



FREEDOM IN THE 50 STATES

An Index of Personal and
Economic Freedom

2013 Edition

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MERCATUS CENTER
George Mason University

To Caleb, Mason, and Adele—
may they grow up in a world freer than that of their parents.

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Where liberty dwells, there is my country.

—Benjamin Franklin

INTRODUCTION

This study ranks the American states according to how their public policies affect individual freedoms in the economic, social, and personal spheres. Updating, expanding, and improving upon the two previous editions of *Freedom in the 50 States*, the 2013 edition examines state and local government intervention across a wide range of policy categories—from tax burdens to court systems, from eminent domain laws to occupational licensing, and from homeschooling regulation to drug policy.

For this new edition, we have added more policy variables (especially relating to economic regulation); improved the way we measure government spending, marijuana laws, tobacco policies, and other policies; and implemented an innovative system for aggregating individual variables to generate each state's score and ranking. For the first time, we have a decade of data on economic and personal freedom in the states, 2001 to 2011, allowing us to see how states have changed over that time.

We began this project to fill a need: *Freedom in the 50 States* remains the only index that measures both economic and personal freedoms. We also strive to make this the most comprehensive and definitive source for economic freedom data on the American states.

Measuring freedom is important because freedom is valuable to people. At the very least, it is valuable to those whose choices are restricted by public policy. While the United States has made great strides toward respecting each individual's rights regardless of race, gender, age, or sexual preference, certain other groups face growing threats to their interests in some jurisdictions. These include smokers, people who want to build or buy affordable housing, people who want to practice a trade without paying onerous examination and education costs, and so on.

This country has long accepted that “benefit to others” cannot justify trampling on some people’s freedoms. Books may not be banned simply because the ideas and arguments they present offend some readers. Racial segregation would be unjustified even if for some reason it promoted economic growth. Likewise, state and local governments ought to respect basic rights and liberties, such as the right to practice an honest trade or the right to make lifetime partnership contracts, whether or not respecting these rights “maximizes utility.” This index measures the extent to which states respect or disrespect these basic rights and liberties.

While states that excel in one area of freedom—fiscal policy, regulatory policy, or personal freedom—do not always score well in the other areas of freedom, we recognize important relationships among all these dimensions of freedom. In his 1962 book *Capitalism and Freedom*, Milton Friedman explores the connection between economic and political freedoms, finding that political freedom in the absence of economic freedom is unlikely to last. He writes, “It is a mark of the political freedom of a capitalist society that men can openly advocate and work for socialism.”¹ Likewise, at the state level, Americans cannot expect personal freedom to endure without high levels of economic and regulatory freedom. While some states currently score well in one dimension of freedom and lag in others, Friedman’s work shows that all three types of freedom support one another.

Several different audiences will find the information and analysis contained in this book useful:

- State legislators, their staff, and local policy makers interested in liberty can use the data and rankings to see where their states stand relative to other states and to determine where real improvements can be made. Although policy makers are better situated than we are to make precise judgments about the benefits of specific legislation, this book does offer general policy recommendations tailored for each state. These are contained in the state profiles located at the end of the study.
- Scholars can use the index to model politics and policy outcomes in areas such as economic growth and migration. These data are also a valuable resource for teachers and students, providing easy access to information that can be used for policy analysis or statistical projects.
- Businesses considering new investment opportunities or relocation can use the data to analyze state tax and regulatory regimes

1. Milton Friedman, “The Relation Between Economic Freedom and Political Freedom,” chapter 1 in *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962), 16.

and the relative openness and tolerance that attract highly productive employees.

- Reporters can use the data to understand their states' policy debates in a national context and to hold legislators accountable for infringement on freedoms.
- Individual citizens can use the data to better understand what their state governments are doing and thus be better-informed participants in the democratic process. The data are also useful to those seeking to move to a freer state.

This book scores all 50 states on their overall respect for individual freedom, and also on their respect for three dimensions of freedom considered separately: fiscal policy, regulatory policy, and personal freedom. In order to calculate these scores, we weight public policies according to the estimated costs that government restrictions on freedom impose on their victims. However, we happily concede that different people value aspects of freedom differently. Hence, our website provides the raw data and weightings so that interested readers can construct their own freedom rankings; this information is available at www.freedominthe50states.org.

DEFINING FREEDOM

“Freedom” is a moral concept. What most people mean by freedom is the ability to pursue one’s ends without unjust interference from others. Of course, reasonable people can disagree about what counts as unjust interference, and it is also controversial whether freedom in this sense ought to trump other desiderata such as social welfare. These questions cannot be answered in a value-neutral way, but citizens and policy makers must try to answer them nonetheless. We are forthright about our moral philosophy so that we can be precise about what counts as “freedom” for us, but we recognize that others may define freedom differently. We have made the data and weights available online so that people can alter our index to fit their own conceptions of freedom. We consider it an open, but interesting, question whether freedom is in any way related to indicators of aggregate social welfare such as income growth and migration. Part 2 takes up this question in more detail.

We ground our conception of freedom on an individual rights framework. In our view, individuals should be allowed to dispose of their lives, liberties, and property as they see fit, so long as they do not infringe on the rights of others.² This understanding of freedom follows from the

2. We recognize that children and the insane must be treated differently from competent adults, and also that some rights may not be alienated even by consenting adults.

natural-rights liberal thought of John Locke, Immanuel Kant, and Robert Nozick, but it is also consistent with the rights-generating rule-utilitarianism of Herbert Spencer and others.³ In the context of the modern state, this philosophy engenders a set of normative policy prescriptions that political theorist Norman Barry characterized as “a belief in the efficiency and morality of unhampered markets, the system of private property, and individual rights—and a deep distrust of taxation, egalitarianism, compulsory welfare, and the power of the state.”⁴

In essence, this index attempts to measure the extent to which state and local public policies conform to this ideal regime of maximum, equal individual freedom.⁵ For us, the fundamental problem with state intervention in consensual acts is that it violates people’s rights. To paraphrase Nozick, in a free society the government permits and protects both capitalist and non-capitalist acts between consenting adults.⁶ Should individuals desire to “tie their own hands” and require themselves to participate in social-insurance, redistributive, or paternalist projects, they should form communities by contract for these purposes.⁷

There is a critical caveat about this acceptance of the “law of equal freedom” at the heart of libertarianism and the political order espoused in this index.⁸ In short, neither the liberal order nor the libertarian approach requires that one take an ethically or normatively neutral stance about how individuals use their freedom. Nor does it imply acceptance of any particular “thick” ethical position. Therefore, one can reject “libertinism” (“do whatever you want so long as you do not hurt anyone else, whether it be snorting cocaine or engaging in casual sex”) and even make strong moral claims about the proper way to live a virtuous, flourishing life without sacrificing one’s credentials as a friend of liberty. Thus, libertinism is in no way logically implied by “libertarianism”—which is a political theory of robust individual rights and a limited state, with “thin” ethical content (namely, that individuals have “rights” or moral dignity that must be respected). Supporting the right of consenting adults to use drugs or of bakeries to contract with bakers

3. See John Locke, *Second Treatise of Civil Government*; Immanuel Kant, *Foundations of the Metaphysics of Morals*; Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); Herbert Spencer, *Social Statics; or, The Conditions Essential to Happiness Specified, and the First of Them Developed* (London: John Chapman, 1851).

4. Norman Barry, “The Concept of ‘Nature’ in Liberal Political Thought,” *Journal of Libertarian Studies* 8, no. 1 (1986): 16n2.

5. The “equal freedom” that persons enjoy in a free society is, for us, equality of rights and equality before the law, not equality of opportunities or “positive freedom.” On positive freedom, see Isaiah Berlin, “Two Concepts of Liberty,” in *Four Essays on Liberty* (Oxford: Oxford University Press, 1969).

6. Nozick, *Anarchy, State, and Utopia*, 163.

7. Almost all real-world governments do not constitute contract communities because their constitutions do not enjoy the unanimous consent of the governed. Homeowners’ associations, by contrast, do in theory fit into this category.

8. The law of equal freedom is, as Herbert Spencer put it, that “every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man.” Herbert Spencer, *Social Statics; or, The Conditions Essential to Happiness Specified, and the First of Them Developed* (London: John Chapman, 1851), 103.

to work more than 60 hours a week has precisely nothing to do with judging those behaviors to be wise or even morally justified. Therefore, the freedom index makes no claim about the wisdom or morality of the behaviors that states should allow adults to pursue freely. It is left to philosophers, theologians, and all of us as moral agents to make such ethical arguments.⁹

While our belief in limited government is based on the morality of individual rights, empirical evidence suggests that the protection of individual rights tends to foster economic growth and the coinciding improvements in people's living standards. Economist Robert Lawson explains the relationship between economic freedom and economic growth:

Numerous studies have shown that countries with more economic freedom grow more rapidly and achieve higher levels of per-capita income than those that are less free. Similarly, there is a positive relationship between changes in economic freedom and the growth of per-capita income. Given the sources of growth and prosperity, it is not surprising that increases in economic freedom and improvements in quality of life have gone hand in hand during the past quarter of a century.¹⁰

We also recognize that freedom, properly understood, can be threatened as much by the weakness of the state as by overbearing state intervention. Individuals are less free when they have reason to fear private assaults and depredations, and a useful government punishes private aggression vigorously. However, this book focuses on threats to individual liberty originating in the state. Therefore, we do not code the effectiveness of state governments in reducing rights violations. For instance, we do not calculate measures of the efficacy of state police and courts or of violent and property crime rates.¹¹ Thus, our "freedom index" does not capture all aspects of freedom, and we encourage readers to use our scores in conjunction with other indicators when assessing government effectiveness or quality of life.

Our definition of freedom presents specific challenges on some high-profile issues. Abortion is a critical example. According to one view, a fetus is a rights-bearing person, and abortion is therefore an aggressive violation of individual

9. Indeed, we consider ourselves to be "virtue libertarians" (a term we have adopted as the result of many conversations over the years about our particular "conservative libertarian" brand of ethical and political thinking)—espousing strong support for a libertarian political order but also strong convictions about what a flourishing, moral life demands and how people ought to use their freedom (with proper humility, of course, about our ability to know with any certainty what the best life is for any individual or for people in general). We also think that certain behaviors are more consistent than others with the preservation and security of a free society. This approach owes much to the work of Frank Meyer, Albert J. Nock, and Walter Block.

10. Robert A. Lawson, "Economic Freedom and the Wealth and Well-Being of Nations," *The Annual Proceedings of the Wealth and Well-Being of Nations* Vol. 2, 2009–2010.

11. Measuring the efficacy and justice of criminal penalties, arrest procedures, etc. in terms of deterrence, proportionality, retribution, rehabilitation, etc. is an extremely complex endeavor that deserves a lengthy treatment on its own. See Richard A. Posner, *The Economics of Justice* (Cambridge, MA: Harvard University Press, 1981).

rights that ought to be punished by the government. According to another view, a fetus does not have rights, and abortion is a permissible exercise of an individual liberty, which entails that government regulation of abortion is an unjust violation of a woman's rights. Rather than take a stand on one side or the other (or anywhere between), we have coded the data on state abortion restrictions and made them available online at www.statepolicyindex.com, but have not included the policy in the index of freedom.

Another example is the death penalty. Some argue that murderers forfeit their own right to life, and therefore state execution of a murderer does not violate a basic right to life. Others contend that the right to life can never be forfeited, or that the state should never risk taking away all the rights of innocent individuals by falsely convicting them. State sentencing policies short of the death penalty could also be debated. We do not include the death penalty in the freedom index, although we have coded the data and made them available online at www.statepolicyindex.com.

The freedom index stands within the tradition in social science of measuring normatively desired phenomena, such as democracy,¹² civil liberties,¹³ and human rights.¹⁴ Clearly, our index will have intrinsic interest for classical liberals and libertarians. However, non-libertarian social scientists will also benefit from the index because it is an open question how individual liberty relates to phenomena such as economic growth, migration, and partisan politics in the American states. In the same way, while political scientists may value democracy for its own sake, they can also research empirically what causes democracy and how democracy affects other phenomena.

CREATING THE INDEX

We started this project by collecting data on state and local public policies affecting individual freedom as it is defined above. The most recent period for which state and local fiscal policies are available is fiscal year (FY) 2010 (July 1, 2009 to June 30, 2010), and thus we collect data on other policies up to December 31, 2010, so that all data are consistent and comparable. Since we code policies based on the date of their enactment by the legislature or the date of the court decision, not the date they go into effect, the index captures the state of freedom in the 50 states as of mid-2011. We back-code the policy variables and create freedom indices for 2001, 2007, and 2009 as well. These indices are consistent and comparable over time, although some data needed to be imputed (see Appendix A for details).

