrastructure and allow access to the public right-of-way on a reasonable and nondiscriminatory basis, and
3. codify protections for property owners who wish to install small wireless broadband equipment on their private property.

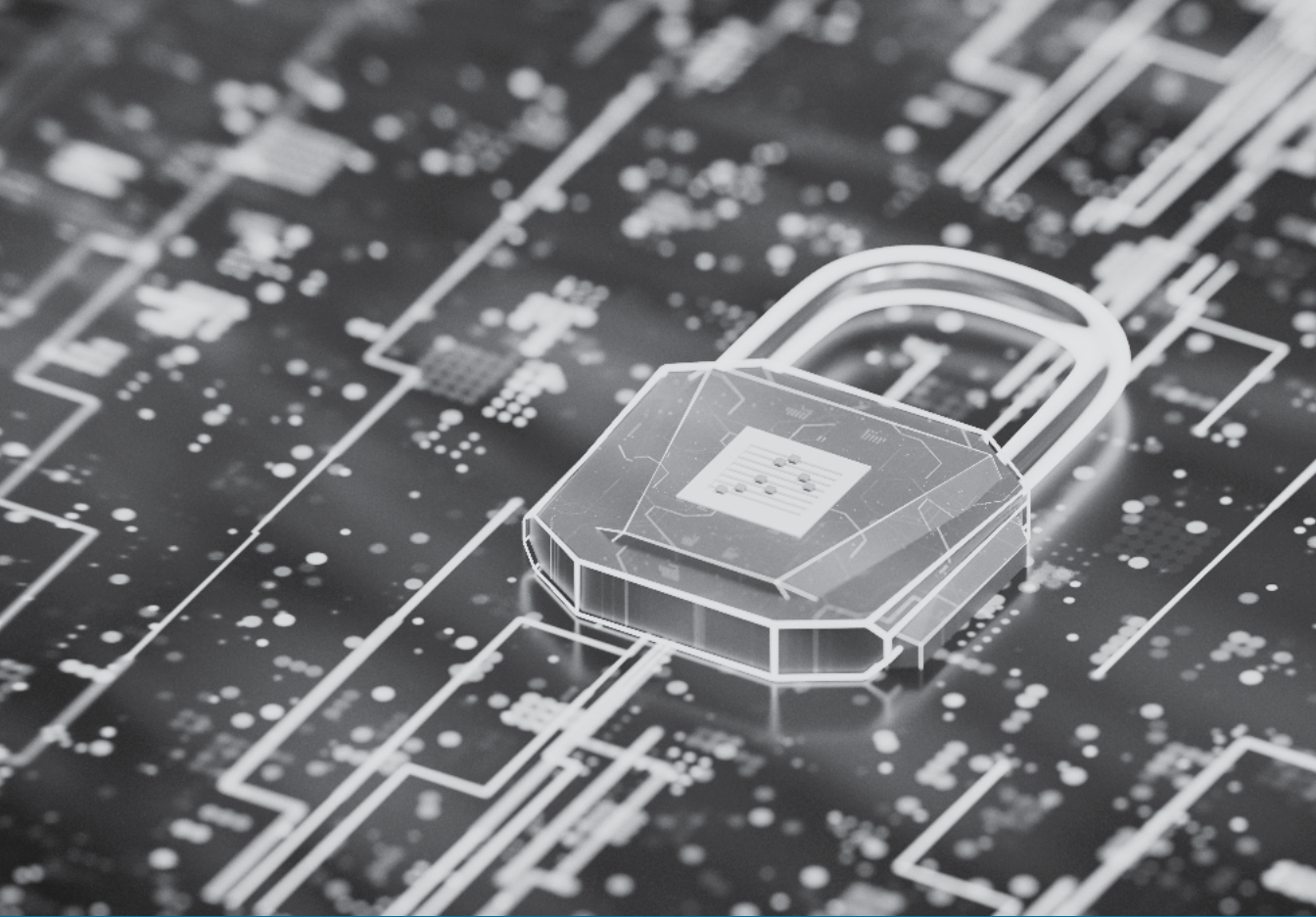
Our recommendations allow the market process to drive innovation and investment in broadband provision, rather than relying on government and regulators to decide which specific broadband projects have merit. Florida lawmakers and regulators have an important role to play in encouraging deployment through the construction of basic infrastructure that greatly reduces the costs required to deploy 5G and other broadband technologies. Our recommendations empower consumer choice about broadband adoption, avoid risky investments into government-operated networks, and create generally applicable broadband policies that favor no particular provider or type of service.

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Creating A Digital Banking Hub In the Sunshine State

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Introduction

On national and state-by-state levels, digital assets and digital asset banking are proving to be the next wave in financial innovation and competitive advantage. The amount of economic value generated by the digital asset space has increased to a multi-trillion dollar asset class during 2020 and 2021 alone.¹ Headline makers such as the dramatic price

increase of specific cryptocurrencies tends to augment this investment and excitement, but that only provides a partial view of the state of the cryptoasset landscape.

Digital asset services are also on the rise. Some additional context can be provided by comparing the market capitalization of Coinbase, a leading cryptocurrency exchange platform, with traditional major U.S. commercial and investment banks. Coinbase obtained a market capitalization

closing in on \$100 billion,² which would have ranked it among the largest banking institutions in the United States as of its direct listing date. While market capitalization can, and does, sometimes change just as dramatically, the fact that these conversations are even occurring are a clear indication of market appetite for crypto-native financial institutions.

Cryptoassets, in whatever form they take, are by now well integrated into the economic development conversation. The trend is clear; jurisdictions that proactively embrace these technologies are going to be better positioned to benefit from these technologies as compared to jurisdictions that do not.

Florida should position itself on the right side of these currents. In some ways, it already has: Miami Mayor Francis Suarez has taken strong steps to encourage the crypto ecosystem in South Florida. There are other significant steps that can be taken as well as factors that should be considered.³ Until recently, federal banking regulations had made the creation of a digital asset banking sector fundamentally difficult.

The lack of consistent guidelines and rules for new digital asset banking and financial service providers was for a long time a substantive headwind preventing wider adoption and implementation. This is one rare instance in which regulators and regulation have proven to be an accelerator of innovation rather than only serving as an obstacle or gatekeeper. In other words, this is an opportunity for true collaboration between the public and private sectors to foster and support economic activity and development.

This article provides a framework for Florida to become a cryptoasset and digital banking hub.

A Byte of Bitcoin Banking

For policymakers to best understand how to update rules to encourage digital asset banking, it is imperative to first understand cryptocurrency and how Bitcoin banking compares and contrasts with traditional banking.

Distributed cryptocurrencies like Bitcoin allow individuals to send value directly to another party online without the need to rely on a trusted third party like a bank. A network of computers runs a program that adds new transactions to the ledger of all activities, called the blockchain, in a way that makes it virtually impossible for any one party to block a transfer or counterfeit the currency. So long as an individual maintains control of what is called a “private key,” which is kind of like a password,⁴ no entity can move or inflate their funds. The “Law of Private Keys,” also stated as “not your keys, not your coins,” maintains that whoever holds the private keys effectively owns the funds, in that they are the only entity that can move them.

Of course, not every individual has the skills or desire to protect their private keys. Further, cryptocurrency users may want to earn yields on their holdings by lending them out for interest. As such, an industry of digital asset custody services and banking has developed. Here are a few unique considerations that digital asset services must weigh and the policy challenges they raise:

Digital asset custody services: Custody is perhaps the most potentially complicated service that a digital asset bank could offer, with the usual distinctions between retail and commercial clients existing in both the digital asset and traditional fiat system. In an environment of pure direct transfer, the Law of Private Keys would never be violated; this would mean that every individual or institution that owned cryptoassets would also self-custody private key information. Ideal to some, but not terribly practical in the current marketplace. As such, custody services constitute a large portion of the digital asset service economy, with many cryptocurrency users never actually interacting with the blockchain at all.

Key management: To have a digital asset bank operate at scale, that institution should have a robust key management process, and policy frameworks can help set those standards. Government should set the totality of rules, but since this involves fiduciary responsibility, policymakers should be involved in this process to ensure consistent development and implementation. As mentioned, not every individual or commercial customer can provide these services for themselves. Furthermore, key management can become quite complex, with sophisticated programmable arrangements called “multisignature transactions” that can be set up so that funds only move if a certain number of a set possible number

of keys sign off on a transaction. Digital asset financial institutions routinely offer key management services associated with multi-sig wallets or arrange to have those services contracted for their own institution. In terms of crypto banking policy, the key management policies need to be clear and well-defined. Stated another way, rules to tailor custodial services to crypto banking should not inadvertently stifle non-custodial offerings.

Wallet management: A related item to key management is how digital asset institutions approach wallet management. A cryptocurrency wallet is kind of like a digital keychain for addresses and their associated private keys. It is true that while blockchains, to date, have proven virtually immutable and systematically unhackable, there have been numerous breaches and hacks associated with the individual wallets that help customer and client cryptoassets. This highlights the importance of ensuring that private key and wallet management services are clear, objective, and communicated to clients prior to implementation. Put simply, the higher percentage of keys and funds that are stored and accessible in “hot wallets,” or internet-connected wallets, the higher the risk profile of the institution will be. From an operational perspective, key custody and management will likely continue to be the highest profile—and potentially most costly—risk for a digital asset institution moving forward.

Cold storage: As part of implementing a robust internal control policy and processes, a significant percentage of keys held on behalf of clients will be stored in what is known as cold storage. Cold storage can be thought of as customized hardware specifically designed and built to store cryptocurrency information, such as keys and “seed phrases” that can recover balances, offline. This contrasts with hot wallets, which are simple internet-connected software applications that allow faster and more convenient access to crypto information. In theory, cold storage options have higher levels of security associated with them than hot wallets, but that does not mean that there are no security issues. To the contrary, the very fact that cold storage involves physical storage devices means that physical asset controls will have to be developed and implemented at these institutions.

Differentiating risk profiles for services: The risk profile of a digital asset financial institution needs to be incorporated into public policy and the insurance options available to these institutions. For example, if a customer (individual or institutional) wishes to partake in certain activities, that customer may end up shouldering the entire risk of these transactions. As we will discuss in the section on Wyoming’s template for digital asset banking institutions, FDIC coverage is neither necessary nor required. Potential clients and customers of these digital asset institutions need

to be educated in terms of what the rights and obligations are for both the customer and the institution itself.

Incumbent institutions are also part of this conversation, as there is a large amount of potential overlap and integration upside for these players. Regardless of whether sandboxes or other deregulatory tools are used to encourage innovative thinking and new business ideas, there are compliance requirements that simply must be fulfilled.

How Bitcoin Banks Compare to Traditional Banks

Policymakers should keep several questions in mind when considering how to approach digital asset banking. First, will the state develop and roll out unique organizational frameworks for crypto-native institutions, or will incumbent players be able to integrate digital asset services into existing frameworks? From Fidelity submitting an application for a Bitcoin ETF⁵ to PayPal⁶ and Visa⁷ facilitating crypto payments and settlements, the potential for incumbents to participate in this digital asset banking space is significant. In other words, there is absolutely space for incumbent firms to participate in, and work with policymakers to create an innovative and conducive environment. Second, how can policymakers coordinate with the private sector to ensure a dynamic landscape that does not favor any particular technology or organization?