12. See, for example, the Polity IV Project, <http://www.systemicpeace.org/polity/polity4.htm>.

13. See, for example, the Freedom House indicators, <http://www.freedomhouse.org>.

14. See, for example, the CIRI Human Rights Dataset, <http://ciri.binghamton.edu>.

Because we want to score states on composite indices of freedom, we need some way of “weighting” and aggregating individual policies. One popular method for aggregating policies is “factor” or “principal component” analysis, which weights variables according to how much they contribute to the common variance—that is, how well they correlate with other variables.

Factor analysis is equivalent to letting politicians weight the variables, because correlations among variables across states will reflect the ways that lawmakers systematically prioritize certain policies. Of course, partisan politics is not always consistent with freedom (e.g., states strong on gun rights tend to be weak on gay rights). The index resulting from factor analysis would be an index of “policy ideology,” not freedom.¹⁵

Another approach, employed in the Fraser Institute’s “Economic Freedom of North America,” is to weight each category equally, and then to weight variables within each category equally.¹⁶ Of course, this approach assumes that the variance observed within each category and each variable is equally important. In the large dataset used for the freedom index, such an assumption would be wildly implausible. We feel confident that, for instance, tax burden should be weighted more heavily than court decisions mandating that private malls or universities allow political speech.

Previous versions of this index used a subjective weighting system, based on a rough assessment of the importance of each policy in terms of the number of people affected and the value they were likely to place on their infringed freedom. We were dissatisfied with the imprecise and subjective manner in which we constructed those weights, and for this edition we have tried to use a much more objective and independent measure of the “value” of each freedom.

In this edition, variables are weighted according to the value of the freedom affected by a particular policy *to those people whose freedoms are at stake*. Each variable receives a dollar estimate, representing the financial, psychological, and welfare benefits of a standardized shift of the variable in a pro-freedom direction to those people who enjoy more freedom. We base these values on estimates derived from the scholarly literature in economics and public policy that quantifies the effects of policies on behavior.

The “freedom value” of each variable represents the benefits only to those people whose freedoms have been respected. We do not include the benefits to those who wish to take away freedoms. For instance, private companies may benefit from receiving eminent domain transfers, but we count only the costs to those whose property has been taken away.

15. Jason Sorens, Fati Muedini, and William P. Ruger, “U.S. State and Local Public Policies in 2006: A New Database,” *State Politics and Policy Quarterly* 8, no. 3 (2008): 309–26.

16. See “Economic Freedom of North America 2012” (Fraser Institute, 2011), <http://www.freetheworld.com/efna.html>.

We do this because we do not want to create a utilitarian calculus. An index of social welfare is not the same as an index of freedom. We leave it an open question whether deprivations of freedom have net social benefits or costs. Of course, the costs of these deprivations to their victims would be *part* of a utilitarian calculus, but we do not want to foreclose future empirical research on whether government intervention that classical liberals consider unjust might nevertheless have some beneficial social consequences.

Our approach shares something in common with John Rawls's famous criticism of utilitarianism:

As an interpretation of the basis of the principles of justice, classical utilitarianism is mistaken. It *permits* one to argue, for example, that slavery is unjust on the grounds that the advantages to the slaveholder as slaveholder do not counterbalance the disadvantages to the slave and to society at large burdened by a comparatively inefficient system of labor. Now the conception of justice as fairness, when applied to the practice of slavery with its offices of slaveholder and slave, would not allow one to consider the advantages of the slaveholder in the first place. . . . The gains accruing to the slaveholder, assuming them to exist, cannot be counted as in any way mitigating the injustice of the practice.¹⁷

This is precisely our position, not only with regard to the extreme example of slavery, but also to the more mundane but equally systematic deprivations of freedom in contemporary American society. Therefore, we count only the disadvantages to victims of injustice.

In addition, we have techniques for including second-order victims in our calculations, who may not lose property or freedom directly, but who can be expected to suffer fear of having their rights violated in the future. We discuss some of these techniques in the relevant sections below. Our raw data contains comments describing in detail the justification for each variable's weight, and citing relevant sources.

The value of a freedom represents the dollar-terms value of the freedom to potential victims if a one-standard-deviation change in that variable were imposed nationwide. That common standard allows us to compare variables to each other and sum their costs. When we discuss below the values of a particular freedom, or, equivalently, the victim costs of restrictions on that freedom, we are referring to that metric.

Again, the value of a freedom represents not just financial benefits, but consumer surplus, psychological benefits, and so on. These estimates are

17. John Rawls, "Justice As Fairness," *The Philosophical Review* 67, no. 2 (1958): 187–88.

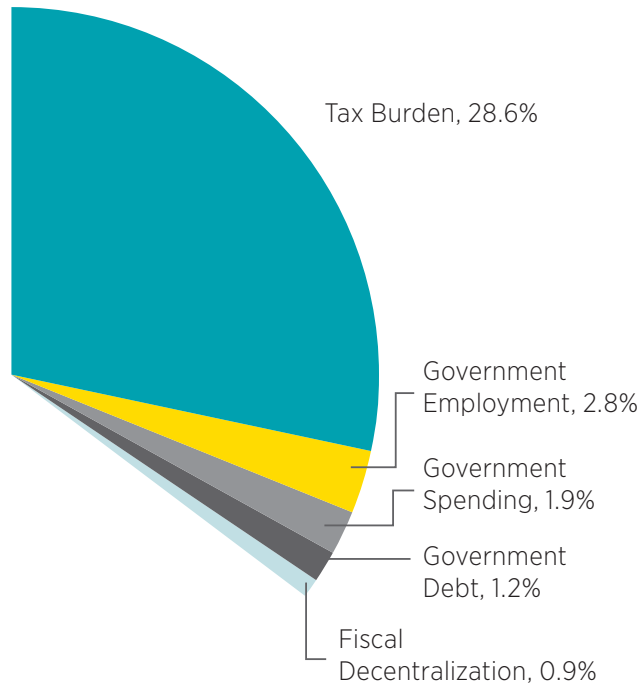
based on economic and policy research, but admittedly, that research does not always allow very precise, certain estimates. We lack the resources to conduct in-depth statistical analysis on the social and economic consequences of each of the more than 100 variables in the dataset. Absent this capability for precision, our aim in this edition was to construct weights that are accurate within an order of magnitude.

With plausible variable weights, quantifying freedom permits researchers to investigate the relationship between freedom and other desiderata quantitatively and to judge changes in freedom over time objectively, rather than anecdotally. Measurements of freedom will improve as scientific estimates of the relative values of different freedoms improve, but taking the first step toward an objective assessment of different freedoms' values is essential to the social-scientific enterprise.

Thus, our index of freedom should be understood to represent each state's relative respect for freedom, as reflected in the value enjoyed by the "average" person who would otherwise be deprived of the freedoms we measure. However, each individual will value different policies differently, and for that reason, again, we encourage readers to apply their own weights and personalize the freedom index at www.freedominthe50states.org.

PART I
DIMENSIONS OF
FREEDOM

For the purposes of the freedom index, this book identifies three overarching “dimensions” of freedom and further divides each dimension into categories comprising one or more of the variables used to generate the state scores and rankings. Variables in the fiscal policy dimension end up with 35.3 percent of the summed freedom values of all variables, variables in the regulatory policy dimension with 32.0 percent, and variables in the personal freedom dimension with 32.7 percent. Taken individually, the categories may interest readers on core topics of concern, such as taxation, state debt, health-insurance regulations, restrictions on alcohol sales, and so on. The following sections explain how each category was constructed and given its respective weight within the index. Together, these categories comprise the overall rankings, found in part 2.



Category Weightings: Fiscal Policy

FISCAL POLICY

The fiscal policy dimension consists of categories for tax revenues, government employment, government spending, government debt, and fiscal decentralization. Each of these categories consists of a single variable. The variables are measured for each fiscal year: FY 2010, the latest year for which data are available, encompasses the period between July 1, 2009, and June 30, 2010.

The discussions of each fiscal policy variable also contain some information on how the variables were weighted. The fiscal policy weights face a unique measurement error problem: the estimated freedom values for the fiscal policy categories overstate the true freedom values by an indeterminate amount.

Consider taxation. This index's weight for tax burden assumes that all taxes take away freedom. But in fact some taxpayers consent to at least some of the taxes that they pay, as long as the taxes are legal and generally paid by others. Therefore, taxation is not wholly a violation of their freedom, as "freedom" is defined above. However, most criminal justice policies do not operate along these lines. For instance, an imprisoned drug possessor is no more likely to consent to being confined if others are as well, and a driver fined for not wearing a seat belt does not usually consent to being fined if others are, and so on.

Rather than trying to figure out how much of the observed taxation truly represents a diminution of freedom, this study uses aggressive estimates of the value of freedom from taxation and other fiscal policy measures, and then boosts the weighting of certain personal freedoms and economic regulations, as explained in the relevant sections below. The point is to make sure that the index is using an equally aggressive method for estimating the values of all the different freedoms it covers.

The following sections introduce each category within the fiscal policy dimension, in descending order of weight.

TAX BURDEN

28.6%

Each state's tax burden is measured by calculating state and local tax revenues as a percentage of the state's personal income, excluding motor fuel, mineral severance, alcohol sales, and tobacco sales taxes.¹ Gas taxes are excluded because they approximate user fees (they are paid roughly in proportion to use by the user, unlike other taxes) and theoretically could be aimed at reducing pollution, a negative externality that infringes on freedom. Mineral severance taxes are excluded because they are paid by energy companies that pass the costs on to consumers worldwide, not just to residents of the state where they operate. Alcohol and tobacco sales taxes are excluded because they are included in the personal freedom dimension. Personal income is the denominator because it represents the size of each state's economy: it statistically correlates better with state and local revenues and expenditures than any other commonly used measure of economic size, such as gross domestic product. The taxation variable therefore roughly represents the average tax burden state taxpayers face.

Because of interstate investment, commuting, and tourism, tax collections do not always line up with tax burdens on residents. The Tax Foundation tries to make adjustments for these effects to derive a purer indicator of average tax burden, but the differences between its indicator and the one used in this book are usually small. This index uses a variable that makes each state responsible for its own tax level; the Tax Foundation measure of tax burden can penalize a state if its residents decide to commute, travel, or earn investment income elsewhere.²

Calculating the weight for tax burden is straightforward. The index takes a one-standard-deviation change in the tax variable (1.24 percent of personal income) and applies it to national personal income for the 50 states, yielding a figure of \$153 billion. In other words, if state and local taxes were raised (or cut) by 1.24 percent of personal income nationwide, \$153 billion more (or less) would be paid in taxes. In the end, this category alone gets a weight of 28.6 percent in the index. As discussed in the previous section, the dollar value assigned to this variable overstates the true importance of freedom from taxation, but the index adjusts for this problem by using similarly expansive measures for other variables in the regulatory policy and personal freedom dimensions.

1. The Census Bureau taxation measures used here exclude user fees (such as state university tuition) from the tax category, but include business, motor vehicle license, and alcohol license fees, which is appropriate for the freedom index.

2. See Tax Foundation, "Map: State-Local Tax Burdens and Ranks by State, 2009," February 23, 2011, <http://taxfoundation.org/article/map-state-local-tax-burdens-and-ranks-state-2009>.

Rank	State	Tax Burden
1.	South Dakota	7.3%
2.	Oklahoma	7.4%
3.	North Dakota	7.5%
4.	Tennessee	7.5%
5.	Alabama	7.6%
6.	Montana	7.7%
7.	New Hampshire	8.0%
8.	Idaho	8.2%
9.	New Mexico	8.2%
10.	Texas	8.2%
11.	Missouri	8.3%
12.	South Carolina	8.3%
13.	Virginia	8.4%
14.	Alaska	8.5%
15.	Arizona	8.5%
16.	Florida	8.5%
17.	Georgia	8.6%
18.	Louisiana	8.7%
19.	Utah	8.7%
20.	Kentucky	8.8%
21.	Washington	8.8%
22.	Oregon	9.0%
23.	Mississippi	9.0%
24.	Arkansas	9.2%
25.	West Virginia	9.2%

26.	Colorado	9.2%
27.	North Carolina	9.2%
28.	Delaware	9.4%
29.	Illinois	9.5%
30.	Maryland	9.6%
31.	Pennsylvania	9.6%
32.	Massachusetts	9.6%
33.	Nebraska	9.7%
34.	Kansas	9.7%
35.	Nevada	9.7%
36.	Iowa	9.7%
37.	Ohio	9.8%
38.	Michigan	9.9%
39.	Indiana	10.0%
40.	Minnesota	10.2%
41.	Rhode Island	10.3%
42.	Connecticut	10.3%
43.	Wisconsin	10.5%
44.	Wyoming	10.6%
45.	California	10.8%
46.	Vermont	11.1%
47.	Maine	11.2%
48.	New Jersey	11.2%
49.	Hawaii	11.3%
50.	New York	14.0%

GOVERNMENT EMPLOYMENT

2.8%

The victim cost for state and local government employment as a percentage of private employment has to do with the estimated crowding-out effects of government employment on the private sector, drawn from the scholarly literature in economics. Economists Jim Malley and Thomas Moutos use a cointegration framework on time-series data from Sweden and find that a 1.00 percent increase in government employment is associated with a 0.43 percent decrease in private employment. Economist Evi Pappa uses US state data and also finds that aggregate employment is, on average, unresponsive on impact to government employment, implying substantial crowding out in the short run and presumably the long run as well.³

According to the Malley-Moutos elasticity estimate applied to state data from 2009, there was an aggregate disemployment effect from an increase in government employment that year. While this might be true, it seems like an aggressive assumption. After all, government employment is very high in Sweden and thus its marginal effect there might be more negative than its marginal effect just about anywhere else.

Instead, following Pappa's results, the freedom index assumes a net zero effect on total employment from an increase in state and local employment. The private disemployment effect of a one-standard-deviation increase in the ratio of government to private employment, as of 2009, would be 2,597,095 nationwide. Average compensation per job in the United States in 2009 was \$56,895. The index assumes that compensation equals marginal productivity and that government jobs are only 90 percent as productive as private jobs. The victim cost of a nationwide, one-standard-deviation increase in the government employment ratio is therefore 2,597,095 times \$56,895 divided by 10, or \$14.8 billion.

3. Jim Malley and Thomas Moutos, "Does Government Employment 'Crowd Out' Private Employment? Evidence from Sweden," *Scandinavian Journal of Economics* 98, no. 2 (1996): 289-302; Evi Pappa, "The Effects of Fiscal Shocks on Employment and the Real Wage," *International Economic Review* 50, no. 1 (2009): 217-44.

Rank	State	Government Employment
1.	Nevada	10.1%
2.	Massachusetts	10.4%
3.	Pennsylvania	10.7%
4.	Rhode Island	10.7%
5.	Florida	11.1%
6.	New Hampshire	11.8%
7.	Illinois	12.1%
8.	Connecticut	12.1%
9.	Minnesota	12.2%
10.	Tennessee	12.4%
11.	Maryland	12.4%
12.	Ohio	12.7%
13.	Delaware	12.8%
14.	Maine	12.8%
15.	Colorado	12.8%
16.	Vermont	12.8%
17.	Indiana	12.8%
18.	California	12.8%
19.	Arizona	12.9%
20.	Utah	12.9%
21.	Wisconsin	13.0%
22.	New Jersey	13.0%
23.	Missouri	13.0%
24.	Georgia	13.0%
25.	Michigan	13.1%

26.	Texas	13.2%
27.	Oregon	13.6%
28.	Virginia	13.7%
29.	South Dakota	13.8%
30.	New York	14.0%
31.	Hawaii	14.0%
32.	Nebraska	14.0%
33.	Iowa	14.0%
34.	Idaho	14.1%
35.	Montana	14.1%
36.	Kentucky	14.5%
37.	Arkansas	14.9%
38.	North Dakota	15.0%
39.	North Carolina	15.0%
40.	South Carolina	15.0%
41.	Washington	15.1%
42.	Alabama	15.5%
43.	Louisiana	15.5%
44.	Kansas	15.8%
45.	Oklahoma	16.5%
46.	West Virginia	17.1%
47.	Mississippi	18.4%
48.	Alaska	18.8%
49.	Wyoming	19.5%
50.	New Mexico	19.7%

GOVERNMENT SPENDING

1.9%

The third category under fiscal policy is state and local government consumption and subsidies as a percentage of personal income. This edition of *Freedom in the 50 States* focuses on these kinds of government spending, to the exclusion of transfers (like welfare payments), because the victim cost of transfer payments lies almost purely in the taxes that pay for them. In other words, even if transfers have adverse consequences for an economy, they do not victimize anybody. Someone who receives an unemployment check has not lost freedom—the victims of government unemployment insurance are taxpayers. Government consumption and subsidies have crowding-out effects on private industry (e.g., through monopoly franchises or bidding up the prices of inputs), but the scholarly literature in economics is less well developed here than on government employment.

Government employment already captures losses associated with the crowding-out of private employment by government employment through wages, and thus this variable, which includes spending on wages, consumption for the government's own use, and subsidies, is intended to capture other mechanisms of crowding-out.

Economist Lauren Cohen and her colleagues find that exogenous increases in government spending caused by seniority shocks (thus unaccompanied by tax or debt increases) are associated with significant declines in capital and in research and development expenditures by local, private, publicly traded firms, and with declines in employment.⁴ However, their estimates exclude non-publicly-traded firms and forms of government spending not captured by seniority shocks. Thus, this paper does not provide a means to estimate a quantitative loss to the private sector from increases in government spending as a whole.

Economist Eugene Smolensky and his colleagues calculate a deadweight loss from transfers amounting to between 5 percent and 24 percent of the value of the transfer.⁵ While that paper is about transfers and not government consumption, this index assumes a similar effect from government consumption. Cross-national studies have found a negative relationship between government consumption and economic growth.⁶

4. Lauren Cohen, Joshua D. Coval, and Christopher Malloy, "Do Powerful Politicians Cause Corporate Downsizing?" (National Bureau of Economic Research Working Paper No. 15839, 2010), <http://www.nber.org/papers/w15839>.

5. Eugene Smolensky, Leanna Stiefel, Marian Schmundt, and Robert Plotnick, "In-Kind Transfers and the Size Distribution of Income," in *Improving Measures of Economic Well-Being*, ed. Marilyn Moon and Eugene Smolensky (New York: Academic Press, 1977), 131–53.

6. Robert J. Barro, "Human Capital and Growth," *American Economic Review* 91, no. 2 (2001): 12–17; Stefan Fölster and Magnus Henrekson, "Growth Effects of Government Expenditure and Taxation in Rich Countries," *European Economic Review* 45, no. 8 (2001): 1501–20.

Rank	State	Govt Consumption and Subsidies			
1.	Massachusetts	8.8%	26.	Tennessee	11.1%
2.	Connecticut	8.8%	27.	New York	11.5%
3.	Pennsylvania	8.8%	28.	North Dakota	11.5%
4.	Maryland	8.9%	29.	Michigan	11.6%
5.	New Hampshire	9.0%	30.	Louisiana	11.6%
6.	Illinois	9.8%	31.	Idaho	11.7%
7.	Virginia	9.9%	32.	Kentucky	11.8%
8.	Florida	9.9%	33.	Kansas	11.9%
9.	Colorado	10.3%	34.	Arkansas	11.9%
10.	New Jersey	10.4%	35.	Montana	12.2%
11.	Indiana	10.4%	36.	North Carolina	12.2%
12.	Missouri	10.4%	37.	Utah	12.2%
13.	Minnesota	10.4%	38.	Iowa	12.3%
14.	Maine	10.4%	39.	Alabama	12.4%
15.	Wisconsin	10.5%	40.	Washington	12.5%
16.	Arizona	10.6%	41.	Oklahoma	13.0%
17.	Hawaii	10.7%	42.	Oregon	13.0%
18.	Rhode Island	10.7%	43.	Nebraska	13.1%
19.	Ohio	10.7%	44.	Delaware	13.6%
20.	Nevada	10.7%	45.	South Carolina	13.8%
21.	South Dakota	10.7%	46.	Mississippi	13.8%
22.	Texas	10.8%	47.	West Virginia	14.2%
23.	Georgia	10.9%	48.	New Mexico	14.8%
24.	Vermont	11.0%	49.	Wyoming	15.0%
25.	California	11.0%	50.	Alaska	15.9%

The freedom index assumes that 5 percent of the value of government spending is burned up by deadweight loss. The resulting victim cost from a nationwide, one-standard-deviation increase in state and local government consumption plus subsidies then comes to \$10.0 billion.

GOVERNMENT DEBT BURDEN

1.2%

The victim cost for state and local government debt as a share of the state's personal income can be calculated with some precision, given assumptions about future interest rates and the rate at which the average taxpayer discounts the future. (Unfortunately the data for unfunded pension obligations, which could have been included here, are not consistently available for all 50 states on an annual basis.) As of FY 2009, state interest payments were 4.5 percent of state debt outstanding.⁷ Increases in state and local debt are, with perhaps a short lag, reflected in higher interest payments and higher taxes, which are already included in the index.

To avoid double-counting taxes paid on current interest, the index considers the victims of government debt to be the next generation of taxpayers, 20 years hence. In order to calculate the single-year expected loss to this generation in higher taxes, following Office of Management and Budget standards, the index assumes an annual social discount rate of 7 percent. To calculate the present value of the 20-years-hence, single-year, additional tax revenue required from a one-standard-deviation increase in debt (4.93 percent of income), it uses the formula

$$0.93^{20} \times 0.0493 \times 0.045 \times \$12,357,113,000,000 = \$6.4 \text{ billion.}$$

7. Steven Maguire, "State and Local Government Debt: An Analysis" (Congressional Research Service, April 14, 2011), <http://www.fas.org/sgp/crs/misc/R41735.pdf>.

Rank	State	Government Debt Burden
1.	Wyoming	9.7%
2.	Idaho	12.3%
3.	Iowa	12.9%
4.	Oklahoma	14.0%
5.	Arkansas	14.5%
6.	Mississippi	15.1%
7.	Maryland	15.1%
8.	North Carolina	15.6%
9.	Georgia	15.6%
10.	North Dakota	16.2%
11.	South Dakota	17.0%
12.	Alabama	17.1%
13.	Tennessee	17.2%
14.	Virginia	17.4%
15.	Montana	17.6%
16.	Ohio	18.0%
17.	West Virginia	18.3%
18.	Maine	18.3%
19.	Vermont	18.8%
20.	New Hampshire	18.8%
21.	Nebraska	19.0%
22.	Minnesota	19.9%
23.	Wisconsin	19.9%
24.	Missouri	20.3%
25.	Utah	20.6%

26.	Connecticut	20.6%
27.	Louisiana	20.8%
28.	Florida	21.3%
29.	Delaware	22.0%
30.	New Jersey	22.1%
31.	Hawaii	22.6%
32.	Michigan	22.8%
33.	Arizona	22.8%
34.	Indiana	23.2%
35.	Colorado	23.6%
36.	Pennsylvania	23.8%
37.	Oregon	24.7%
38.	New Mexico	24.8%
39.	Washington	24.9%
40.	Illinois	25.1%
41.	South Carolina	25.3%
42.	California	25.8%
43.	Texas	25.9%
44.	Kansas	26.2%
45.	Rhode Island	27.6%
46.	Massachusetts	29.0%
47.	Nevada	29.1%
48.	Kentucky	29.2%
49.	Alaska	32.6%
50.	New York	33.2%

FISCAL DECENTRALIZATION

0.9%

The fiscal decentralization variable measures the extent to which a state is more fiscally decentralized than one would expect given its size. The “raw” fiscal decentralization variable is defined as local own-source tax revenues divided by state and local own-source tax revenues plus federal intergovernmental spending to the state government and local governments in the state. Larger states tend to be more fiscally decentralized, but it is harder to move from, say, Texas or California to another state than it is to move across the states of New England. According to the raw fiscal decentralization variable, Texas is far more decentralized than Vermont, even though the entire state of Vermont is smaller in population than several Texas cities. Therefore, because fiscal decentralization should capture the value of ease of moving to a jurisdiction where the mix of taxes and spending is to a household’s liking, this index regresses the raw variable on the log of state population and takes the residuals. Smaller states have an inherent advantage for taxpayers: in New England, a considerable amount of residential “sorting” occurs across state lines, something not possible in most of Texas.

Calculating the value of fiscal decentralization requires some ingenuity. It is important to capture the value to households of being able to move across jurisdictions and change their tax burden significantly. A hedonic pricing model of real estate values could accomplish this purpose, but no economist has yet estimated such a model with a fiscal-decentralization variable. Instead, *Freedom in the 50 States* uses Google Insights data on the frequency of searches for different terms one would associate with people looking at where to move and considering tax levels.