At this time, the OCC has granted federal charters to only a handful of institutions, with Anchorage and Protego representing the first two digital asset

banking institutions. There are digital asset firms such as Coinbase and BlockFi that offer an array of crypto-native products and services, including lending services. However, these are not federally chartered digital asset banking institutions. Depending on how the market evolves the focus on crypto banking versus crypto services may become blurred, but at this point are clearly delineated.

Before we turn to the ways that Texas and Wyoming have updated their laws to encourage digital asset banking, we should lay out some of the fundamental differences between fiat banking and crypto banking. While on the surface, a bank is a bank, and every institution operates uniquely, there are a few important distinctions between these kinds of institutions.

1. Lending looks different. At the core of the idea, cryptocurrencies are defined by the principle of direct instrument ownership. As the Law of Private Keys holds, to truly own cryptocurrencies, the individual or institution must self-custody the proof of ownership: private keys. How this applies to the banking industry is that the lending component of the financial institution cannot take place as it would with a traditional bank, since that would violate this fundamental principle underpinning cryptocurrencies. New developments in decentralized lending that would maintain private key ownership, such as the Sovryn project, are quickly developing, but they are still in a relatively early phase.⁸

2. No FDIC required. Digital asset

institutions that do not perform lending or loan operations may not require typical insurance and other compliance activities. This is exemplified by the specialized institutions that have been established in Wyoming and maybe replicated by other jurisdictions.

3. Cryptoassets are stored differently.

While the idea of bank accounts, brokerage accounts, or other digital holding locations for fiat currencies are undoubtedly familiar, cryptocurrencies operate in a different manner from fiat assets. Cryptoassets are, by default, connected and supported by an underlying blockchain. They are accessed by crypto holders via an application known as a wallet. The specifics of how different wallets operate on a technical level are beyond the scope of this document, but while wallets are how cryptocurrencies are accessed, cryptocurrencies are not stored in these wallets. By accessing the wallets, crypto holders are able to access holdings that are in fact stored on that underlying blockchain.

A. Hot wallets are online portals akin to online apps to access information, such as logging into a brokerage app. Because they are connected to the internet, hot wallets are more prone to being hacked than cold wallets.

B. Cold wallets, to the contrary, are specialized hardware devices customized to store private key information. While relatively more secure, they introduce risks in terms

of physical security and the potential for hardware-based breaches⁹ or phishing.¹⁰

4. Differentiated services. Digital asset institutions must offer distinct services to individual and institutional clients. Specific services include, but are not limited to, offering custody services around keys, as well as managing wallet services and access for clients.

Given these distinctions, digital asset institutions can be legally onboarded in two ways: as a federally chartered digital asset bank or as a state specific institution. Obtaining a federal charter involves certain compliance and other regulatory paperwork and processes, but it is far from impossible. Alternatively, a specific state can create a hub even without comprehensive actions taken at the federal level. We will now discuss what actions the federal government has taken before considering what different states have done to encourage digital asset institutions on their own, with a specific focus on Wyoming.

How the Office of the Comptroller of the Currency Cleared the Way

The Office of the Comptroller of the Currency, or OCC, might not be a regulator that readily comes to mind, nor is it an agency with the name recognitions of the Securities and Exchange Commission (SEC), or the Internal Revenue Service (IRS), but it is an incredibly important agency. The OCC is the regulator for national banks and federal savings associations, with a mandate to

ensure that these organizations operate in a safe and sound manner, provide equitable treatment to all customers, and operate in compliance with all applicable laws.¹¹

Similar to the SEC with regards to securities, the OCC also has enforcement power over these entities, with the ability to initiate enforcement actions if organizations violate the National Bank Act or Homeowner's Loan Act. In addition, to become a federally chartered bank, any applying entity must obtain a charter from the OCC, which oftentimes requires changes to the operating structure of the applying entity. The OCC is an integral part of the federal banking sector in the United States, and updates from this policymaker are closely watched and analyzed by market participants.

Many involved in the cryptocurrency space had initially intended to build an alternative financial system and a legitimate competitor to the fiat-based banking system. But the lack of consistent federal guidelines greatly complicated this undertaking. Whether or not an individual or institution supports any particular regulation, establishing some guardrails and a framework within which to operate is essential for any economic sector. In late 2020 and early 2021, the OCC provided such a framework by clarifying which activities and projects could be implemented and managed by federally chartered financial institutions. Even better, the rules put forth by the OCC were designed to encourage the nascent crypto banking space.

Finalized in September of 2020, the OCC clarified that regulated institutions could hold, as deposits, what are called

“stablecoins,” or a cryptocurrency that is backed, supported, or tethered to an underlying asset. For example, USDC—a stablecoin minted by Circle and run on the Ethereum blockchain—is backed by the U.S. dollar and treated as a 1:1 equivalent to the USD. The SEC quickly endorsed the OCC’s position.¹² The only qualification was that these stablecoins did, in fact, need to be supported by an equivalent in fiat currency such as the U.S. dollar.

This rule was included because previously some projects that held themselves out as “stablecoins” did not indeed have the appropriate reserves on hand. In concept, every stablecoin is backed or supported by U.S. dollars or similar assets to minimize liquidity risks such as a “run” on the stablecoin. Before the OCC guidance, stablecoin projects often chose to be fully backed by currency equivalents, but it was not a requirement.

The accounting issues surrounding the popular stablecoin Tether provides a good example. On a basic level, problems arose surrounding the accounting for the dollars that served as stabilizers for the USDT token issued by Tether. Tether is the first stablecoin, and by April 2021 reached a market capitalization in excess of \$50 billion.¹³ Theories surrounding Tether’s true reserves have swirled for as long as it had existed. In 2019, there was an allegation that Tether dollar reserves were understated by approximately \$800 million. In other words, critics suspected there were more stablecoins issued and outstanding than the organization had dollars in reserve, potentially undermining the entire concept.

The New York Attorney General

investigated Tether and the related exchange Bitfinex to determine the extent of the problem. By March of 2021, this matter was settled.¹⁴ The AG office uncovered evidence of some wrongdoing that was far short of what critics suspected. Bitfinex and Tether admitted no wrongdoing but submitted to an approximately \$20 million fine and several additional reporting requirements. USDT is still the largest stablecoin by market capitalization and trading volume. While the situation at Tether seems to have been resolved, stablecoins potentially raise this issue for policymakers.

Following the update that gave regulated institutions the green light to hold fully backed stablecoins in their reserves, in January of 2021 the OCC issued additional guidance stating that federally chartered banking institutions could verify and approve transactions that were taking place on independent node verification networks (INVN), which is the OCC parlance for “permissionless blockchains,” or fully decentralized and open network cryptocurrencies.¹⁵ In simple terms, this means that regulated institutions may issue their own stablecoins, engage in stablecoin transactions, and operate nodes on stablecoin networks.

The impact of these two clarifications is difficult to overstate, as when combined they allow federally chartered banks to significantly participate in the crypto economy and provide an important bridge for crypto users to integrate with the fiat economy more fully.

Complying with even the most well-designed federal rules can be complex, costly, and not particularly amenable to

new entrants. This is not to say that there are no federally chartered digital asset banking institutions as mentioned previously in this document. To the contrary, there are several that received their charter in 2021 alone. Anchorage, the first digital asset bank, received OCC approval in early 2021.¹⁶ This is in addition to the numerous legacy financial institutions that are beginning to offer Bitcoin and other crypto related services, such as the Bank of NY Mellon, the oldest bank in the nation.¹⁷

Clearly, not every financial institution or entrepreneur has the resources of Bank of NY Mellon. Policy should therefore aim to lower the barriers to entry for upstarts to compete in the developing crypto space. States can build on the positive momentum of recent federal policy changes in several ways. Many states have already enacted policies to help encourage investment and growth in the digital asset economy.

What Are the States Doing?

State leadership has proven to be essential in the digital asset space. Several states have not waited on the federal government to act before promulgating favorable rules for cryptocurrency activity. Three specific examples are documented below, but there is a slew of initiatives underway in other states that simply have not progressed as far just yet. Florida legislators should look at these examples to better understand what has worked best so far. A state can focus on encouraging specific activities like mining, as Kentucky has, or it can pursue wholesale reforms to encourage digital asset banking, like Texas and Wyoming.

Kentucky: “There’s Gold in Those Blockchains”

A state can take a targeted approach to complement the formation of digital asset banking institutions by encouraging other crypto related activities. One such example is a new Kentucky effort to turn that state into a crypto mining hub.¹⁸ “Mining” is the computing process that employs special hardware, software, and power generation to add new transactions to the network and mint new currency units until a supply cap is reached. It can be thought of as a kind of utility for the maintenance of a cryptocurrency network.

Kentucky’s efforts are focused on leveraging the state tax code to help encourage investment in crypto mining operations. Specifically, the new rules focus on 1) removing sales tax burdens from electricity purchased for crypto mining purposes and 2) providing energy incentives for miners.

There are a few reasons a jurisdiction might want to incentivize cryptocurrency mining. First, it could allow the jurisdiction to accumulate a strategic digital asset holding without having to pay market or spot processes. The mayor of Jackson, TN gave this rationale for his initiative to encourage Bitcoin mining.¹⁹ Second, it can help existing energy utilities to run more efficiently. For example, many natural gas companies are turning to Bitcoin mining to monetize their flaring processes that would otherwise go to waste. Third, on a macro level, these policies diversify which entities are involved in the mining process. Ideally, cryptocurrency mining will be widely decentralized. Right now, approximately 45

percent of Bitcoin mining is concentrated in mainland China, a nation not exactly known for light touch administration.²⁰ Given the geopolitical tensions between the United States and China and the market valuation of Bitcoin alone (in excess of \$1 trillion), diversifying the mining of new coins and validation of transactions makes business and national security sense.

Efforts to encourage mining are not as comprehensive, nor as targeted toward Bitcoin and crypto adoption, as other efforts I will discuss. They don't have to be. There are multiple approaches a state can take. Kentucky's targeted approach demonstrates that digital asset reforms do not have to be an all-or-nothing conversation, and states can tailor the policies that best address their unique situations. Still, to best take advantage of all the possibilities that cryptocurrency can present, policymakers can look to the more ambitious strategies of Texas and Wyoming.

Wyoming: Blazing a Crypto Trail

Technology tends to be associated with the Silicon Valley and financial services tend to be associated with New York. That is changing thanks to the forward-looking policy posture of Wyoming. Wyoming and neighboring states have long been hubs for various financial services such as credit cards, credit unions, and other (at the time) creative solutions to industry problems. Now, Wyoming has cemented itself as the leader in cryptocurrency law.²¹ Interesting for sure, but also an illustrative case study that can and should be replicated by other jurisdictions. Especially in the post-COVID world there is no reason why any single

geographic area should have a monopoly on specific industry sectors.

These developments did not simply materialize out of thin air. Rather, they are the direct result of concerted and consistent efforts of Caitlin Long and the Wyoming Blockchain Task Force.²² Wyoming was the first state to pass legislation specific to defining digital assets and how these digital assets interact with the state uniform commercial code (UCC). Additionally, blockchain technology was approved and authorized to serve as a means to create and maintain corporate records. The state also codified the status of what's called "utility tokens," or cryptocurrency tokens that are not intended to be mere investments but have some integral function on the corresponding platform, such as hosting files or video. Lastly, and more recently, Wyoming was the first state to recognize the legal status of decentralized autonomous organizations (DAOs), or programmed entities that automate activities on behalf of a defined user group, usually through smart contracts that buy or sell digital assets in response to some objective external condition, if they choose to register as such in the state.²³

There is a reason Wyoming is known as the "Delaware of digital asset law."

One of the most pivotal developments that occurred in Wyoming is the creation of an entirely new form of financial institution: the special purpose depository institution (SPDI). Created by the Wyoming State Legislature, these special purpose entities are institutions that receive deposits and conduct other incidental activities, including fiduciary and custodial services.

Based on this legislation, the assumption is that many of the SPDIs will focus heavily on digital assets, but these organization may also hold traditional assets.

A critically important differentiation between SPDIs and traditional financial institutions is that, unlike fiat based financial institutions, SPDIs may not extend loans using customer deposits denominated in fiat currency. As such, there is no obligation for SPDIs to obtain FDIC coverage. This may seem like simply a technical differentiator in the marketplace, but is an important point for policymakers to factor into how these institutions may ultimately take shape.

Bitcoin Reform is Bigger in Texas

Texas may not have been the first to pursue wholesale cryptocurrency reform, but it may end up being the most consequential. The Texas Innovation and Technology Caucus of the Texas House of Representatives has put forward policy initiatives concerning digital assets, digital identity, and integrating blockchain-anchored digital signatures into the Texas Uniform Commercial Code.²⁴ Texas seems to be borrowing heavily from Wyoming, and that is perfectly fine. This drive to create digital asset hubs is not happening in a vacuum as isolated events. Codifying and clarifying the enforceability around blockchain applications is an integral step toward building up a digital asset banking system.

Florida: Focusing on Payments

Florida, in particular Miami, is looking to integrate Bitcoin and other

cryptocurrencies into the business environment; this includes the payroll and asset management conversation. Miami is already experiencing an inflow of billions of dollars in assets under management (AUM), both because of remote work trends driven by COVID-19 and by the amendable business environment in Florida.²⁵ It seems logical that Florida should capitalize on these converging trends of technology and crypto investment. For Florida to realize an environment where employees can be paid in Bitcoin, several distinct points need to be highlighted.

First, a state or local government needs to adjust its underlying payment infrastructure to accompany Bitcoin functionality. For example, something as simple as integrating Bitcoin into payroll operations will require that 1) the existing payroll technology can correctly account for Bitcoin transactions, and that 2) employees can link Bitcoin to retirement and other savings options. While not every employee may want to receive part (or all) current compensation in Bitcoin, they might like the option to allocate a portion of IRA funds to this asset. Private businesses that offer Bitcoin payments to employees have already implemented systems to account for unique price variance and tax implications of cryptocurrencies, and firms such as Grayscale offer Bitcoin exposure in retirement accounts for those who do not wish to set up a self-directed IRA that custodies cryptocurrency. Governments could look to these examples when deciding how to structure their own cryptocurrency payments. Additionally, legislators could consider creating a specialized carve out to

encourage financial institutions—incumbent or startups—to offer these products in a manner akin to a sandbox approach.

Next, Florida should take care that its policies encourage, and do not discourage, critical infrastructure such as Bitcoin ATMs and other services that can convert cryptocurrency to fiat and vice versa as well as social norms around people generally accepting cryptocurrency as a transactional medium. As past research by The James Madison Institute has pointed out, one easy way to do this would be to define digital assets in law and exempt non-custodial cryptocurrency transactions from money transmitter regulations.²⁶

Finally, Florida is no stranger to regulatory sandboxes, and its forward-looking fintech sandbox established in 2019 is likely one catalyst that helped draw cryptocurrency firms to the state. Legislators could consider monitoring the sandbox to determine whether changes could be made to further entice the digital asset industry. While analyzing the potential for specialized crypto areas it is important to note that these technologies do not exist in a vacuum; there are other digital assets and digital asset infrastructure that need to be constructed as well; in particular, smart contracts.

Other Digital Asset Infrastructure

To fully realize the potential of the digital asset economy, the enforceability and interoperability of smart contracts with other financial and technology systems must be addressed. Smart contracts, for the purposes of this conversation, can be defined as executable programmable code that is

embedded into an underlying blockchain. It is important to note, however, that these so-called smart contracts are neither inherently smart nor technically representative of traditional legal contracts.²⁷ Rather, these programmable lines of code merely seek to embed certain business logic or logical functionality into a virtual representation of physical assets. To that end, it is imperative that policymakers consider reforming existing rules or regulations that would make smart contracts unworkable or of questionable legality.

Policymakers should first note that there is much philosophical disagreement within cryptocurrency circles about the proper role of government for smart contracts. For some, because a smart contract is self-executing, governments need not be involved at all. If the code is faulty, that is the problem of the person who did not vet it enough. Others believe that governments may have a larger role in mediating disputes or securing restitution. Regardless, there is a role for clarifying the legal status of smart contract technology and reforming rules that could make smart contracts legally unworkable. Wyoming's DAO legislation is one good example of this approach, as it defined smart contracts in law and gave the private sector the green light to integrate this technology into their operations, although as another Journal article will discuss, there are problems with the Wyoming law as well.

Accepting Bitcoin or encouraging Bitcoin mining and tangential activities is only part of the approach that needs to be adopted to transform a jurisdiction into a digital asset hub. To truly maximize the benefits of the increased interest in

cryptoassets, the entire ecosystem and policy framework needs to be reviewed and updated as appropriate.

How to Encourage Digital Asset Banking in Florida

Based on the analysis of states like Wyoming, there are a few different approaches jurisdictions can take to capitalize on the growing crypto economy. The specifics are varied, and will be discussed in more depth, but these options share a few general characteristics.

First, the goal of these approaches is to encourage innovation and dynamic risk-taking, while fully acknowledging that many organizations that start will not succeed over time.

Second, care will have to be taken that organizations seeking to leverage these opportunities, credits, zones, or sandboxes are actually seeking to bring crypto development to Florida. As with any new technology or innovative way of doing business, there will be individuals and institutions seeking to take unethical advantage of information asymmetry; policymakers must be sure that these fraudulent or exploitative actions are prevented.

One reason that scams and fraud have bloomed in the cryptocurrency space was a lack of consistent guidelines and rules in this new asset sector. Collaboration between policymakers and private sector actors to determine clear and objective definitions and operating guidelines will be important to prevent and combat fraudulent activity.

With that context, let's examine a few specific steps that Florida should take to

encourage further crypto adoption and utilization.

Implementation Steps

Prioritize function over product. Policymakers must resist the temptation to indicate any preference for one technology or company over another. Digital assets clearly have benefits to offer. But these benefits can be enjoyed no matter what particular provider or technology ends up being the market winner.

Lead by example. The initiative underway in Miami to offer to city employees the option to be paid in Bitcoin is an excellent illustration of this idea. In addition to the rather obvious public relations benefits of doing so, this also will reduce the potential risk and liability for private companies that might be associated with implementing cryptocurrency applications. But a large metropolitan area like Miami-Dade or the state of Florida in general can profit from much more than simple payments. Other options include incentivizing Bitcoin mining, creating a Bitcoin sovereign wealth fund, or allowing citizens to use decentralized identities (DIDs) for official government purposes.

Legal certainty. Policymakers should pass defining legislation and rules that make private entities comfortable engaging in digital asset activity. For example, the legislature could consider defining digital assets and smart contracts in the law and outline how such activities would be enforced.

Incentivize adoption and investment. Like with any other new technology, there is an opportunity for some collaboration

between the private sector and public sector to foster and support new ideas and ways of doing business. The private sector should take the lead in terms of product and service development, but the public sector can—as has been done in Miami—bring attention to the potential use cases of cryptocurrency, and also help incentivize organizations to allocate capital to these sectors.

Focus on interoperability. Policies should not prevent or impede interoperability among payment and enterprise systems. Users should be able to seamlessly switch between them.

Be technology neutral. Bitcoin is the largest cryptocurrency and will likely continue to be the most popular. But it should not be that way because of a policy that picked a winner and many losers. The policy landscape should be designed to allow experimentation and overall growth.

Volatility policies. Digital assets present unique challenges due to current volatility. Policymakers should think carefully about whether measures such as cash reserve requirements, limiting “black out” periods for redemptions or conversions, codifying the process for fiat conversion to happen in a manner that is both efficient and cost effective, or just warning the public about the risks of volatility are appropriate for different use cases.

Enable on-ramps and off-ramps. Policymakers should take care that the conversion from cryptocurrency to fiat and vice versa is not penalized or made more

costly. While the private sector should lead the way in terms of development and implementation, policy should focus on enabling this to happen in a frictionless manner.

Incentivize the tax structure and code. One of the largest and most entrenched obstacles to wider cryptoasset adoption is that any time a cryptoasset changes hands, is exchanged, or is used to pay for goods or services there is a tax reporting and potential tax payment obligation. Florida could consider waiving local, regional, or state taxes connected to certain crypto transactions. This could both encourage people to view cryptocurrency as a legitimate alternative and attract further interest and investment from crypto-native organizations.

Conclusion

The digital asset ecosystem is one of Florida’s fastest growing industries. The specifics of any wider policy, be it in Florida or beyond, are going to vary depending on the scope and objective of said policy. Fostering the development and maturation of a digital asset banking sector is not a task that can be relegated or designated to one specific economic sector or actor. Rather, the rise of the digital asset banking sector presents a rare opportunity for true collaboration between policymakers and the private sector to innovate and think of ways to turbocharge this fast-moving space.

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Telehealth Services Can Help Address Mental Health Issues and Police Reform Efforts

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For those living with mental illness, interactions with law enforcement too often end in tragedy. According to *The Washington Post*, approximately 1,000 people were shot and killed by police officers in the year 2020.¹ Of those, more than one in five showed signs of mental illness. The numbers are even worse in Florida: one in three people shot and killed by Florida police officers in 2020 showed signs of mental illness.²

The statistics are staggering, especially when compared to all other police interactions. According to data from the Treatment Advocacy Center, individuals with untreated mental illness are 16 times more likely to be killed during a police encounter than those without mental illness.³

Even when interactions are not fatal, they can result in unnecessary physical trauma, arrest, and incarceration. Data on

the mental health status of prison and jail inmates are limited but suggest a similarly alarming trend. A 2017 report from the U.S. Bureau of Justice Statistics found that 37 percent of prisoners and 44 percent of jail inmates “had been told in the past by a mental health professional that they had a mental disorder.”⁴ A previous BJS report that examined symptoms among inmates found higher estimates.⁵

Overreliance on Law Enforcement

The problem is apparent—many situations involving mental illness would be better addressed through health care rather than criminal punishment. Non-violent incidents related to public decency or disorderly conduct, for example, may not warrant a response from law enforcement. However, identifying meaningful solutions may be a much larger challenge.