The authors compared the frequency of searches for “states, lowest, taxes” to those for “towns, lowest, taxes,” “cities, lowest, taxes,” and “counties, lowest, taxes” in the United States between 2004 and 2012. Adding up the latter three categories shows that searches for localities with low taxes are approximately 4 percent of searches for states with low taxes. This may be taken to imply that people are about 4 percent as concerned with finding a locality with low taxes as they are with finding a state with low taxes. Other search techniques also suggested that differences in local taxes are worth about 3 percent of differences in state taxes to people searching for information.⁸ Therefore, the index puts the weight at 3 percent of tax burden’s weight.

8. See the `a_fiscal_11.xls` spreadsheet at www.freedominthe50states.org for details.

Rank	State	Fiscal Decentralization
1.	Nebraska	0.203
2.	Colorado	0.159
3.	Nevada	0.121
4.	Tennessee	0.112
5.	Florida	0.099
6.	Georgia	0.081
7.	Wyoming	0.081
8.	Kansas	0.072
9.	South Dakota	0.067
10.	Arizona	0.060
11.	Illinois	0.058
12.	Washington	0.058
13.	New Hampshire	0.054
14.	Texas	0.040
15.	Missouri	0.031
16.	New Jersey	0.025
17.	South Carolina	0.024
18.	Idaho	0.024
19.	Iowa	0.024
20.	Indiana	0.023
21.	New York	0.021
22.	Oregon	0.018
23.	Alabama	0.012
24.	Rhode Island	0.008
25.	Utah	0.008
26.	Virginia	0.004
27.	Maryland	0.004
28.	Connecticut	0.002
29.	North Carolina	-0.003
30.	California	-0.005
31.	Wisconsin	-0.010
32.	Minnesota	-0.012
33.	Maine	-0.016
34.	Ohio	-0.024
35.	Massachusetts	-0.025
36.	Louisiana	-0.027
37.	Pennsylvania	-0.034
38.	Oklahoma	-0.036
39.	Mississippi	-0.041
40.	Montana	-0.048
41.	North Dakota	-0.059
42.	Alaska	-0.062
43.	Michigan	-0.063
44.	Kentucky	-0.065
45.	Delaware	-0.085
46.	Hawaii	-0.086
47.	New Mexico	-0.102
48.	West Virginia	-0.104
49.	Arkansas	-0.124
50.	Vermont	-0.124

OVERALL FISCAL POLICY RANKING

35.3%

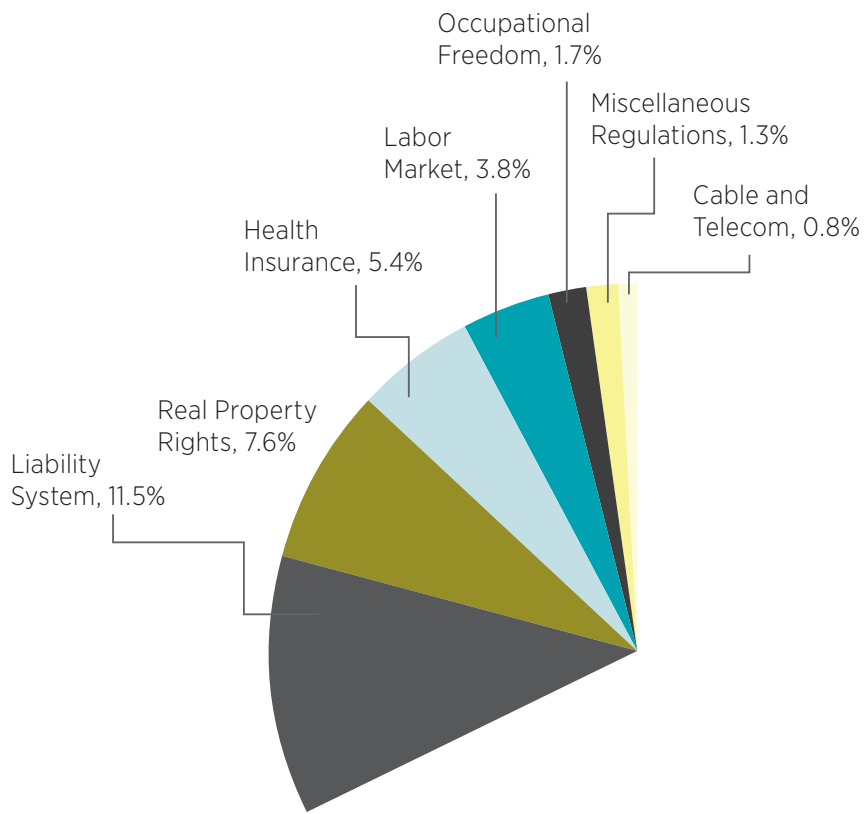
Since taxation is the most highly weighted category under fiscal policy by far, it is unsurprising that low-tax states dominate the top of the fiscal policy ranking, while high-tax states fall at the bottom. In this table, the numbers represent the number of weighted standard deviations each state is above the average. For instance, New York's score of -106.9 means that even if New York were exactly average on regulatory policy and personal freedom (garnering a total score of zero on them), it would still be, on average, a full standard deviation less free than the average for *every* policy.

A state that is one standard deviation better than average on every single policy will end up with an overall freedom score of 100, and a state that is one standard deviation worse than average on every single policy will end up with an overall freedom score of -100. Since fiscal policy represents only about a third of the overall index, New York's score of -106.9 means that it is about three standard deviations worse than average on fiscal policies alone!

In general, right-of-center states dominate the top of the fiscal policy ranking, while left-of-center states occupy the bottom. Part 2 looks at the relationship between public ideology and freedom in more detail.

Rank	State	Fiscal Policy Score
1.	South Dakota	51.8
2.	Tennessee	48.5
3.	Oklahoma	43.7
4.	North Dakota	43.1
5.	Alabama	41.7
6.	New Hampshire	40.6
7.	Montana	38.5
8.	Idaho	31.7
9.	Missouri	29.7
10.	Texas	28.9
11.	Florida	27.5
12.	Virginia	26.8
13.	Arizona	24.6
14.	Georgia	24.4
15.	South Carolina	20.7
16.	Utah	17.3
17.	Louisiana	15.8
18.	New Mexico	15.1
19.	Washington	12.9
20.	Kentucky	11.8
21.	Colorado	9.6
22.	Alaska	7.8
23.	Oregon	7.7
24.	Arkansas	5.0
25.	North Carolina	4.1

26.	Maryland	3.7
27.	Illinois	3.3
28.	Pennsylvania	3.1
29.	Massachusetts	2.0
30.	Mississippi	1.9
31.	Delaware	-0.1
32.	West Virginia	-1.2
33.	Nevada	-1.7
34.	Nebraska	-4.4
35.	Ohio	-5.4
36.	Iowa	-5.8
37.	Kansas	-8.7
38.	Indiana	-9.9
39.	Michigan	-9.9
40.	Minnesota	-13.4
41.	Connecticut	-15.0
42.	Rhode Island	-15.3
43.	Wisconsin	-21.2
44.	California	-29.5
45.	Wyoming	-33.4
46.	Maine	-36.6
47.	Vermont	-37.4
48.	New Jersey	-37.9
49.	Hawaii	-42.7
50.	New York	-106.9



Category Weightings: Regulatory Policy

REGULATORY POLICY

The regulatory policy dimension includes categories for the liability system, real property rights (eminent domain and land-use regulation), health insurance freedom, labor market freedom, occupational freedom, cable and telecom, and miscellaneous regulations that do not fit under another category. Regulations that seem to have a mainly paternalistic justification, such as homeschool and private school regulations, are placed under the personal freedom dimension.

In order to take into account the wider, unmeasured costs of insecure rights, this index increases the weights on variables representing policies encoded in state constitutions or the federal Constitution. This is done because the fact that a policy has been encoded within a constitution is *prima facie* evidence that the policy is widely considered to affect a “fundamental” freedom—a freedom with consequences for the security of the citizenry that extend beyond citizens under its immediate purview.

Within the regulatory policy dimension, the weights of certain variables are boosted as follows.

(1) The victim cost/freedom value is multiplied by two if the policy is encoded in the US Constitution, or has been recognized by at least some courts as relating to a fun-

damental right. Examples of such policies include eminent domain reform, rent control, regulatory taking restrictions, and mandatory permission of political speech on private property.

(2) The victim cost/freedom value is multiplied by 1.5 if the policy is encoded in state constitutions but not the federal Constitution, and has not otherwise been recognized judicially as a fundamental right. Right-to-work laws are the only such policies.

These adjustments introduce an element of arbitrariness into the weightings, but some sort of boost is necessary to capture the particular importance Americans have attached to certain fundamental freedoms. Fundamental freedoms are widely if not universally considered part of human flourishing and autonomy, and policies potentially infringing on them are therefore subject to stricter judicial scrutiny than policies that would restrict freedoms that, while potentially valuable, are not fundamental.⁹ By relying on existing judicial interpretations of fundamental rights, the freedom index avoids at least one possible source of subjectivity as it “upgrades” these policies.

9. Legal Information Institute, “Fundamental Right,” Cornell University Law School, August 19, 2010, http://www.law.cornell.edu/wex/fundamental_right.

LIABILITY SYSTEM

11.5%

The liability system variable, also known as the “freedom from tort abuse” variable, is a ranking of state tort systems based on a survey of business owners and managers. This is what the US Chamber of Commerce calls a state’s “lawsuit climate.”¹⁰ It captures risks and costs that businesses must pass on to consumers as higher prices. This survey serves the freedom index better than a direct measure of state court practices and procedures, which are difficult to obtain and to measure any other way. The states that have passed “tort reform” legislation are generally those that had the most plaintiff-friendly systems to begin with, so crediting states for enacting tort reform would yield the opposite of the desired metric, which is the security of property and contract freedoms from politicized tort judgments.

Unfortunately for consumers—and that means everyone—tort abuse’s overall cost to the economy is quite high. In fact, according to policy analysts Lawrence J. McQuillan, Hovannes Abramyan, and Anthony P. Archie, the nationwide “tort tax” amounts to \$328 billion annually in direct costs and \$537 billion annually in indirect costs.¹¹ Only the former are measured here, so this index may be understating the importance of this variable. However, excluding indirect consequences is consistent with this study’s general approach. Given these high costs, it is unsurprising that this variable is the most highly weighted category under the regulatory policy dimension.

10. See Institute for Legal Reform, “Ranking the States: Lawsuit Climate 2010,” U.S. Chamber of Commerce, <http://www.uschamber.com/reports/ranking-states-lawsuit-climate-2010>. New reports can be found at <http://www.instituteforlegalreform.com/states>.

11. Lawrence J. McQuillan, Hovannes Abramyan, and Anthony P. Archie, *Jackpot Justice: The True Cost of America’s Tort System* (San Francisco: Pacific Research Institute, 2007).

Rank	State
1.	Delaware
2.	North Dakota
3.	Nebraska
4.	Indiana
5.	Iowa
6.	Virginia
7.	Utah
8.	Colorado
9.	Massachusetts
9.	South Dakota
11.	Minnesota
12.	Maine
13.	Arizona
14.	Kansas
15.	Wyoming
16.	New Hampshire
17.	North Carolina
18.	Idaho
19.	Tennessee
20.	Maryland
21.	Oregon
22.	Wisconsin
23.	New York
24.	Connecticut
25.	Vermont

25.	Washington
27.	Georgia
28.	Nevada
29.	Ohio
30.	Michigan
31.	Oklahoma
32.	New Jersey
33.	Alaska
33.	Pennsylvania
35.	Hawaii
36.	Texas
37.	Missouri
38.	Rhode Island
39.	South Carolina
40.	Kentucky
41.	Florida
41.	New Mexico
43.	Montana
44.	Arkansas
45.	Illinois
46.	California
47.	Alabama
48.	Mississippi
49.	Louisiana
50.	West Virginia

Ties in rank indicate tied scores.

REAL PROPERTY RIGHTS

7.6%

The real property rights category includes eminent domain reform and land-use regulations. Almost all its weight comes from two variables: local rent control laws (4.2 percent of the overall index) and an index of residential land-use regulations (3.0 percent of the index) constructed by researchers at the Wharton School at the University of Pennsylvania.¹² A one-standard-deviation increase in these latter restrictions on land and property use would directly cost victims over \$28 billion a year, if imposed nationwide.¹³ Rather than imposing such costs, states should allow property owners to solve most land-use externalities with various contractual arrangements, such as homeowners' associations.