People suffering from mental illness may be unwilling or unable to seek treatment. When mental illness reaches the point of crisis, law enforcement is often the first to respond. However, police officers generally lack the training and resources to respond appropriately to emergency calls involving individuals with mental illness. In most cases, officers are generally faced a decision between three options:

Do nothing, leaving the individual in crisis and the public unserved;

Make an arrest, perpetuating the alarming rate of incarceration among those with mental illness; or

Initiate an involuntary psychiatric hold, subjecting the individual to a period of involuntary confinement in a treatment

facility.

Overreliance on law enforcement in these situations places undue demands on police officers and diverts limited resources away from more serious criminal concerns. Substituting or augmenting law enforcement in response to individuals experiencing mental health crises can alleviate some of this burden.

Alternative Approaches

Fortunately, municipalities are beginning to experiment with alternative approaches to dealing with mental health crises and 911 calls. Many of these efforts are promising, but some of their efficacy may be hampered by poor implementation, lack of resources, or budgetary constraints.

Several municipalities have deployed specialized teams to handle mental-health-related emergency calls. Specific approaches vary but, in general, these teams may consist of specially-trained police officers, healthcare professionals, or both.⁶ Evidence on the impact of these reforms is somewhat mixed but suggests they can be successful when implemented well.⁷

However, it is not always feasible for local governments to implement these sorts of programs. It may be difficult to determine the appropriate response before an officer is on the scene. Moreover, uncertainty about the nature of certain situations could raise legitimate safety concerns for unarmed personnel.

Rural and financially stressed communities may also lack the financial or workforce resources necessary to employ or contract with health care and social work professionals. This is particularly important

because fatal police shootings of mentally ill people are 39 percent more likely to occur in small and mid-sized areas with populations under one million.⁸

The Potential of Telehealth

An innovative approach using telehealth to connect police officers with mental health services could alleviate some of these barriers to reform. Telehealth enables law enforcement to connect with healthcare professionals remotely via telecommunications and digital communication technologies.

Pilot programs have been initiated in multiple states including Florida, Texas, and South Dakota. Typically, the programs equip officers with tablets that can be used to contact mental health professionals via audio and video. The technology enables mental health professionals to interact directly with individuals experiencing mental distress. Mental health professionals may also aid officers by providing guidance and identifying available resources.

In 2017, the Harris County (Texas) Sheriff's Office launched the Clinician and Officer Remote Evaluation (CORE) Pilot Program.⁹ An analysis of the CORE program in 2019 conducted by the University of Houston-Downtown showed promising results.¹⁰ When surveyed, 86 percent of officers answered that the clinician/psychiatrist helped safely de-escalate the individual in distress. Ninety-three (93) percent said the clinician/psychiatrist helped them decide what course of action to take.¹¹

The CORE program has also been effective at avoiding transportation to

emergency rooms and criminal detention facilities. Approximately 42 percent of CORE calls in 2019 were resolved on scene. Officers indicated that, in the absence of CORE, these calls would have likely resulted in transportation to an emergency room. Only two calls resulted in transportation to a jail or detention center.¹²

More recently, police departments in Florida and South Dakota have adopted similar programs. In Florida, the Largo and Belleair police departments have adopted the Telehealth Remote Access to Crisis Evaluation (TRACE) program.¹³ Since November 2020, the number of involuntary psychiatric holds initiated by the Largo Police Department has decreased by 50 percent. Similarly, 23 counties in South Dakota began the Virtual Crisis Care pilot program in July 2020.¹⁴

Conclusion

This is an exciting moment for criminal justice reform. States and municipalities across the country are experimenting with different approaches to law enforcement and mental health services. Their experiences will provide researchers and policy advocates with an opportunity to evaluate alternative reform models and advance the most effective solutions.

If telehealth programs continue to produce promising results, other municipalities should consider implementing similar approaches. With some of the best telehealth policies in the nation, Florida has a clear opportunity to lead in this area.

While in-person models may prove to be more effective, telehealth could

nonetheless be another tool to address mental-health-related interactions with police. Given the complexity of the problem, policymakers should ultimately seek to provide law enforcement and mental health professionals with as many options as is practicable.

Of course, these types of policing reforms are only part of rethinking the punitive treatment of mental illness in the United States.¹⁵ Additional measures are required to provide treatment before mental health issues reach the point of crisis.

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The New Era of Access

Expanding Broadband Connectivity in the Information Age

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It's 2008 and 90 degrees in Polo, Missouri. With a view like a Grant Wood painting, it's an American Gothic, red barn aesthetic pulled right out of a textbook on the American dream.

One of the clearest memories I have of growing up was from that summer,

watching my family gather on the second step of the basement in my great grandparent's house around a single cell phone. We were celebrating the life of my great grandmother—four generations of the family gathered together in Polo, Missouri, just for the weekend.

It was my job to stand in the door of the kitchen and send family members to the right spot on the basement stairs—keeping a steady flow of family on the cell-phone line with my cousin Dusty who was 6,000 miles away, still deployed in Iraq.

What I didn't know then was that we were gathered around that cell phone because we were in the middle of a broadband dead zone—a last mile community that had been untouched by any kind of improvements to reliable broadband connectivity since before I was born. The second step of the basement was the only place near the house that you could have a phone call somewhat untouched by static or call failures, and certainly the only place to dial family in an Iraqi desert thousands of miles away. I came away with just a few snapshot memories of my hazy elementary school summers—but that phone call on a short-horn cattle operation in rural Missouri was one of the clearest.

A lack of access to reliable broadband reveals **pressing connectivity challenges** in rural America and in rural Florida that are more significant than just a dropped phone call.

Broadband connectivity is a policy issue that highlights the gaps. Gaps not only between rural and urban Florida, but between Floridians with full access to the economic and social opportunities the state provides, and those without that access.

Florida, Past and Present

There is, and always has been, a unique allure to Florida. Calling people with an outlaw, land of milk and honey energy, the State of Florida has a legacy of being our nation's open door to opportunity.

In the mid-19th century, my dad's side of the family drifted down to central Florida—chasing a mangroves-turned-Miami-Beach, boom town opportunity as captured by Patrick Smith in *A Land Remembered*. They became part of a state that was in the middle of a categorical shift—residents of a sleepy central Florida citrus town caught in a rapidly evolving blur of economic activity that laid the foundation for the growth our state is experiencing today.

Fast forward to 2021, and our booming economy, quality of life, and general prosperity bring nearly one thousand people to Florida every day—a far cry from the steady drip of migration that my family experienced in the 1850's.

The boom of the 20th century looks a lot like the boom we're experiencing now.

Florida was transformed from an outlaw territory, full of cracker cattle and miles of unfenced range, to one of the leading international economies, in large part because of an explosion of access and connectivity. Henry Flagler's Seven Mile Bridge through the Keys, the CSX network of rail lines, the ports in Punta Rosa, Boca Grande, and Miami, and the opening of the state highway system, changed the paradigm for Floridians and opened our state to the world.

There's a serious parallel to be drawn

between Old Florida and the Florida of 2021, and it centers on expanding access. For the Florida of 1850, it was railroads, ports, and clear roads, but for the Florida of today, it's the internet.

The state of the state

On a national scale, Florida isn't doing badly. Ranking 5th in state broadband access, with an average state-wide upload speed of nearly 127.5 MBPS, our state is performing markedly better than most, and that's good news for Floridians across the state.

But that isn't the whole story. Florida has somewhere around 800,000 citizens who lack access to adequate broadband speeds (that's a minimum download speed of 25 MBPS) That number is equivalent to the entire population count of our 33 rural counties, and is a big gap to bridge. About four-in-ten adults with lower incomes do not have home broadband services (43 percent) or a desktop or laptop computer (41 percent).

In the information age, when access is currency, a lack of broadband access is a problem not just for the people that lack connectivity, but for everyone that cares about our state being a place where everyone can engage in the global economy. In the same way that an early investment in the expansion of highways and deep-water ports led to the long-term economic success of the state, a thoughtful expansion of broadband infrastructure is an essential next step to equip Floridians for the full weight of the 21st century.

It's important, and it deserves our focused attention—so how do we make it

happen?

When you drill down into the data, a few things stand out: first, we just don't have good data. Here's a riddle for you: Who actually wants broadband? Even if you make it free, will consumers adopt? How fast does it actually need to be? Where should we put it? Now try to answer those questions without solid data, I dare you.

The very first step towards connecting the unconnected is to not only gather data, but to gather excellent data.

Walking the road to really understanding the demand for broadband is complicated. In 2019, Pew Research published a national study that found that only 54 percent of US households making less than \$30,000 per year had broadband. In contrast, 97 percent of US households making more than \$100,000 had broadband. Given that about 32 million households make less than \$30,000 per year, this means that there are nearly 17 million households that do not have broadband, and that adoption seems to correlate with income.

But why? If an increase in adoption correlates with an increase in income, wouldn't it also correlate with a reduction in price? A 2020 study by the Technology Policy Institute showed that a reduction in price doesn't incentivize adoption, and that we may be a long way off from understanding what does.

We know how critically important it is to have reliable data, and that without it we can't begin to address the challenges facing the state. The data gathering we engage in has to have both the means and the ends

to ask the right kind of questions in order for us to understand, and fill, our state's complex broadband needs.

One of the positive points of data that we do have is that, in large part, we know what works—or rather, who has been able to make it work.

Broadband is an incredibly complex, consumer-centered need. Understanding build-out requires an agility to respond to changing market variables and a serious technical understanding of the telecommunications space. These are needs best addressed by the market through the means of private industry, not the government.

A University of Pennsylvania study of municipal fiber projects found that when the government does attempt to enter the broadband space, their projects lose an average of about \$1 million on a net present value basis. The most serious underperformers included Marietta,

Georgia (lost \$24 million); Provo, Utah (incurred \$39 million in debt and sold its system for \$1); Dunnellon, Florida (took on \$7.4 million in debt and sold its system for \$1 million); and Bristol, Virginia (sold its system for \$50 million after using \$77.2 million in government subsidies and \$79.6 million in bond funding). This type of broadband expansion has also been shown to have a statistically insignificant impact on both the local economic prosperity and broadband subscription rates.

Local municipalities tend to not do a great job; private industry seems to be better equipped, so we should just get out of the way and it'll be smooth sailing. Easy, right? ...wrong.

Addressing the barriers

The fact of the matter is that broadband expansion is significantly challenged by the regulatory web. Broadband expansion is urgent, and anything outside of prudent delay is a barrier to the economic success of the state.

Regulatory shot clocks could be a sensible policy solution to help curb the opportunity cost associated with lengthy regulatory timelines. It's a don't-stand-in-your-own-way approach that could give Florida an edge in the broadband space.

We can't move forward without **creating a more sensible regulatory timeline** that draws telecommunications providers into last mile communities and removes the opportunity cost associated with overly burdensome red tape. Successful public private partnerships can't happen without it, and our current regulatory timeline doesn't fit into the rest of Florida's business friendly landscape. Let's fix that.

As we future-cast for Florida's coming decades of expansion, it's more important than ever to take a critical eye to how we can substantively expand economic opportunity across the state.

The internet is inextricably one of the most important factors in doing this. It's the thread connecting today's society and economy, and a tool that should be

accessible to every Floridian so that they can be a part of Florida's bright future.

Florida is on the radar of Americans across the country as an oasis of good old-fashioned freedom, opportunity, and home of the new American dream—and it's setting the pulse nationally. Our response should be to work to continue to expand the things that make Florida extraordinary, and that includes taking a look at what paved the road to where we are today: access, connectivity, and an open door to opportunity.



Fortifying The Front Lines In Healthcare

Bob Boyd **PRESIDENT AND CEO, ICUF**

Florida would be significantly worse off if it weren't for our brave nurses who have worked tirelessly and put themselves at risk to care for others during the COVID-19 pandemic.

Given the events of the past year and a half, imagine how unsettling it would be if we did not have enough nurses to care for the needs of Floridians. Unfortunately, this is a reality we are now facing. The United States is running out of nurses.

According to the U.S. Bureau of Labor Statistics, we will need an additional 1.1 million nurses to meet demands by 2022. By 2025, the nursing shortage will be a real crisis.

The American Association of Colleges of Nursing explains that "a large percentage of the current workforce is nearing retirement age, nursing school enrollment is not growing fast enough, and there is also a shortage of people to teach future nurses."

On September 20, hospital administrators in Florida testified before the Florida House Health & Human Services Committee and the House Pandemics & Public Emergencies Committee on how COVID-19 has exacerbated the shortage and accelerated the need for a stronger nursing workforce.

Floridians are either walking away from nursing, leaving the bedside or becoming travel nurses who get paid large sums to take their talents to COVID-19 hotspots. As a result, the nursing shortage is putting many of Florida's health care systems in a bind.

According to the Florida Hospital Association, 70 percent of hospitals in Florida are currently experiencing critical staffing shortages.

"This is really one of the great existential threats to our ability to continue to deliver healthcare," said Neil Finkler, chief clinical officer of AdventHealth Orlando. "This is not sustainable. It limits consistency. It limits our mentoring capability. It limits team building, and it limits a lot of the things that we have done to improve the quality of care that we provide."

High quality and accessible health care is essential to the quality of life in our state. A strong workforce of qualified nurses is a critical component to that. We must find a solution – and fast.

When asked by lawmakers what Florida can do to help the hospitals tackle the challenges they face, Finkler answered: "We need more students. We need more professors. We need more seats."

Education plays an important role in training up the next generation of nurses, and independent colleges and universities

across Florida, or ICUF schools in particular, are critical to strengthen the nursing workforce in Florida.

ICUF schools are independent and market-driven, responding to the needs of the students and the workforce. Of the 30 private, nonprofit institutions in Florida, nearly half of them offer nursing degrees.

One-quarter of Florida's nursing degrees come from ICUF schools. In 2020, this amounted to 3,600 nursing degrees, ranging from associate degrees through doctoral. These registered nurses and nurse practitioners are ready for the workforce. Some of them are professors ready to teach the generations of nurses that follow.

Fortunately, students in Florida have greater access to higher education through ICUF schools with the support of school vouchers. The Effective Access to Student Education (EASE) voucher helps Florida residents pay for their tuition at Florida's independent, nonprofit higher education institutions. It allows students to make the choice that's best for them.

The EASE voucher is an incredible investment for the taxpayer, especially as the state continues to look for ways to increase nursing degrees to meet our workforce needs.

The EASE voucher is far less expensive than the taxpayer-funded subsidies that support students at public institutions. Students who qualify for EASE vouchers receive \$2,841 per year to reduce the burden of tuition at their private institutions. The state subsidy for students at public universities is nearly five-times that, or \$14,000, and the state subsidy for students at state colleges is more than two times that, or \$7,000.

The program also enables students who may not otherwise have access to a postsecondary institution. Half of the students receiving an EASE voucher come from families who bring home less than \$60,000 in annual income. In addition, 40 percent of first-time, full-time undergraduates at independent colleges and universities receive Pell grants.

By earning their degrees at Florida's private, nonprofit colleges and universities, students are effectively breaking barriers to earn higher incomes. Of the top seven higher education institutions in Florida based on graduates' average starting salary, six of them are independent colleges and universities.

The data indicate our state's nursing shortage is a systemic challenge needing a holistic policy approach, or it will only get worse. Hospital administrators have revealed the system-wide impacts of this shortage. Our nurses on the front lines of the pandemic are stretched mentally, physically, emotionally and spiritually.

If we can hope to maintain a high quality, accessible and affordable health care system in America's third largest state with 22 million residents, we must address this challenge now. Thankfully, Florida has both the network of institutions and the policy tools to make headway in the battle ahead.



More Still Needs to be Done to Protect Florida Public Employees

F. Vincent Vernuccio **ADJUNCT FELLOW, THE JAMES MADISON INSTITUTE; STRATEGIC ADVISOR, MACKINAC CENTER FOR PUBLIC POLICY AND WORKERS FOR OPPORTUNITY.**

Florida has come a long way in advancing worker freedom, and the state came even closer to further enhancing protections for public employees in 2021. The state's lawmakers should be commended for these efforts, and for standing up for public employees. That said, the state still has a ways to go, and lessons from labor reforms in other states can serve as a helpful guide.

First the good: workers in Florida already have many laws on the books to protect their rights, and both private sector workers and public employees have more protections in Florida than in many other states.

Workers in Florida have the right to choose to pay union fees or not, thanks to Florida's right-to-work law. Not only was Florida one of the first states to enact

right-to-work, but it also did so through the robust protection of the state's constitution. Voters amended the state constitution in 1944, three years before Congress amended national labor law to explicitly allow right-to-work. And, unlike other states, Florida public employees have the right to opt-out and stop paying union fees at any time. In other words, Florida has historically been at the cutting edge of protecting its workers.

Right-to-work means that a union cannot get a worker fired for not paying them. While private sector workers are protected by Article 1, § 6 of the state constitution, in 2018 the United States Supreme Court in *Janus v. AFSCME* wrote that all public employees (in Florida and around the country) have a First Amendment Right under the U.S. Constitution to choose to pay government union fees or not. The Supreme Court said that everything government unions do is political and, because of this politics, public employees have a First Amendment Right to pay or not. In short, private sector workers are still protected by Florida's constitution but since 2018 public employees are also protected by the U.S. Constitution.

Still, simply saying that public employees have a Constitutional right to choose to pay union fees or not is not enough; they need to be informed of their rights and be given a regular choice to exercise those rights. During the 2021 legislative session, several policy reforms were introduced to further the rights of public employees. Legislators such as Sen. Dennis Baxley, Sen. Ray Rodrigues and, and Rep. Cord Byrd advanced legislation including House Bill 835, House Bill 947, Senate Bill 1014, Senate

Bill 78, which would have returned Florida to its traditional status as one of the leaders of labor reform in the country.

Each proposal had different components, and some applied to different types of public employees. Taken together, however, they would have ensured good bookkeeping, protected public employee paychecks, enhanced union democracy, and protected Florida taxpayers.

The proposals would have guaranteed that public employers obtain consistent consent directly from employees before deducting money from their paychecks. They would have also ensured that public employees were informed of their rights to not join or pay a union, and were given a periodic choice about whether they wanted to continue paying union dues or fees.

These provisions were similar to 2020's House Bill 1, which the Florida House passed in March of that year, but which ultimately did not pass the full legislature.

A 2019 poll conducted by The James Madison Institute and Workers for Opportunity showed the popularity and need for these changes. Over 70 percent of likely voters, including 63 percent of public sector union households, agree that the "government must get a government worker's permission to deduct union dues from their paycheck."

The poll also showed that nearly 80 percent of voters and 75 percent of public sector union households agreed that if a public employee "was not properly informed of their right to refrain from union membership" then they should be given "a chance to make a fresh decision after being properly informed of their rights."

The 2021 reform proposals would have also strengthened union democracy by allowing more public employees to vote to recertify the union at their workplace. In March of 2018 lawmakers in Tallahassee passed House Bill 7055 which amended FLA. STAT. § 1012.2315(4)(c) and gave teachers the right to vote to keep the union at their workplace or remove it if membership in that union dropped below 50 percent. This was important because many unions in Florida school districts were organized in the early 1970s, before most Florida teachers were even born, let alone having had the chance to vote on the union in their school. An analysis by the Heritage Foundation showed that, almost a decade ago, only one percent of working teachers had a chance to vote for the union in their school.

The 2019 poll also showed that over 60 percent of voters and a majority of public sector union households agreed that the right of teachers to recertify their union should be extended to other public employees. Recognizing that more than just teachers deserved a choice about who would bargain on their behalf, the package would have expanded the right to recertification to many other public employees.

In addition to expanding recertification rights to more public employees, the package would have added procedural protections to ensure the accuracy of any recertification election. As currently enforced, the state does little to verify membership information published by unions when evaluating whether they have reached the 50 percent threshold required to maintain exclusive bargaining status.

The stronger documentation required by the package would have required data to be certified by the employer, thereby providing a built-in method to verify whether unions actually met the 50 percent membership threshold and would not need to stand for reelection.

The need for this verification and proof was shown in a 2019 examination of self-reported numbers by teachers' unions, which showed many of the unions hovering just above the needed 50 percent membership threshold. With numbers that close, more verification is needed to ensure accuracy.

It should be noted that many of the provisions in the proposals were similar to suggestions made in the January 2020 James Madison Institute's Issue Commentary by this author: "Protecting Democracy and the First Amendment for Florida Public Employees."

Florida had perhaps one of the best proposals of reform in the country and, while they came very close to passing, they ultimately did not. Other states, however, were able to achieve similar reforms.

Lawmakers in Indiana passed Senate Bill 251 protecting teachers' paychecks. Similar to provisions in Florida's package, Indiana's legislation safeguarded school employees' choice to join and pay union dues or not. Teachers in Indiana now are protected from having money taken from their paycheck without direct annual consent and employer confirmation.

As bill sponsor Sen. Phil Boots (R) pointed out, "If a teacher wishes to be a member of a union, this law will not hinder their ability to do so ... This legislation was

introduced after lawmakers heard from teachers who felt they were not given an appropriate amount of flexibility.”

In West Virginia, lawmakers stopped the state from acting as the unions’ bill collector by passing Senate Bill 272. They also safeguarded the ability of independent workers to be their own boss by clarifying the standards for determining whether a worker is an employee or an independent contractor, thanks to Assembly Bill 2257.

Senate Judiciary Committee Chairman Charles Trump said the legislation “recognizes the reality of our 21st Century life, and that is we do not need to have organizations making deductions from people’s paychecks for these things anymore. It’s too easy now. Anyone who wants to belong to a club or a labor organization or a country club can easily have an automatic withdrawal set up from his or her checking account.”

Notably, Arkansas lawmakers enacted Senate Bill 341 which entirely prohibits collective bargaining by government unions. In doing so, Arkansas joins several other states which allow public employees to work directly with their employer without needing to go through a union.

Bill Sponsor Sen. Bob Ballinger noted that the legislation “doesn’t prohibit

[public employees] from unionizing, it just prohibits state actors from negotiating with them through a collective-bargaining agreement.”

Finally, in Tennessee, lawmakers in Nashville took another step in bringing their state closer to Florida by passing legislation for a ballot proposal to make right-to-work a constitutional right. Thanks to Senate Joint Resolution 648, Tennessee voters will have an opportunity on the November 2022 ballot to decide if they want to enshrine worker freedom in the state constitution.