The remainder of this category takes into account whether compensation or an economic assessment is required before a regulatory taking, an index of eminent domain reform, and whether free speech is mandated on private property. (The federal courts require compensation for regulatory takings only when they destroy the value of the affected land; therefore, states were coded only for having protections stronger than the federal one.) It may surprise readers that eminent domain reform comprises only 0.1 percent of the freedom index, given how salient the issue was—especially among property rights advocates—following the Supreme Court's *Kelo* decision.¹⁴ However, the estimated victim cost of eminent domain abuse is relatively low, at roughly \$660 million (\$330 million without the “constitutional weight” boost), though admittedly this may underestimate losses due to insecurity of tenure, attorneys' fees, opportunity costs of legal challenges, and so on.¹⁵ It is worth noting that most states that have reformed eminent domain have kept open a wide “blight loophole” that could still allow public takings for private interests. Therefore, the eminent domain index has been coded to take blight reform into account, as well as the incorporation of eminent domain restrictions into the state constitution.¹⁶

12. Joseph Gyourko, Albert Saiz, and Anita Summers, “A New Measure of the Local Regulatory Environment for Housing Markets: The Wharton Residential Land Use Regulatory Index,” *Urban Studies* 45, no. 3 (2008): 693–729.

13. Edward L. Glaeser, Joseph Gyourko, and Raven Saks, “Why Is Manhattan So Expensive? Regulation and the Rise in Housing Prices,” *Journal of Law and Economics* 48, no. 2 (2005): 331–69; Stephen Malpezzi, “Housing Prices, Externalities, and Regulation in US Metropolitan Areas,” *Journal of Housing Research* 7, no. 2 (1996): 209–41.

14. See *Kelo v. City of New London*, 545 U.S. 469 (2005).

15. Institute for Justice, *Building Empires, Destroying Homes: Eminent Domain Abuse in New York*, October 2009, http://www.ij.org/images/pdf_folder/other_pubs/buildingempires.pdf.

16. See the `m_ed_11.xls` spreadsheet at www.freedominthe50states.org for details.

Rank	State
1.	Kansas
2.	Louisiana
3.	Indiana
4.	Missouri
5.	South Dakota
6.	Alaska
7.	West Virginia
8.	Iowa
9.	Alabama
10.	Mississippi
11.	South Carolina
12.	Arkansas
13.	Tennessee
14.	Nebraska
15.	Idaho
16.	North Dakota
17.	Oklahoma
18.	Texas
19.	Wyoming
20.	Kentucky
21.	Montana
22.	Nevada
23.	North Carolina
24.	Ohio
25.	Virginia

26.	Georgia
27.	Utah
28.	Oregon
29.	Illinois
30.	Michigan
31.	New Mexico
32.	Florida
33.	Minnesota
34.	Wisconsin
35.	Arizona
36.	Delaware
37.	Pennsylvania
38.	Vermont
39.	Connecticut
40.	Colorado
41.	Washington
42.	Maine
43.	New Hampshire
44.	Rhode Island
45.	Massachusetts
46.	Hawaii
47.	New York
48.	California
49.	Maryland
50.	New Jersey

HEALTH INSURANCE

5.4%

Given all the attention lavished on federal health care reform—especially the Patient Protection and Affordable Care Act (PPACA or “ObamaCare”)—most voters may not realize that, until the federal law takes full effect, state governments will continue to dramatically influence the cost and availability of private health insurance. Small group health insurance market rate restrictions (i.e., community rating) get the largest weighting in this category, at 1.78 percent of the overall index. These regulations are effectively a form of price control that redistributes wealth from the healthy to the unhealthy and costs over \$9.5 billion a year.¹⁷ The PPACA will impose community rating nationwide.

State-level health insurance mandates, the second most significant variable in this category at 1.66 percent of the freedom index, impose direct costs of nearly \$9 billion a year.¹⁸ Other related health insurance variables in descending order include Massachusetts’s individual health insurance mandate (which, as in ObamaCare, requires individuals to maintain health insurance or pay a fine), small group rate review, guaranteed issue regulations, individual market community rating, mandated direct access to providers, individual market rate review, and a host of lower-impact regulations on managed care organizations (HMOs).

The HMO regulations have low victim costs because public backlash against particular practices (such as elimination riders) drove them from the marketplace even before laws were passed.¹⁹ In this case, public opinion drove both market practice and state law. Nevertheless, research suggests that public opinion on this issue may be misinformed. In their heyday in the 1990s, when many of the now widely banned practices were widespread, HMOs successfully suppressed health care costs.²⁰

17. These numbers are derived from estimates in Mark V. Pauly and Bradley Herring, “Risk Pooling and Regulation: Policy and Reality in Today’s Individual Health Insurance Market,” *Health Affairs* 26, no. 3 (2007): 770–79.

18. This number is calculated by multiplying the number of policies potentially covered by mandates nationwide by a standard deviation increase in the actuarial cost of mandates, then multiplying by a fraction representing the proportion of the actuarial cost of mandates that studies indicate typically get passed on to the consumer, since consumers often want mandated coverages anyway. See the `h_health_11.xls` spreadsheet at www.freedominthe50states.org for details.

19. Mark A. Hall, “The Death of Managed Care: A Regulatory Autopsy,” *Journal of Health Politics, Policy, and Law* 30, no. 3 (2005): 427–52.

20. Maxim L. Pinkovskiy, “The Impact of the Managed Care Backlash on Health Care Costs: Evidence from State Regulation of Managed Care Cost Containment Practices,” November 13, 2012, <http://economics.mit.edu/files/8448>.

Rank	State
1.	Hawaii
2.	Idaho
3.	Michigan
4.	Alabama
5.	Wyoming
6.	Utah
7.	South Carolina
8.	Indiana
9.	South Dakota
10.	Delaware
11.	Pennsylvania
12.	Mississippi
13.	Ohio
14.	Iowa
15.	Arizona
16.	Tennessee
17.	Virginia
18.	Montana
19.	Wisconsin
20.	Oklahoma
21.	Illinois
22.	Alaska
23.	Nevada
24.	Florida
25.	Georgia

26.	Missouri
27.	North Dakota
28.	Kansas
29.	California
30.	West Virginia
31.	Louisiana
32.	Nebraska
33.	New Hampshire
34.	Kentucky
35.	North Carolina
36.	Arkansas
37.	Texas
38.	Minnesota
39.	New Mexico
40.	Oregon
41.	Maine
42.	Vermont
43.	New Jersey
44.	Maryland
45.	Connecticut
46.	Colorado
47.	Rhode Island
48.	Washington
49.	Massachusetts
50.	New York

LABOR MARKET

3.8%

Right-to-work laws make up more than half of the labor regulation category and nearly 2 percent of the entire freedom index. They are valued at over \$10 billion a year.²¹ Right-to-work laws are controversial among libertarians because they override collective bargaining contracts reached between employers and employee unions, allowing employers to hire workers who do not pay agency fees to a union. On the other hand, right-to-work laws can be justified as a means of employer and employee self-defense against the mechanisms of the Wagner Act (the National Labor Relations Act, or NLRA), which essentially allows an “agency shop” to form if a majority of workers votes in favor.

From the libertarian point of view, the Wagner Act violates the fundamental freedom of association and basic property rights, and right-to-work laws somewhat restore those freedoms, since few employers would voluntarily agree to an agency shop in the absence of the Wagner Act. While right-to-work laws violate the rights of some workers and employers, they restore freedom of association to a far greater number. In an ideal world, both the NLRA and right-to-work laws would be repealed, and employees and employers would be free to negotiate as they saw fit, collectively or individually.

Other policy variables in this category, in descending order of importance, are short-term disability insurance requirements (costs being lower labor productivity²² and administrative expenses for businesses²³), policies dealing with workers’ compensation (funding mechanisms and mandated coverages), state minimum wage laws (figures adjusted for median private wages), requirements for employer verification of legal resident status, mandated paid family leave, and regulations prohibiting discrimination in employment (or employer-provided insurance) between smokers and nonsmokers.

21. Steven E. Abraham and Paula B. Voos, “Right-to-Work Laws: New Evidence from the Stock Market,” *Southern Economic Journal* 67, no. 2 (2000): 345–62; David T. Ellwood and Glenn Fine, “The Impact of Right-to-Work Laws on Union Organizing,” *Journal of Political Economy* 95, no. 2 (1987): 250–73; William J. Moore, “The Determinants and Effects of Right-to-Work Laws: A Review of the Recent Literature,” *Journal of Labor Research* 19, no. 3 (1998): 445–69; Robert Krol and Shirley Svorny, “Unions and Employment Growth: Evidence from State Economic Recoveries,” *Journal of Labor Research* 28 (2007): 525–35.

22. John Bound et al., “The Welfare Implications of Increasing Disability Insurance Benefit Generosity,” *Journal of Public Economics* 88 (2004): 2487–514.

23. In other words, the funding mechanism (taxation) does not count here; it counts as part of the tax burden.

Rank	State
1.	Texas
2.	Alabama
3.	Tennessee
4.	Florida
5.	Arkansas
5.	Georgia
7.	North Carolina
7.	Virginia
9.	Iowa
9.	Kansas
9.	Nebraska
12.	South Dakota
13.	Oklahoma
14.	Mississippi
15.	Nevada
16.	Utah
17.	Louisiana
18.	Idaho
19.	South Carolina
20.	Arizona
21.	North Dakota
22.	Wyoming
23.	West Virginia
23.	Wisconsin
25.	Michigan

26.	Delaware
27.	Indiana
28.	Missouri
29.	New Hampshire
30.	Vermont
31.	Alaska
32.	Illinois
33.	Maryland
33.	Pennsylvania
35.	Kentucky
35.	Minnesota
37.	New Mexico
38.	Massachusetts
39.	Colorado
40.	Connecticut
41.	Maine
42.	Montana
43.	Ohio
44.	Oregon
45.	Washington
46.	New Jersey
47.	New York
48.	Rhode Island
49.	Hawaii
50.	California

Ties in rank indicate tied scores.

OCCUPATIONAL FREEDOM

1.7%

Almost two-thirds of the occupational freedom category's weight is made up of two variables: a measure of occupational licensing extent (0.48 percent) and the sum total of education and experience requirements for all included occupations (0.48 percent). Occupational licensing usually represents guild-style rent-seeking aimed at fleecing consumers and protecting or enriching producers already in the field by artificially limiting the supply of services.

The freedom index's measure is obtained by taking the weighted average of each state's licensure prevalence for 64 coded occupations, where each occupation's weight is its proportion of the total employment in these 64 occupations. The direct victim cost of a nationwide, one-standard-deviation increase in occupational licensing education or experience requirements in just the occupations tracked by this index would be worth about \$2.5 billion a year. A similar change in examination requirements would be worth about \$0.9 billion a year. Licensing fees also constitute a small portion of occupational regulation costs.

Rounding out the category are regulations that limit the practice of nurses and nurse practitioners, physician assistants, and dental hygienists. The most significant freedom in this set of policies is the ability of nurse practitioners to practice independently from MDs. The direct value of this freedom, if it were implemented nationwide, would be about \$4 billion per year. The next most important variables dealing with health professionals' scope of practice are, in order, the extent to which dental hygienists may initiate treatment independently of dentist supervision, the extent of physician assistants' prescription authority, and whether a state is a member of the Nurse Licensure Compact, which permits multistate practice for registered nurses.²⁴

24. For coding details, see the `k_lic_11.xls` spreadsheet at www.freedominthe50states.org.

Rank	State
1.	Colorado
2.	Maine
3.	Idaho
4.	Wyoming
5.	Pennsylvania
6.	Missouri
7.	Rhode Island
8.	Vermont
9.	New Hampshire
10.	Kansas
11.	Montana
12.	Indiana
13.	North Dakota
14.	Nebraska
15.	Kentucky
16.	South Dakota
17.	Massachusetts
18.	Ohio
19.	Washington
20.	Iowa
21.	Alaska
22.	Minnesota
23.	Texas
24.	Michigan
25.	Mississippi

26.	Oklahoma
27.	Wisconsin
28.	New York
29.	Alabama
30.	Georgia
31.	Maryland
32.	Illinois
33.	Delaware
34.	Virginia
35.	New Jersey
36.	Utah
37.	West Virginia
38.	Connecticut
39.	North Carolina
40.	New Mexico
41.	South Carolina
42.	Hawaii
43.	Oregon
44.	Tennessee
45.	Louisiana
46.	Arizona
47.	Florida
48.	Arkansas
49.	California
50.	Nevada

MISCELLANEOUS REGULATIONS

1.3%

Miscellaneous regulations include, in declining order of importance, certificate of need (CON) requirements for hospitals, state auto insurance rate filing requirements, state homeowners' insurance rate filing requirements, membership in the Interstate Insurance Product Regulation Compact, and state rate classification prohibitions for some classes of insurance. CON regulations land their first-place slot based on the over \$3 billion in extra costs they impose on hospitals, customers, and potential market entrants.²⁵

Next comes state rate filing requirements for personal auto insurance. Regimes range from Massachusetts's old "fixed and established" system (scrapped in 2008), in which all car insurance premiums were dictated by law, to no rate filing requirement whatsoever in Wyoming. A one-standard-deviation change on this -1 to 4 scale, about 1.2 points, would be worth \$1.9 billion nationwide. The main problem with strict rate regulation regimes is that they encourage insurers to stop insuring some drivers altogether, forcing these drivers to find coverage in a state-guaranteed, "residual" market.²⁶

Then come state homeowners' insurance rate filing requirements, which range from "prior approval" to "no file." A one-standard-deviation shift on this variable would be worth \$878 million nationwide. Then comes an indicator of state membership in the national Interstate Insurance Product Regulation Compact, which makes it easier for insurers to sell standardized life insurance and annuity products across state lines. Last is a variable for prohibitions on the use of certain criteria for insurance rating purposes, such as age, gender, territory, and credit rating. As with blunter methods of premium control, these insurance regulations redistribute wealth from low risks to high risks and drive some customers out of the market altogether.

25. Christopher J. Conover and Frank A. Sloan, "Does Removing Certificate-of-Need Regulations Lead to a Surge in Health Care Spending?," *Journal of Health Politics, Policy, and Law* 23, no. 3 (1998): 455-81; Jon M. Ford and David L. Kaserman, "Certificate-of-Need Regulation and Entry: Evidence from the Dialysis Industry," *Southern Economic Journal* 59, no. 4 (1993): 783-91; Patrick A. Rivers, Myron D. Fottler, and Mustafa Zeedan Younis, "Does Certificate of Need Really Contain Hospital Costs in the United States?," *Health Education Journal* 66, no. 3 (2007): 229-44.

26. Scott E. Harrington and Helen I. Doeringhaus, "The Economics and Politics of Automobile Insurance Rate Classification," *Journal of Risk and Insurance* 60, no. 1 (1993): 59-84.

Rank	State
1.	Wyoming
2.	Idaho
2.	Utah
2.	Wisconsin
5.	Arizona
6.	Indiana
6.	Kansas
6.	Minnesota
6.	New Mexico
6.	Texas
11.	Colorado
12.	South Dakota
13.	Illinois
13.	Vermont
15.	Missouri
15.	Oklahoma
17.	Pennsylvania
18.	North Dakota
19.	Georgia
19.	Iowa
19.	Louisiana
19.	Maine
19.	Nebraska
19.	Ohio
19.	Rhode Island

19.	Virginia
27.	California
28.	Maryland
28.	Michigan
28.	New Hampshire
31.	Arkansas
32.	Alaska
32.	Kentucky
32.	South Carolina
32.	Tennessee
36.	Connecticut
36.	Montana
36.	Oregon
39.	New York
40.	New Jersey
41.	Florida
42.	Massachusetts
43.	Mississippi
43.	Washington
43.	West Virginia
46.	Hawaii
47.	Alabama
47.	Delaware
47.	Nevada
50.	North Carolina

Ties in rank indicate tied scores.

CABLE AND TELECOM

0.8%

The least important category in the regulatory policy dimension is cable and telecommunications market freedom. It is important to note that these are the only public utility regulation areas included in the freedom index, because some utility “deregulation” is not truly deregulatory, as in the case of procompetitive “reregulation” that has restructured electricity and natural gas markets in certain states. While these services are important for household budgets, it is not at all clear that “deregulation” results in a net increase in individual freedom. The utilities are all characterized by physical connections to the consumer. Because of the monopoly element in transmission (parallel connections are judged infeasible), even under deregulation governments maintain “common carrier” regulations that require the regulated owner of the transmission grid to allow open access to competing providers at a regulated price. The transmission grid then becomes a commons with no profit incentive for the owner to expand, upgrade, or maintain the network. In many cases, retail competition is tightly managed by state governments to prevent anticompetitive manipulation of the market. For these reasons, many analysts insist on the term “restructuring” as opposed to “deregulation” for these industries.²⁷

Telecommunications deregulation accounts for roughly two-thirds of the weight for this category, and the remainder is accounted for by statewide cable franchising, which eases the entry of telecom firms into the video cable market.²⁸

27. Peter Van Doren and Jerry Taylor, “Rethinking Electricity Restructuring,” Cato Institute Policy Analysis no. 530, November 30, 2004, http://www.cato.org/pub_display.php?pub_id=2609.

28. Adam Summers, “Cable Franchise Reform: Deregulation or Just New Regulators?,” *Freeman* 57, no. 3 (2007): 31–34; Cecil Bohanon and Michael Hicks, “Statewide Cable Franchising and Broadband Connections” (Muncie, IN: Digital Policy Institute, Ball State University, 2010).

Rank	State
1.	Florida
1.	Georgia
1.	Indiana
1.	Iowa
1.	Michigan
1.	Missouri
1.	Nevada
1.	Ohio
1.	Rhode Island
1.	South Carolina
1.	Tennessee
1.	Texas
1.	Vermont
1.	Wisconsin
15.	Alabama
15.	Idaho
15.	Kentucky
15.	Montana
15.	Nebraska
15.	North Dakota
15.	Oklahoma
15.	Oregon
15.	Pennsylvania
15.	South Dakota
15.	Utah

26.	Alaska
26.	California
26.	Connecticut
26.	Hawaii
26.	Illinois
26.	Kansas
26.	Louisiana
26.	Maine
26.	New Jersey
26.	North Carolina
26.	Virginia
37.	Arizona
37.	Arkansas
37.	Colorado
37.	Delaware
37.	Maryland
37.	Massachusetts
37.	Minnesota
37.	Mississippi
37.	New Hampshire
37.	New Mexico
37.	New York
37.	Washington
37.	West Virginia
37.	Wyoming

Ties in rank indicate tied scores.

OVERALL REGULATORY POLICY RANKING

32.0%

As with fiscal policy, there is a correlation between the overall regulatory policy ranking and state ideology, but it is weaker. States that rank highest on regulatory policy are mostly conservative, but they tilt midwestern more than southern. In general, these are “good-government” states that score well on variables such as the liability system variable. As the “Freedom, Growth, and Migration” section in part 2 of this book will show, regulatory policy is the most important policy variable in terms of explaining economic growth in the states. While it is worth only about as much as fiscal policy in the index, it is about twice as important as fiscal policy for explaining growth.

Rank	State	Regulatory Policy Score
1.	Indiana	24.5
2.	Delaware	24.5
3.	Iowa	24.4
4.	North Dakota	22.5
5.	Nebraska	21.7
6.	South Dakota	21.0
7.	Utah	20.4
8.	Idaho	20.1
9.	Virginia	18.3
10.	Kansas	17.8
11.	Wyoming	17.0
12.	Tennessee	13.5
13.	Arizona	9.7
14.	North Carolina	8.8
15.	Wisconsin	7.9
16.	Georgia	7.6
17.	Oklahoma	6.3
18.	Minnesota	5.6
19.	Michigan	4.7
20.	Nevada	3.4
21.	Ohio	2.8
22.	Colorado	2.0
23.	South Carolina	1.8
24.	Texas	1.5
25.	Maine	1.1

26.	Missouri	0.9
27.	New Hampshire	0.6
28.	Alaska	-0.6
29.	Vermont	-2.0
30.	Oregon	-2.1
31.	Pennsylvania	-2.4
32.	Florida	-5.8
33.	Connecticut	-6.2
34.	Kentucky	-6.8
35.	Montana	-8.0
36.	Massachusetts	-9.0
37.	Washington	-10.2
38.	Alabama	-10.5
39.	New Mexico	-11.5
40.	Arkansas	-13.5
41.	Hawaii	-13.6
42.	Illinois	-16.5
43.	Rhode Island	-20.5
44.	Maryland	-21.0
45.	Mississippi	-21.2
46.	Louisiana	-23.5
47.	New York	-26.7
48.	New Jersey	-31.3
49.	West Virginia	-34.6
50.	California	-42.3

OVERALL ECONOMIC FREEDOM RANKING

67.3%

Although we believe that a composite freedom index that includes both economic and personal freedom is most valuable, readers may wish to compare and contrast the states solely in terms of their overall economic freedom, particularly for the purposes of empirical analysis of income growth. Economic freedom is calculated as the sum of the fiscal and regulatory freedom indices.

Rank	State	Economic Freedom Score			
1.	South Dakota	72.8	26.	Kentucky	5.1
2.	North Dakota	65.7	27.	New Mexico	3.5
3.	Tennessee	62.1	28.	Washington	2.7
4.	Idaho	51.8	29.	Nevada	1.7
5.	Oklahoma	50.1	30.	Pennsylvania	0.7
6.	Virginia	45.1	31.	Ohio	-2.5
7.	New Hampshire	41.2	32.	Michigan	-5.4
8.	Utah	37.7	33.	Massachusetts	-7.0
9.	Arizona	34.3	34.	Louisiana	-7.7
10.	Georgia	31.9	35.	Minnesota	-7.8
11.	Alabama	31.3	36.	Arkansas	-8.6
12.	Missouri	30.6	37.	Illinois	-13.2
13.	Montana	30.5	38.	Wisconsin	-13.3
14.	Texas	30.5	39.	Wyoming	-16.4
15.	Delaware	24.4	40.	Maryland	-17.3
16.	South Carolina	22.4	41.	Mississippi	-19.3
17.	Florida	21.7	42.	Connecticut	-21.2
18.	Iowa	18.7	43.	Maine	-35.5
19.	Nebraska	17.3	44.	Rhode Island	-35.9
20.	Indiana	14.6	45.	West Virginia	-36.0
21.	North Carolina	12.8	46.	Vermont	-39.4
22.	Colorado	11.6	47.	Hawaii	-56.4
23.	Kansas	9.0	48.	New Jersey	-69.2
24.	Alaska	7.2	49.	California	-71.8
25.	Oregon	5.6	50.	New York	-133.6

PERSONAL FREEDOM

The personal freedom, or paternalism, dimension consists of the following categories: gun policy, alcohol policy, marijuana-related policy, travel policy, gaming policy, *mala prohibita* and miscellaneous civil liberties, education policy, civil asset forfeiture, law enforcement statistics, marriage policy, campaign finance policy, and tobacco policy. Weighting these categories was a challenge because the observable financial impacts of these policies often do not include the full harms to victims.

With some assumptions, one can use results in the academic literature to measure, for instance, the lost consumer surplus from marijuana prohibition, or even to make a plausible guess at the disutility incurred by a year in prison. However, it is much more difficult to measure the risks prohibitionist policies pose to individuals who are not imprisoned—especially those who may not even engage in the activity prohibited, but who legitimately fear further restrictions on their freedoms.

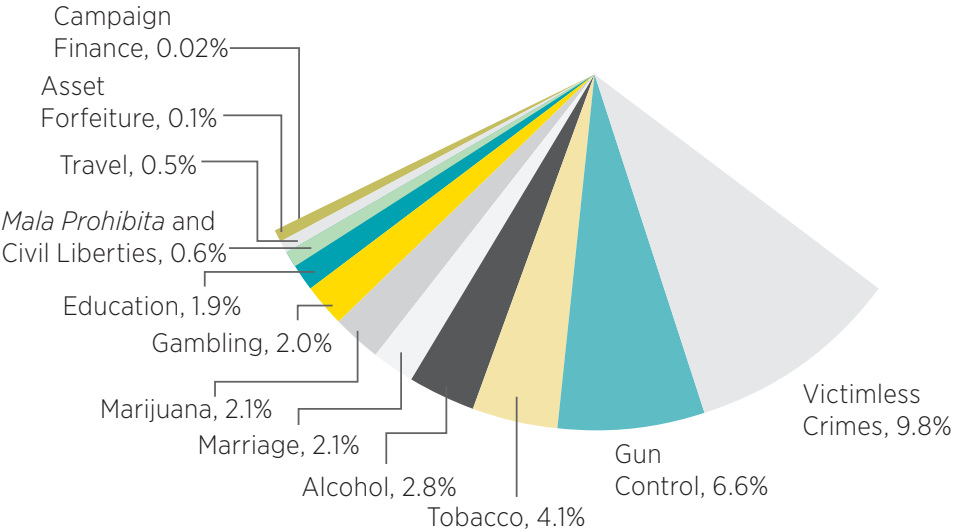
An example may help illustrate the problem. Imagine two countries, each the size of the United States. In the first country, the average tax rate is 1 percent (of income) lower than in the second, but unlike the second,

the first prohibits the practice of a minor religion—say Zoroastrianism. Assuming personal income of \$12 trillion, as in the United States, the lower tax rate in the second country allows for more freedom worth \$120 billion a year, by the method of calculation used in this book.