The lead proponent of Tennessee worker freedom, Sen. Brian Kelsey, said the “amendment will guarantee future generations of Tennessee workers their right to work regardless of whether they choose to join a union.”

2021 was a good year for furthering worker freedom and protections for public employees and taxpayers. In the last several years, Florida has made many advances and has achieved some success, but there is still work to be done to maintain its status as a historic leader in worker freedom. The Sunshine State has an opportunity in 2022 to illustrate its leadership by enacting reforms that advance the freedoms of choice, opportunity, and assembly for all public sector workers.



If Florida's Local Governments Won't Keep Housing Affordable, The State Should Step In

Adam A. Millsap **SENIOR FELLOW, CHARLES KOCH INSTITUTE**

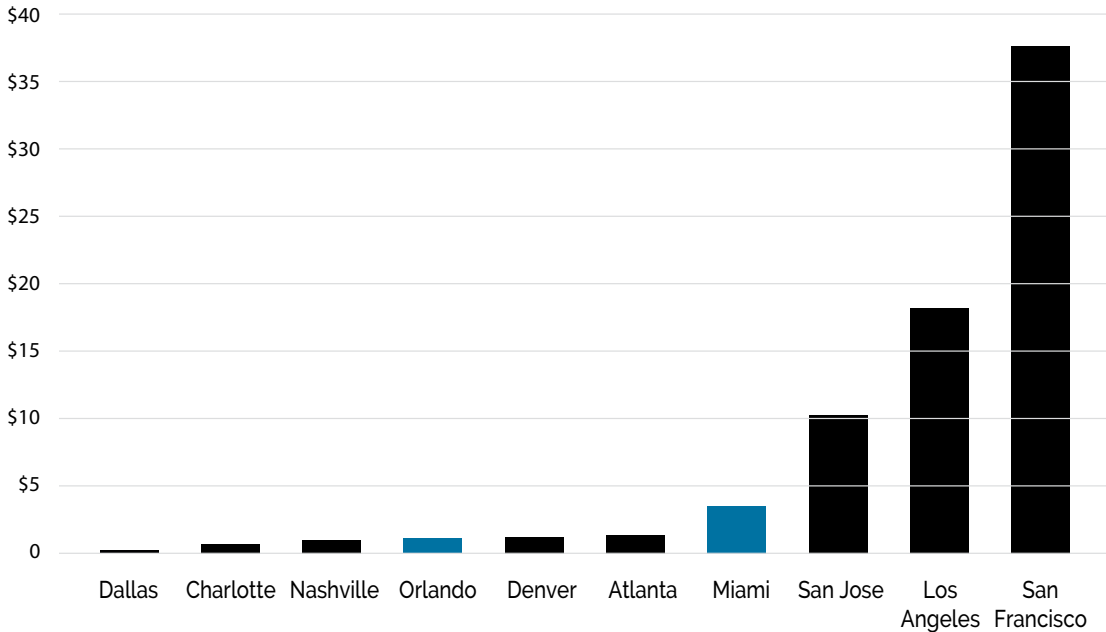
Introduction

Housing prices have been on a tear recently. The typical home value in the United States reached \$293,349 as of June 2021, a 13 percent increase from last year. In Florida, the typical home is worth \$297,390, just about at the U.S. average and far lower than in California (\$683,996), New York (\$371,880), and New

Jersey (\$408,517)¹. Cheaper housing is one reason people are leaving New York and New Jersey for Florida, but it's not the only one. Florida's mild winters, great beaches, and the country's eighth-lowest state and local tax burden also help explain why over 800 people per day are expected to move to Florida over the next four years².

Strong population growth is a good thing. If a state isn't growing, it's dying, as

**Figure 1: Zoning Tax Per Square Foot
Select MSAs**



Source: Author’s figure. Zoning tax data from Gyourko and Krimmel (2021).

fewer people mean less economic activity, less dynamism, and less economic mobility. But population growth isn’t inevitable. Florida will always have beaches and sunshine, but poor public policies can neutralize those advantages. Just ask all the Californians moving to Idaho³.

Right now, Florida’s housing market is in better shape than California’s, enabling Floridians of all income levels to find suitable housing. But being better than California is a low bar to clear. To keep Florida an attractive place to live and work, Florida’s policy makers need to be diligent about removing barriers to building.

Florida’s local governments control most of the land-use and zoning regulations

in the state, so right now they hold the key to affordable housing. But if they fail to allow the construction required to keep housing prices reasonable, the state should step in.

Expensive Housing Holds States Back

One of California’s biggest policy mistakes is its inability to build enough housing. It has the second-highest home prices in the country, behind only Hawaii, in large part because strict local zoning rules and land-use regulations make it extremely difficult to build⁴. A recent study calculated the “zoning tax,” or the extra amount homebuyers pay due to land-use regulations that restrict construction

and thus artificially increase the price of housing⁵. The San Francisco and Los Angeles metro areas have the highest median zoning taxes in the study at \$37.62 and \$18.25 per square foot, respectively.

Though lower than the zoning taxes in California, as shown in Figure 1 Orlando's (\$1.02) and Miami's (\$3.47) zoning taxes are higher than those in other growing metro areas, including Nashville (\$0.95), Charlotte (\$0.69), and Dallas (\$0.20), indicating room for improvement in the Sunshine State.

The link between strict land-use regulations and high housing prices is well established. Evidence from Florida shows that permitting delays plus an additional land-use regulation can add \$20,000 to \$26,000 to the price of a house⁶. Another study calculated that land-use regulations increase housing costs nationwide by \$209 billion per year, or \$1,700 per U.S. household⁷.

Policies that contribute to the zoning tax—often referred to as exclusionary zoning policies since in effect they exclude newcomers, especially those with lower incomes—include minimum lot sizes, building height limits, single-family zoning rules, and limits on building permits⁸. In high-demand areas, these regulations mean more people vying for less housing, resulting in higher prices.

Minimum lot sizes are particularly onerous, requiring that every parcel of land in a regulated area be equal to or greater than a stipulated square footage. This increases the cost of housing by forcing people to purchase additional land, exacerbates segregation by income, and

encourages sprawl⁹. While these effects are more pronounced in high-demand areas, they exist anywhere the regulations bind, or, in other words, make people buy more land than they want.

Minimum parking requirements are another cause of high real estate prices¹⁰. They require developers to provide a certain number of parking spaces, irrespective of actual parking demand, when building new residential units or commercial space. These requirements reduce the amount of land available for the buildings themselves, resulting in less useful space and higher prices.

Reforms Are Possible

These regulations, and others, push homeownership out of reach for many middle-class workers. Local officials and residents are beginning to understand this and, in some places, they have taken steps to reduce the harmful effects.

In 2019, Minneapolis quit prioritizing single-family homes and now allows triplexes to be built city wide¹¹. More recently, Charlotte—which already has a lower zoning tax than Orlando or Miami—approved a new comprehensive plan that allows higher-density housing units such as triplexes in areas that previously only permitted single-family homes¹². These laws will provide more affordable housing since duplexes, triplexes, and fourplexes tend to be cheaper than single-family homes.

Even California is doing something. Recently, it acted to improve housing affordability by making it easier to build accessory dwelling units (ADU)¹³. ADUs allow people to create new living space in

backyards or unused attics and garages.

Decreasing minimum lot sizes is another way cities can enable the construction of more housing. In 1998, Houston decreased minimum lot sizes from 5,000 square feet to as low as 1,400 square feet within the I-610 loop¹⁴. The result has been a substantial increase in housing in middle-income residential neighborhoods and areas with previously underutilized industrial and commercial land.

Cincinnati's city council eliminated parking requirements that required one space per apartment and one space for every 400 feet of retail space in some of the city's most walkable neighborhoods. While this is a good first step, Buffalo and Hartford went further and eliminated parking requirements citywide¹⁵. Eliminating parking requirements allows more land to be used for outdoor dining space or other non-auto uses, making areas more friendly for pedestrians. Such reforms may be even more important post-COVID-19, as people have rediscovered the health benefits of outdoor dining and recreation.

If Local Governments Won't Act, The State Can Encourage Them

Despite these successes, widespread zoning reform remains elusive. Homeowners are a powerful interest group at the local level, and many are opposed to new construction that disrupts their lives and devalues what is often their biggest investment—their homes. Zoning is also very fragmented. Local governments control zoning and land-use rules through state zoning enabling acts. The amount of authority varies by state,

but the fragmentation of zoning authority means pro-growth reforms need to be repeated across thousands of jurisdictions nationwide.

Like other states, in Florida, land-use regulations and permitting are controlled by local governments¹⁶. Land-use planning is codified in the state's 2011 Community Planning Act (CPA), which requires local governments to adopt, maintain, and implement land-use plans and regulations for future development that are consistent with the community's adopted comprehensive plan.

Prior to the 2011 CPA, the state had to review and approve each local government's comprehensive plan. The CPA limited review by the state and regional agencies except in cases where state resources and facilities are "adversely" or "negatively" impacted. Florida is also a home-rule state, so local governments can enact ordinances without state approval so long as the ordinances do not conflict with state law.

So, under current law Florida's local communities are largely free to control land-use as they see fit. That said, because local governments are administrative units created by the states, they only have the authority granted to them by their state legislature or voters. This means that if local governments prevent construction via exclusionary zoning, it's possible for states to intervene.

State intervention has some benefits over local control. First, reforms at the state level mitigate the fragmentation issue since they apply to every community in the state. Second, the concerns of homeowners carry less weight at the state level since they are

just one group among many vying for the attention of state officials.

The most extreme state intervention would be legislative or constitutional changes that preempt local authority. Short of preemption, state officials can influence local government policy by making public statements or by making intergovernmental funding conditional on zoning and land-use reform.

Possible State Actions

The first and easiest step Florida's state government can take to keep housing affordable is to encourage local governments to allow the housing supply to increase. Public statements from state officials that clearly articulate the need for the housing supply to keep up with demand so that Florida doesn't become another California may inspire local officials to reform their zoning rules and encourage current residents to accommodate new arrivals.

Of course, politely asking communities to allow more housing may not work. People often say they welcome more housing, but they rarely like actual construction: It's dirty, noisy, and generally inconvenient. There are also the immediate and tangible costs to local taxpayers of building more roads, schools, and other supporting infrastructure, while the benefits of more workers, a broader tax base, and more potential entrepreneurs are harder to see. This makes it easier to support more housing in theory while relying on other communities to do the actual building.

If words of encouragement are not enough, state officials can tie funding to zoning reform. The federal government

is trying to entice communities to build more housing via the YIMBY (Yes In My Backyard) Act¹⁷, a bipartisan bill that would require recipients of federal community development block grants to explain the reasoning behind their zoning codes. The sponsors hope that requiring such disclosure will promote zoning reform by shining more light on the costs of exclusionary zoning.

A similar but more aggressive approach would be for states to make some intergovernmental funding contingent on meeting housing supply goals. According to a Florida TaxWatch report, county and municipal governments in Florida receive just over six percent of their total revenue from state grants, state revenue sharing, and state payments in lieu of taxes¹⁸. This is lower than in many other states, as Florida relies on local taxing and spending to maintain government operations. Still, there seems to be enough money flowing from the state to local governments that the state could induce zoning reform by making some of the money conditional on reforms that reduce barriers to building.

For this approach to be effective, Florida will need to analyze data before sending money to ensure that any reforms made on paper actually lead to more housing and lower prices. Economists Emily Hamilton and Salim Furth of the Mercatus Center at George Mason University have suggested how HUD could do this regarding its grants, and states can incorporate many of their suggestions into their own policies¹⁹.

To monitor the price and supply of housing, Hamilton and Furth suggest using new home prices and the five-year

growth rate of the local area's housing stock. Absent new housing, a new arrival can only live in an area if they displace a current resident. More demand for the same supply increases prices, so additional supply—as measured by the growth rate of the area's housing stock—is necessary to keep housing affordable in high-demand areas like Florida.

Hamilton and Furth note that monitoring the price of newly-constructed homes is preferable to overall housing prices for two main reasons. First, it controls for the age of the house, which is associated with quality and price. Second, since policy changes related to zoning and construction requirements are likely to have the biggest impact on newly-constructed homes, focusing on new home prices will make it easier to see whether the policy changes are working.

To distribute funding, cities and counties can be separated into relevant peer groups based on past population and housing data. It makes more sense to compare larger coastal cities, such as the city of Miami and the city of Fort Lauderdale, to each other than it does to compare either to Quincy in Gadsden County. State funding can then be targeted towards the cities in each peer group that expand supply and keep housing affordable.

Getting the funding formula right will take time, and likely some trial and error. But if it keeps housing affordable amid strong population growth, it will be worth the effort.

State Preemption Can Drive Reform

A more drastic, though not unwarranted step if the others fail, is for the state to reconsider the power it grants to local governments regarding zoning and land-use regulations. For example, the state could require local governments to add a section to their comprehensive plans that addresses the supply of housing. The plans are already required to contain a future land use element and a housing element that address zoning, the maintenance of the housing stock, and potential sites for additional housing. These elements could be modified to require local governments to explicitly discuss how their zoning and land-use regulations impact their housing supply and how they plan to accommodate population growth.

The 2011 CPA could also be amended to require state approval of comprehensive plans. The state could reject plans that fail to adequately explain how they will accommodate population growth. Since comprehensive plans have the force of law once adopted, this would require local governments to implement accommodative rather than exclusionary zoning and land-use policies.

Another option is for Florida to withdraw some of the zoning authority it has granted local governments. The most exclusionary land-use policies—minimum lot sizes, single-family zoning rules, height restrictions, floor-area ratios, parking requirements, and density limits—could be removed from the toolkit of local governments and instead be set at the state level.

Preemption is already occurring in some states. The state of Oregon passed a law requiring that cities with more than 25,000 people allow fourplexes on lots formerly reserved for single-family homes²⁰. Similarly, Connecticut recently passed a state law that, among other things, allows ADUs in all single-family zones by right, limits local maximum parking requirements, and eliminates the nebulous word “character” from the state’s zoning enabling act, replacing it with “physical site characteristics”²¹. A cry to preserve neighborhood character, without ever defining what that character is, is a common tactic of zoning-reform skeptics. Connecticut’s new law forces people to clearly state what they mean by character so that communities can more accurately judge how zoning reform may affect it.

Preempting local government authority is not without tradeoffs. There are good reasons for states to delegate some powers to local governments. Local officials and residents have more information about local conditions and typically a better understanding of how to achieve their policy goals. Local authority also enables

more policy experimentation, which helps us discover which policies work and which don’t while also allowing for variety so people can choose the community that is best for them.

But in the case of housing policy, there are drawbacks to local authority. Decisions to stifle growth in one community spill over into nearby communities as new arrivals are forced to look elsewhere for housing. Local zoning authority is often abused as well. Local officials from San Francisco to Gainesville have been investigated for taking bribes in exchange for variances, zoning exceptions, and building approvals²². The conflicting interests of established residents on one side and newcomers plus developers on the other creates an environment that is ripe for backdoor dealing and cronyism.

State officials face different incentives than local officials and often take a more holistic view of the state’s economy and housing market. Done correctly, reinserting the state into zoning and land-use policy would keep housing more affordable and help prevent some of the worst zoning abuses by local governments.

Conclusion

It's important to recognize that when a state limits local governments' use of zoning it is an expansion, not a limitation, of individual property rights. Zoning restrictions typically prioritize the community at the expense of the landowner by restricting what people can do with their own property. As economist Emily Hamilton explains²³:

“Setting some limits on the extent to which localities can obstruct housing construction, such as allowing duplexes to be built where development is currently restricted to single-family housing, is not a move toward statewide planning; *it transfers some control over what gets built from local governments to individual property owners*, allowing the housing market to better respond to increases in demand for housing and improving affordability with no new subsidies.” [my emphasis]

There is something for everyone when more housing is allowed to be built. For those most concerned with equity, more housing means lower prices, all else equal,

which means more people can afford to live in high-demand areas with thriving economies. For those most concerned about government overreach, zoning reform is a way to return property rights to individual owners.

Florida's population is booming and that's likely to continue, but only if the state can avoid the mistakes that have derailed California's rise. Florida has the geographic amenities—nice beaches, mild winters, sunshine—and its economy is expanding. But to take advantage of all Florida has to offer, people must be able to afford to live there. If local governments can't keep housing affordable, the state should step in to do the job.

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The Future of Florida Journalism: An interview with Brian Burgess, Publisher & Editor-in-Chief of *The Capitolist*

Emerson W. George

COMMUNICATIONS MANAGER; THE JAMES MADISON INSTITUTE

In today's rapidly changing world, industries that take advantage of new technology and adapt quickly to change survive while those who remain stagnant become extinct. It is Social Darwinism 101, and the news industry is no exception.

With Florida at the forefront in so many different landscapes, a look at the Sunshine

State's news and media industry is a case study for how this industry has changed in recent years and, more to the point, the direction that journalism is headed.

There are few people more in tune with these changing trends than Publisher & Editor-in-Chief for *the Capitolist*, Brian Burgess. Brian's exceptional understanding

of both the political and media landscapes gained throughout his career has given him a unique insight into this topic and has helped him to launch a successful new-era news outlet at a time when traditional legacy news has struggled.

I interviewed Brian to get his take on the news industry and what he sees as the future of Florida journalism. Read the questions and Brian's answers below:

Tell us about your background and your experience in communications and in journalism, as well as your experience working with the Florida Press Corps during your career.

My first experience with the Florida media was in 2010, when "Tea Parties" were all the rage and an unknown businessman named Rick Scott started putting together a team to help him run for governor. Prior to that point, I'd worked for over a decade in business, but I only had five years of experience in politics and media.

When Scott won the 2010 election and tapped me to lead his communications team inside the governor's office, I knew I needed to surround myself with people who had a deep understanding of Florida's business, policy, and political history, and with people who had an institutional knowledge of Florida government and the way it functioned.

Scott challenged me to think outside the box when it came to media relations - it was something we could easily do during the campaign because we had no shortage of funding to get our message out - but once Scott became governor, the game changed considerably and we were forced to play

more frequently on the media's home court in Tallahassee.

We weren't afraid to experiment in those early days - we did the first-of-its-kind "Twitter town hall" and we leaned heavily on the governor's access to his own private plane, which enabled us to take our message in a more direct way to local media markets rather than duking it out with the capitol press corps, which were considerably more adversarial than local TV reporters around the state.

After I left the governor's office, I went back to the public affairs/media relations world for a few years, helping clients, and trying to pitch stories to the same media outlets I'd just spent years largely fighting against their narratives.

What led you to launch *the Capitolist*?

The Capitolist exists because of a confluence of factors that all came together in 2016:

1) The capitol press corps was undergoing a rapid drawdown and realignment, leaving fewer reporters to cover the same number of stories.

2) A national center-right media outlet had brought me in to talk about opening a Florida branch, but those talks bogged down and it never came to pass. But the discussion opened my eyes to the opportunities that existed here.

3) My own skillset had ripened to the point I was ready to take the plunge: I knew many of the newsmakers in state government, I understood the media and how it worked, my technical skills were good enough, the technology was available,

the costs were low, and I knew a lot of the organizations and groups that could help fund the endeavor. To top things off, love him or hate him, Donald Trump was exposing the legacy media's built-in biases like never before, opening the door to alternative media outlets. The timing was just right.

In recent years, we have seen an increase in online-only news services like *the Capitolist* emerging. Why do you think there is a growing demand for these new outlets and how do you see this trend developing in the future?

Most people understand the impact that the internet has had on legacy media outlets, how their stovepiped organizational pyramids were no longer sustainable in the information age.

I could spend hours on this subject, but I'll focus in on one key difference: breaking news versus "value-added" content.

Legacy outlets expend enormous resources to break news stories and be "first" to report something.

In the past, it used to matter that an outlet was first. It gave the outlet credibility, people became reliant on that outlet, which translated to direct revenues.

That's simply no longer the case. There's just not enough revenue in breaking news stories - especially at the local or state level - when information is so rapidly disseminated on the internet anyway.

For example, in the golden age of newspapers, if the New York Times broke a story on Monday, the soonest the

Washington Post could publish a similar story was Tuesday morning, leaving the Times to sell as many newspapers with that story as possible, with no competition for a full day.

That's just not the case anymore. Today, breaking news stories is more a matter of personal and professional pride than a matter of direct revenue. We still strive to do it and we love it when we break news.

But a modern digital outlet like *The Capitolist* focuses more on "value-added" news rather than "breaking news." That's an area where we can excel, in taking a story beyond the breaking news phase to the point where we're analyzing a story, speculating on what it means, thinking about the facts of a story in different ways, or providing new context that the reader may not be aware of.

In short, new digital media outlets are leaner, more flexible, almost as fast, equally informative, and definitely as entertaining as any of the legacy media outlets we compete against.

In contrast to the increased success of these new forms of news services, there has been much discussed about the decline of traditional and print news. For decades, newspapers such as the *St. Pete Times*, *Miami Herald*, *the Florida Times-Union* led the news, but today are shrinking their staff or closing their newsroom altogether. What do you feel has played a role in the decreased subscription rates and shrinking readership of these long-standing members of the Florida Press Corps?

Their information monopolies are gone. The *Tampa Bay Times* isn't the only way for someone in Tampa Bay to get news

these days. And the breaking news and exclusive stories monopoly no longer has the same value. Couple that shriveled up revenue stream with the enormous costs those media outlets are burdened with - pension funds, high salaries for layers of largely unnecessary editors - and they've essentially become a victim of their own success.

The good news is that their decline is almost over. It'll take until the end of this decade, but those local outlets that survive will soon figure out how to thrive. They just have to work through the financial pinch, shed their pension funds, and get rid of all the dead weight at the top of their organizations.

We're already seeing this play out with some of the hedge funds that are buying large stakes in media outlets, then making ruthless cuts to jettison some of the more expensive pieces of their newsroom operations, consolidating where possible.

Within a few years, these problems will finally be solved, and the surviving newsrooms will be lean and mean. My goal is to ensure *The Capitolist* is prepared to compete against those survivors.