Now suppose there are 10,000 Zoroastrians who go to prison for their beliefs. There are few estimates of the cost of prison, including opportunity cost and psychological harms, but the estimates that exist range between \$30,000 and \$50,000 per year for the average prisoner.²⁹ Taking the higher figure, the prohibition of Zoroastrianism is found to have a victim cost of approximately \$500 million per year: far, far lower than the benefit of lower taxes.

Is the country with slightly lower taxes but a blatant infringement of religious freedom truly freer? Surely the calculation above has missed some very significant costs to freedom from the infringement of religious liberty. This is related to the discussion of fundamental rights in the Regulatory Policy section above. Freedom to believe (or disbelieve) in any religion and freedom to practice peacefully (or refuse to practice) any religion seem to be freedoms that every person rationally desires. They are

29. John J. Donohue, "Assessing the Relative Benefits of Incarceration: The Overall Change over the Previous Decades and the Benefits on the Margin," in *Do Prisons Make Us Safer? The Benefits and Costs of the Prison Boom*, ed. Steven Raphael and Michael Stoll (New York: Russell Sage Foundation, 2008); Innocence Project, "Compensating the Wrongly Convicted," accessed January 25, 2012, http://www.innocenceproject.org/Content/Compensating_The_Wrongly_Convicted.php.



Category Weightings: Personal Freedom

fundamental rights. Many personal freedoms have this character, and this needs to be recognized in the freedom index.

Therefore, the index applies constitutional weights to personal freedoms—as with regulatory policies—but uses different values, because the direct, measurable costs to victims of policies that infringe on personal freedoms are generally a smaller percentage of true costs than the direct, measurable costs to victims of regulatory policies. Put another way, measuring the economic consequences regulatory policies have on their full victim class is a relatively simple procedure, but the full costs of policies that infringe on personal freedoms are measurable only in part. Further, as mentioned in the discussion of fiscal policy, taxes and economic regulations do not necessarily infringe on the rights of all *apparent* victims, unlike policies that affect personal freedoms. Again, the index takes constitutional provisions relating to certain freedoms as *prima facie* evidence of a freedom’s “basicness,” indicating that the full victim class should be thought of as quite broad.

Therefore, variables relating to fundamental, high-salience rights are multiplied by a factor of 10, based on their inclusion in state constitutions and the federal Constitution. Variables that receive the “constitutional weight” are

noted in the text below. Personal freedom variables that have the character of economic regulations, such as alcohol and tobacco taxes, receive no extra weight because it is relatively simple to derive an unbiased estimate of the victim costs of these policies.³⁰ All other personal freedom variables are multiplied by two, since a direct estimate of the first-order victim costs of, say, criminal justice policies underestimates the true victim cost by an indeterminate amount. There is, of course, nothing magical about these numbers, but they bring the personal freedom dimension into rough parity with the fiscal and regulatory policy dimensions as about one-third of the overall index.

The following sections introduce each category within the personal freedom dimension, in order of weight.

30. Specifically, the following personal freedom variables receive no boost: all alcohol variables, gambling revenue as a percentage of personal income, legal raw milk sales, fireworks laws, and the index of tobacco laws.

VICTIMLESS CRIMES

9.8%

The most heavily weighted category in the personal freedom dimension—after direct victim costs have been calculated and constitutional factors taken into account—is the law enforcement statistics category, which consists of data on incarceration rates adjusted for violent and property crime rates,³¹ non-drug victimless crimes arrests, and the drug enforcement rate. This category is worth over one-quarter of the personal freedom index. Given that the United States is frequently lambasted for having more prisoners per capita than any other country, and that this incarceration rate varies widely across states, it is perhaps no surprise that this category should be so important. Indeed, because of the new weighting scheme used in this edition of *Freedom in the 50 States*, incarceration and arrest rate variables “soak up” much of the weight that in previous versions of the index went to criminal justice policies such as marijuana laws, *mala prohibita*, and the like.

A one-standard-deviation nationwide reduction in incarceration rates adjusted for crime rates would yield almost \$15 billion in new value for prisoners.³² This figure of course excludes the fiscal benefits of incarcerating fewer people.

A similar reduction in drug arrests per reported drug user would benefit arrestees by \$7 billion. Other victimless crimes arrests are calculated in two different ways, since there is no direct, state-by-state measure of the number of people who engage in these activities, as there is for drug arrests. Instead, the index takes the arrests of people over 18 for weapons, prostitution, gambling, loitering, and liquor law violations as a percentage of the population and as a percentage of total arrests. The former figure is an imperfect measure of the risk of a citizen’s being arrested for one of these offenses (except that states may differ in the percentage of citizens who engage in these activities), while the latter is more of a measure of police priorities. Both variables are equally weighted, and together amount to \$4.6 billion of benefit to potential arrestees.

31. The adjustment involves regressing the incarceration rate on violent and property crime rates and taking the residuals. States with high scores will be those that lock up more people than would be expected given their crime rates.

32. Freedom values reported in the personal freedom section are the “raw” values (before bonus weights are applied).

Rank	State
1.	Massachusetts
2.	Rhode Island
3.	Maine
4.	Alaska
5.	Washington
6.	New Mexico
7.	Minnesota
8.	Hawaii
9.	New Hampshire
10.	New York
11.	Utah
12.	Kansas
13.	Vermont
14.	North Carolina
15.	New Jersey
16.	Delaware
17.	Michigan
18.	Nebraska
19.	Iowa
20.	West Virginia
21.	Tennessee
22.	Connecticut
23.	Montana
24.	North Dakota
25.	California

26.	South Carolina
27.	Colorado
28.	Maryland
29.	Oregon
30.	Arkansas
31.	Nevada
32.	Georgia
33.	Ohio
34.	Indiana
35.	Pennsylvania
36.	Missouri
37.	Wisconsin
38.	Florida
39.	Alabama
40.	Oklahoma
41.	Kentucky
42.	Arizona
43.	Illinois
44.	Texas
45.	Idaho
46.	Virginia
47.	Wyoming
48.	South Dakota
49.	Louisiana
50.	Mississippi

GUN CONTROL

6.6%

This category consists of a single variable, constructed by principal component analysis on more than two dozen individual policy variables, as in previous versions of the freedom index. (Principal component analysis reduces the common variance of a matrix of variables to component variables that sequentially minimize the sum of squared errors.) This edition includes many more variables in the gun control index than past editions, and even more variables have been reworked. Principal component analysis is justified here, even though it is not utilized—with good reason—for the whole index, because all gun control policies “load” heavily and significantly on a single component and in a manner consistent with theory: stricter policies consistently contribute to higher scores on the component, and less strict policies to lower scores.

The value of this category is calculated by sampling representative states that differ by roughly one standard deviation on the summary variable, and determining the freedom values associated with those differences, then averaging them over the sampled pairs. For instance, adopting Wyoming’s gun laws nationwide would yield an estimated \$1.1 billion of benefit to gun owners relative to adopting Pennsylvania’s gun laws nationwide. Other sampled pairs yield much larger differences of value. Note that the index does not assess the positive or negative externalities associated with gun ownership—say, for crime rates. It considers only the direct costs of gun laws to gun owners and dealers as evidenced in sales, price, and ownership figures, as well as original analysis about how concealed-carry restrictions and costs are associated with the number of people who seek permits in each state.

The value of gun rights has to do solely with the value that gun owners themselves place on them. While gun policies have only moderate direct value, about \$3.5 billion in nationwide value from a one-standard-deviation change, the variable receives a “constitutional weight”—increasing its value by a factor of 10. This boosts it above many other variables, making it worth about \$35 billion in the freedom index.³³

Note that most states have pretty decent gun laws. The first 36 states are all above average, and only the bottom eight states are more than one standard deviation below average—but those states are extremely bad indeed.

33. See the `b_guns_11.xlsx` spreadsheet at www.freedominthe50states.org for details.

Rank	State
1.	Arizona
2.	Alaska
3.	Wyoming
4.	Kentucky
5.	Vermont
6.	New Hampshire
7.	Kansas
8.	Nevada
9.	South Dakota
10.	Idaho
11.	New Mexico
12.	Utah
13.	West Virginia
14.	Texas
15.	Montana
16.	Tennessee
17.	Oklahoma
18.	Maine
19.	Georgia
20.	Arkansas
21.	North Dakota
22.	Colorado
23.	Indiana
24.	Mississippi
25.	Nebraska

26.	Alabama
27.	Ohio
28.	Oregon
29.	Florida
30.	Virginia
31.	Missouri
32.	Wisconsin
33.	Pennsylvania
34.	Louisiana
35.	South Carolina
36.	Washington
37.	North Carolina
38.	Delaware
39.	Iowa
40.	Minnesota
41.	Michigan
42.	Connecticut
43.	Rhode Island
44.	Maryland
45.	Illinois
46.	New Jersey
47.	Hawaii
48.	New York
49.	Massachusetts
50.	California

TOBACCO

4.1%

Tobacco taxes, smoking bans, Internet sales bans, and vending machine regulations are combined via principal components analysis into a single index measuring the stringency of state laws toward tobacco. The weights give special consideration to the losses—mostly in fines and lost business—suffered by establishments, such as bars and private clubs, that oppose smoking bans.³⁴ The freedom index also takes into account taxes paid by smokers, which are excluded from the taxation category used in the fiscal policy dimension, as well as the deadweight costs of the taxes.³⁵

Economics professor Michael L. Marlow examines the consequences of Ohio's comprehensive smoking ban (associated with a 2.5-standard deviation change in the tobacco index) for its losers. State and local governments issued 33,347 citations, with an average expense of about \$1,250 per citation (given that each cited location averaged about five citations).³⁶ Extrapolating from Ohio's population supplies the national numbers for the freedom index.

The second set of costs from smoking bans has to do with lost business and the associated disutility to smokers. There is an unfortunate lack of good studies with quasi-random treatment; however, a reasonable assumption is that the costs of bans must be at least as high as (and possibly much greater than) the fines establishments are willing to risk to permit smoking. Thus, a simple approach is to multiply an estimate of this amount by 2.5, assuming that the lost revenue is slightly greater than the fines businesses are willing to incur.

An alternative way of weighting the variable is to look at deadweight loss and victim cost from cigarette tax increases. A \$1-per-pack tax increase is associated with a 0.375-standard deviation increase in the variable and about a 16.7 percent increase in the price of a pack.³⁷ Nobel Prize-winning economist Gary S. Becker and his colleagues calculate that the long-run price elasticity of demand for cigarettes is about -0.75 .³⁸ In 2010, 303 billion cigarettes were sold in the United States, typically at 20 cigarettes per pack.³⁹ These facts are sufficient to calculate the deadweight loss (dividing by two under the assumption of perfectly elastic supply) and the total cost to consumers.

34. Michael L. Marlow, "The Economic Losers from Smoking Bans," *Regulation* (Summer 2010): 14–19, available at <http://www.cato.org/sites/cato.org/files/serials/files/regulation/2010/6/regv33n2-4.pdf>.

35. Gary S. Becker, Michael Grossmann, and Kevin M. Murphy, "Rational Addiction and the Effect of Price on Consumption," *American Economic Review* 81, no. 2 (1991): 237–41.

36. Marlow, "Economic Losers."

37. Ann Boonn, "State Cigarette Excise Tax Rates & Rankings," Campaign for Tobacco-Free Kids, December 13, 2012, <http://www.tobaccofreekids.org/research/factsheets/pdf/0097.pdf>.

38. Becker et al, "Rational Addiction."

39. "Economic Facts about U.S. Tobacco Production and Use," Centers for Disease Control and Prevention, last updated November 15, 2012, http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/.

Rank	State		
1.	Missouri	26.	Iowa
2.	Kentucky	27.	Pennsylvania
3.	Georgia	28.	Florida
4.	South Carolina	29.	Kansas
5.	Wyoming	30.	Illinois
6.	Mississippi	31.	Massachusetts
7.	North Carolina	32.	Oregon
8.	Virginia	33.	Maine
9.	Alabama	34.	Ohio
10.	Arkansas	35.	South Dakota
11.	West Virginia	36.	Minnesota
12.	Oklahoma	37.	Delaware
13.	Indiana	38.	Montana
14.	Texas	38.	Utah
15.	North Dakota	40.	Connecticut
16.	Louisiana	41.	New Jersey
17.	New Hampshire	42.	Arizona
18.	Alaska	42.	Maryland
19.	Idaho	42.	Michigan
20.	Nevada	45.	Wisconsin
21.	Colorado	46.	Rhode Island
22.	California	47.	Washington
23.	Nebraska	48.	Vermont
24.	Tennessee	49.	Hawaii
25.	New Mexico	50.	New York

Ties in rank indicate tied scores.