In their 2017 report, Ericsson stated that the internet, smarter software, and social media can all be seen as a "gift to media and journalism," because of the potentially limitless opportunities that they provide. As we have seen, however, many traditional news outlets have not been able to take advantage of these new technologies effectively in a way that translates to subscriptions

or increased revenue. What do you feel is the reason for this disconnect when other organizations, like *the Capitolist*, are able to succeed in this new landscape?

Ericsson is correct, and smarter news organizations like ours are finding ways to generate compelling, relevant content at a low cost. Our team can spend five minutes on Twitter and find half a dozen story ideas that will easily generate as much traffic as a Miami Herald story about a legislative committee hearing. But we'll also cover that hearing, too, or pick up the wire version of the same story so our readers can have that, too.

The news outlets that survive into the next decade will be the ones that figure this out. The ones that die will be the ones clinging to the stodgy old business model of working to break a story, running it through several different editors, and finally publishing it digitally, and getting a few extra clicks for their effort. Meanwhile, our team sees their story on Twitter, and within an hour can have a "what's gonna happen next?" story out that gets 80 percent of the clicks but cost just 20 percent of their effort and resources.

In 2019, the Pew Research Center found that over half of Americans (54%) either got their news "sometimes" or "often" from social media. With this explosion of online publishing sources and social networking, many argue that this has caused a "bubble" due to cherry-picking and consuming only news

that conforms with one's worldview or political ideology, while other studies suggest that has caused increased exposure to diverse perspectives and news sources that many would not normally consume. What are your thoughts on this debate and how people are affected by this growing trend of news coming from social media sources?

Is there anyone advancing a credible argument that we should have fewer news options? Show me that person and I'll show you someone who just lost an election.

I grew up in a world where the news was "cherry-picked" for me by the editors of the *New York Times*, ABC, CBS, and *NBC News*.

I like this new model a lot better.

I have no doubt that "confirmation bias" is a thing. But it's not a new thing. And the fact that people are becoming aware of it will help encourage them to seek out a broader base of facts and information before making a decision.

Access to more news sources is always better than being force-fed a limited narrative by a third party.

How big of a role does social media play for *the Capitolist* in disseminating the news to your readership, and do you see that changing or growing in upcoming years?

Social media is crucial to how our content gets distributed. Our site is certainly designed to attract readers to our homepage with our statewide breaking

news and business news tickers, plus our original content all there at the top of the page. But most people aren't just waiting there on *TheCapitolist.com* for something new to post.

Social media is how traffic actually flows to us. We post a story on the site and immediately cross-post it to Twitter and Facebook, which instantly drives clicks, comments, and shares to other people's feeds. People also grab the link and email it around or post it themselves to share with others.

Facebook is far and away the largest driver of traffic for us. But we have a rather large Facebook audience that we've cultivated over the last five years.

In the next five years, I think our email newsletter, *The ReCap*, could supplant Facebook as the top traffic driver because it's growing significantly faster than our Facebook audience right now, but we'll have to see how things shake out.

There have been several instances in recent years of news outlets pushing out breaking news without verifying facts or checking sources, often due to prioritizing being the first one to break a story over accurate reporting. This has most notably caused commotion among government administrations and political organizations. In your opinion, what has caused this disturbing trend?

That's just a product of the speed with which information travels. Reporters are human, they'll see something on Twitter, and make very human and therefore occasionally erroneous assumptions about

those facts, and those assumptions then manifest in their own coverage of the event, which in turn gets repeated.

But I don't think it's anything to worry about. We as news consumers are growing more savvy about this, we're more skeptical, we're less likely to just believe the first thing we read online.

The modern internet is really only about twenty years old. My generation is this "straddle" generation, the first to grow up in the old media world while learning how to forget that world and navigate the internet. We're the most susceptible to "fake news" because we grew up relying on newsrooms taking their time to get it right.

My kids though? They know better. They're much more internet savvy, they have a healthy dose of skepticism. They've grown up in the digital world and know it better than you or I ever could.

The COVID-19 pandemic has fundamentally disrupted the way many industries conduct business, bringing in technological alternatives and new ways of interacting into everyday life more than ever before. In what ways has the journalism industry been changed and do you see these changes lasting in the long term?

The most notable change to the news business has been the lack of face-to-face media gatherings or "gaggles" where reporters surround a newsmaker and ask questions. Just two years ago, these were a regular thing, and they often yielded some surprising news nuggets because of the free-for-all atmosphere.

This new COVID-19 media world is a lot different, with spaced-out press conferences that are far more reserved and tame, and a lot more Zoom meetings that just don't have the same feel.

What other thoughts do you have on the future of Journalism in Florida?

The news business is largely starting to gel into the existing outlets you see today: *POLITICO Florida*, *The Tampa Bay Times*, *Miami Herald*, and a handful of surviving legacy newspapers, a couple of wire services, and the rest all digital outlets like *Florida Politics* and *The Capitolist*. There will be fewer failures, fewer layoffs, but more consolidation in the next few years, especially in Tallahassee. But by and large, the most painful cuts have already been made, and we're starting to settle into the final configuration for media outlets in the internet age.

This piece was originally published in Real Clear Policy.

june 04, 2021

Florida is Overcoming 'Systemic Privilege' By Putting Students Before the 'System'

William Mattox

Throughout America, a very important – and highly racialized – conversation is taking place about overcoming injustice. Here in Florida, that conversation has often gone in a markedly different and very promising direction. And schoolchildren of color are among the greatest beneficiaries.

The conversation in Florida, at least as it pertains to education, has focused on what might be called “systemic privilege.”

If you are unfamiliar with this (de-racialized) mash-up term, try this: Go to a public forum and suggest that all families should be treated fairly – that all parents should have access to the per-pupil funds for their children even if they choose to educate them outside the public school system.

Then, watch the defenders of “systemic

privilege” come out of the woodwork.

“You want to take money out of the public school *system*,” they’ll say. “We should be spending more on the public school *system*, not on school choice alternatives for students outside the *system*.”

To the defenders of “systemic privilege,” the *system* is more important than the students. And the people who benefit from the *system*’s privileged position matter more than the families trapped within its coercive tentacles.

Thankfully, here in Florida, a bipartisan (and multi-ethnic) coalition of leaders have been working to end “systemic privilege.” Over the last two decades, they have succeeded in adopting education choice policies that enable low- and middle-income parents to find the learning environment that best meets their children’s

unique needs, aptitudes, and interests.

As a consequence, nearly half (48 percent) of all Florida K-12 students currently attend something other than their zoned public school. And the Florida Legislature just passed a measure adding 61,000 students to Florida's K-12 scholarship rolls.

Lest there be any doubt, Florida still has some work to do – in education and in other areas. But the Sunshine State has done more to end “systemic privilege” than any other state. And Florida students are greatly benefitting.

In fact, *Education Week* now ranks Florida #3 in the nation in K-12 student achievement. A research team from Harvard and Stanford found that, over the last quarter-century, Florida students showed greater learning gains than the students in all but one other state (even though Florida increased per-pupil spending less than every other state!). And a recent study found that the (mostly minority) students in Florida's largest school choice scholarship program are more likely to go to college – and to graduate – than their public school peers.

So, the future is bright for Florida's students – and not just for those taking advantage of Florida's new learning options. In fact, a recent National Bureau of Economic Research study found Florida

public school students showed significant academic improvement after school choice was adopted (presumably because greater competition spurred greater public school achievement).

In other words, Florida's rising tide of education choice is lifting all boats. And while ending “systemic privilege” in K-12 education is not the only “justice” issue Americans should be concerned about, no other policy reform is apt to do more to alter the trajectory of the next generation than education choice.

During the civil rights era, the city of Atlanta used to boast that it was *The City Too Busy to Hate*. Considering its remarkable success in K-12 education, Florida now probably ought to be known as *The State Too Busy Creating Bright Futures for All Our Students to Let Haters Divide Us Along Racial Lines*.

Which may just be another way of saying, once again, that Florida is the Sunshine State.

William Mattox is the director of the Marshall Center for Educational Options at the James Madison Institute. He served on the Tallahassee Civil Rights Landmark Committee and helped start the Village Square's “Local Color” project to bridge racial division.

This piece was originally published in the Wall Street Journal.

march 31, 2020

Florida's Pioneering Medical Reforms

Other states should repeal rules they've temporarily relaxed to deal with the coronavirus epidemic

Sal Nuzzo & Vittorio Nastasi

The Covid-19 epidemic is putting new strains on the U.S. health-care system. Many states are struggling with shortages of ventilators and personal protective equipment. But the shortfalls aren't limited to hardware. According to the Association of American Medical Colleges, the U.S. will face a shortage of as many as 122,000 physicians by 2032.

We recently published a study outlining state-level reforms to address the shortage, many of which one state—Florida—has already adopted. Other states are beginning to recognize the benefits of these reforms and are adopting measures to implement them temporarily.

Thirty-five states and the District of Columbia have certificate-of-need laws, which require clinics and hospitals to complete a lengthy and burdensome

approval process before adding new facilities and services. Florida repealed most of its certificate-of-need requirements last year. Within weeks, three hospitals that had previously had their expansion plans stymied announced immediate plans for new transplant services. Two other hospitals indicated that they would also expand in the near future. North Carolina and others are suspending laws that prevent hospitals from expanding their number of beds.

Even if states repeal certificate-of-need laws, medical facilities are likely to be overwhelmed by the surge of Covid-19 patients. Telemedicine can alleviate some of this strain by allowing for remote treatment. As infections approach their peak, technology will be essential to providing care for at-risk populations—like the elderly and immunocompromised—while keeping

health-care workers safe. It will also enable patients experiencing less severe symptoms to seek medical advice without spreading the virus.

The U.S. Department of Health and Human Services recently issued temporary licensure waivers that allow Medicare patients to receive telemedicine services from out-of-state providers. Federal authorities are also taking temporary measures to allow telehealth providers to communicate with patients through popular platforms like FaceTime, Facebook Messenger and Skype.

Last year, Florida enacted substantial reforms to facilitate the adoption of telemedicine. These included a registration process allowing professionals in other states to provide telemedicine services without obtaining an additional license to practice in Florida—a requirement that elsewhere has hindered widespread adoption of telehealth. Other states should follow Florida's lead. All states, including Florida, should go a step further by simply recognizing medical licenses from other states without imposing an additional registration process.

Most recently, Florida passed comprehensive scope-of-practice reform for advanced practice registered nurses,

physician assistants and pharmacists. Scope of practice refers to the range of services a medical professional is permitted to provide. In most states, advanced practice registered nurses and physician assistants aren't allowed to do everything they've been trained to do and are required to work under the supervision of physicians. Pharmacists in most states are allowed to administer flu vaccines but can't test patients for common illnesses.

Florida's recent reforms are expanding the range of services that advanced practice professionals may provide and eliminating direct-supervision requirements. Pharmacists in Florida will be able to test for common illnesses like strep throat and the flu. Other states should follow suit to lend greater flexibility to health-care providers and allow physicians to focus on caring for the patients in greatest need.

While most states are adopting these reforms temporarily in response to the coronavirus crisis, there is no reason they shouldn't consider permanently rolling back unnecessary regulations that limit access to care.

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A Vast Network Making a Major Impact

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