Cigarette tax increases apparently have a larger effect on victim utility than smoking bans. This index averages the results from the two approaches for the variable weight. The total weight for this category may be surprising, but the value of freedom from tobacco taxation is high because tobacco taxes can be extremely high in some states.

ALCOHOL

2.8%

Alcohol distribution system (“control”—which means that the state has a monopoly on distribution—versus “license”—which means that the state licenses distributors) makes up 1.2 percent of the whole index on its own. Research shows that state distribution of alcohol imposes significant costs on consumers in time and inconvenience.⁴⁰ Indeed, the hypothetical losses from nationwide state control of alcohol distribution have been estimated at about \$20 billion.⁴¹

The freedom index assumes a “full-price elasticity” (including formal and informal prices) of -0.2 for all alcohol types, which is similar to what has been discovered in the literature cited above. Reducing consumption of alcohol by 5 percent with a state monopoly, according to University of California, Los Angeles, professors Stanley I. Ornstein and Dominique M. Hanssens, therefore implies a 25 percent “tax” due to transaction cost. According to the USDA, packaged alcoholic beverage sales in 2010 amounted to \$84 billion. If all such sales had to go through state monopolies, then one might expect a transaction-cost “tax” of \$21 billion.

Beer, wine, and spirits taxes each make up about 0.4 percent of the index as a whole, followed by other minor alcohol regulations: blue laws, keg registration/bans, mandatory server training, and “happy hour” bans. Blue laws (bans on Sunday sales) would, if implemented nationwide, reduce consumer welfare by over \$4 billion.

40. Stanley I. Ornstein and Dominique M. Hanssens, “Alcohol Control Laws and the Consumption of Distilled Spirits and Beer,” *Journal of Consumer Research* 12, no. 2 (1985): 200–213.

41. Björn Trolldal and William Ponicki, “Alcohol Price Elasticities in Control and License States in the United States, 1982–1999,” *Addiction* 100 (2005): 1158–65. Here in the freedom index, the comparison is between minimum and maximum values on this variable.

Rank	State
1.	Colorado
2.	Maryland
3.	Missouri
4.	Wisconsin
5.	Texas
6.	Nevada
7.	Arizona
8.	California
9.	Rhode Island
10.	Massachusetts
11.	Delaware
12.	Louisiana
13.	New Jersey
14.	New York
15.	North Dakota
16.	South Dakota
17.	New Mexico
18.	Nebraska
19.	Kansas
20.	Indiana
21.	Florida
22.	Connecticut
23.	Illinois
24.	Arkansas
25.	Wyoming

26.	Hawaii
27.	Oklahoma
28.	South Carolina
29.	Minnesota
30.	New Hampshire
31.	Ohio
32.	Georgia
33.	West Virginia
34.	Mississippi
35.	Alaska
36.	Michigan
37.	Kentucky
38.	Tennessee
39.	North Carolina
40.	Oregon
41.	Iowa
42.	Virginia
43.	Maine
44.	Montana
45.	Vermont
46.	Alabama
47.	Pennsylvania
48.	Idaho
49.	Washington
50.	Utah

MARRIAGE

2.1%

Almost all the weight of the marriage freedom category is tied to the availability of same-sex partnerships, both civil unions and marriage. The remainder is tied to waiting periods and blood test requirements. Ideally, state governments would not license marriage at all, but they all do.

States that prohibit same-sex couples from entering private contracts that provide the benefits of marriage (whether termed “marriages” or “civil unions”) clearly take away an important contract right from such couples. Some states merely refrain from providing a convenient mechanism, such as civil unions or marriage, for same-sex couples to make contracts covering inheritance, hospital visitation, medical power of attorney, and so on. Other states go further and expressly prohibit any private contracts intended to provide benefits equivalent to marriage. For instance, the Virginia constitution states that “this Commonwealth and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage.” These state laws are sometimes called “super-DOMAs,” after the federal Defense of Marriage Act. Other states that, by statute or constitution, prohibit all marriage-like private contracts for same-sex couples are Alabama, Arkansas, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Michigan, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, and Wisconsin (which is a curious example of a state that has limited domestic partnerships but also a super-DOMA, banning contracts offering benefits “equal to marriage”).

The calculations in this edition of the freedom index only take into account whether states offer a convenient form of life partnership contract: civil unions or marriage. They also get partial credit for having limited domestic partnerships. The freedom index does not currently penalize so-called “super-DOMA” states like Virginia any more than other states that simply lack civil unions. It also does not reward states that have same-sex marriage rather than civil unions. Future editions of the index may include a penalty for super-DOMA states, but the effect of super-DOMA laws on same-sex couples’ rights and well-being is still an emerging area of research.⁴²

The freedom index uses an estimate that the freedom to marry or enter a civil union with all the privileges of marriage is worth about \$3,000 per year to same-sex couples, and that about 900,000 couples would take advantage of this opportunity were it available nationwide.⁴³ Since freedom to marry is

42. Daniel R. Pinello, “The Impact of State Constitutions: The Implementation and Effects of Super-DOMAs” (American Political Science Association 2010 Annual Meeting Paper, 2010), <http://ssrn.com/abstract=1643652>.

43. M. V. Lee Badgett, “The Economic Value of Marriage for Same-Sex Couples,” *Drake Law Review* 58 (2010): 1081–116.

Rank	State		
1.	California	16.	North Carolina
1.	Connecticut	16.	North Dakota
1.	Maine	16.	Ohio
1.	Nevada	16.	Oklahoma
1.	New Hampshire	16.	Rhode Island
1.	Vermont	16.	South Dakota
7.	Iowa	16.	Tennessee
7.	Massachusetts	16.	Utah
7.	New Jersey	16.	Virginia
7.	Oregon	16.	West Virginia
7.	Washington	16.	Wyoming
12.	Colorado	37.	Delaware
12.	Hawaii	37.	Illinois
14.	Maryland	37.	South Carolina
15.	Wisconsin	40.	Alaska
16.	Alabama	40.	Florida
16.	Arizona	40.	Kansas
16.	Arkansas	40.	Louisiana
16.	Georgia	40.	Michigan
16.	Idaho	40.	Pennsylvania
16.	Indiana	40.	Texas
16.	Kentucky	47.	Minnesota
16.	Missouri	48.	Montana
16.	Nebraska	49.	New York
16.	New Mexico	50.	Mississippi

Ties in rank indicate tied scores.

a constitutionally recognized fundamental right in some jurisdictions,⁴⁴ this variable also gets the “constitutional weight,” boosting it by a factor of 10.

Freedom from mandatory blood tests is valuable to every married couple, a substantial number of people—4 million people marry each year nationwide—but the net per-person costs are small, somewhere on the order of \$50. Freedom from waiting periods is valuable to those seeking a quick wedding, which is estimated to be about 100,000 individuals a year based on data from Las Vegas and elsewhere,⁴⁵ but the per-person cost of waiting one day is estimated at just \$200.

44. See, by way of comparison, *Goodridge v. Department of Public Health* 798 N.E. 2d 941 (Mass. 2003).

45. Alison Vekshin, “Las Vegas Woos Wedding-Vow Renewals as Quickie Marriages Decline,” *Bloomberg*, July 21, 2011, <http://mobile.bloomberg.com/news/2011-07-21/las-vegas-woos-wedding-vow-renewals>.

MARIJUANA

2.1%

This edition of *Freedom in the 50 States* uses a much more sophisticated index of medical marijuana policies than previous editions, and combining this index with the other marijuana policy variables—decriminalization and legalization of the first offense of “low-level” marijuana possession, misdemeanor status for “high-level” possession or “low-level” cultivation or sale, mandatory minimum sentences for “low-level” cultivation or sale, the logarithm of the maximum possible prison term for a single marijuana offense—and using principal component analysis yields a sensible index of marijuana policies. The freedom values used for weighting marijuana and other criminal justice policies do not include the costs of arrest and incarceration, since those are already included in the victimless crimes category. Instead, they include the consumer surplus and producer income associated with the repeal of prohibitionist policies.⁴⁶

Recent work has yielded inconsistent findings on marijuana policy and consumption. Rand Corporation economist Rosalie Liccardo Pacula and her coauthors find that marijuana penalties have a small impact on marijuana use among youth (a one-standard-deviation increase in minimum jail time is associated with a 1.2 percent decline in annual risk of use), but “decriminalization” or “depenalization” as such retains a small (about 2 to 3 percent) effect even when these penalty variables are controlled for, which the authors cannot explain. In a different study, Pacula and her colleagues find that reduced penalties for users increase consumption and therefore price, resulting in higher profits for sellers. They also calculate that prohibition probably doubles the price of a pound of marijuana, at least (adding \$200 to \$300 to the cost).

A reasonable estimate of the amount of marijuana sold in the United States in a year is 50 million pounds.⁴⁷ Unfortunately, there is absolutely no evidence on the consequences of supplier penalties. Given the results above, it is reasonable to assume that a one-standard-deviation increase in the marijuana index, which includes decriminalization and other variables associated with penalties for sale and possession, would increase marijuana quantity by about 4 percent due to an outward shift in the demand curve. Therefore, for the freedom index, total seller profits are assumed to be \$200 per pound (including compensation for risk). Estimating the new consumer surplus conservatively, assuming a price elasticity of demand of -0.2 (as

46. Rosalie Liccardo Pacula, Jamie F. Chriqui, and Joanna King, “Marijuana Decriminalization: What Does It Mean in the United States?” (National Bureau of Economic Research Working Paper 9690, 2003), <http://www.nber.org/papers/w9690>; Rosalie Liccardo Pacula, Beau Kilmer, Michael Grossman, and Frank J. Chaloupka, “Risks and Prices: The Role of User Sanctions in Marijuana Markets” (National Bureau of Economic Research Working Paper 13415, 2010), <http://www.nber.org/papers/w13415>.

47. Jon Gettman, “Lost Taxes and Other Costs of Marijuana Laws,” *DrugScience.org*, 2007, <http://www.drugscience.org/Archive/bcr4/5Supply.html>.

Rank	State		
1.	Alaska	26.	Maryland
2.	California	27.	Wisconsin
3.	Maine	28.	South Dakota
4.	Washington	29.	Kentucky
5.	Oregon	29.	Wyoming
6.	Colorado	31.	North Dakota
7.	New Mexico	32.	North Carolina
8.	Arizona	33.	New Hampshire
9.	Ohio	34.	Florida
10.	Delaware	35.	Arkansas
10.	Hawaii	35.	South Carolina
12.	Vermont	37.	Minnesota
13.	Massachusetts	38.	Nebraska
14.	Michigan	39.	Georgia
15.	New York	40.	Iowa
16.	Connecticut	41.	Illinois
17.	Indiana	42.	Tennessee
18.	New Jersey	43.	Louisiana
19.	Pennsylvania	44.	Texas
20.	Nevada	45.	Oklahoma
21.	West Virginia	45.	Virginia
22.	Montana	47.	Idaho
22.	Rhode Island	48.	Mississippi
24.	Utah	48.	Missouri
25.	Kansas	50.	Alabama

Ties in rank indicate tied scores.

with alcohol) and unit elasticity of supply, yields a predicted increase in consumer surplus of about \$5 billion.

Meanwhile, a 2006 study found 750,000 people used *Salvia* in that year, compared to 26 million who use marijuana per year.⁴⁸ Therefore, multiplying the marijuana weight by 750,000 divided by 26 million gives the weight of the *Salvia* ban variable.⁴⁹

48. National Survey on Drug Use and Health, "Use of Specific Hallucinogens: 2006," *The NSDUH Report*, February 14, 2008, <http://www.oas.samhsa.gov/2k8/hallucinogens/hallucinogens.htm>.

49. An objection to this strategy is that the variance among states is greater on *Salvia* policy, so this weight understates the importance of the policy (in no state was marijuana legal to sell as of year-end 2010). On the other hand, the quantity of *Salvia* used per user is surely much lower than for marijuana, so this weight may overstate the importance of the policy. Since the relative magnitudes of these biases cannot be assessed, it is simply assumed that they cancel out.

GAMBLING

2.0%

Annual nationwide gambling revenues are about \$92 billion,⁵⁰ so gambling is big business. Unfortunately, no state has a free market in gaming enterprises, but a monopolistic, state-licensed system at least permits more freedom than a total ban.

Gambling revenues data are needed to derive a consumer surplus estimate. Figures on all-source gambling revenues are not available for every state, so the freedom index uses figures inferred from the tax data.⁵¹ The freedom index uses the Australian Productivity Commission's admittedly flawed⁵² method (but a creditable and unique attempt) for deriving the consumer surplus, as follows:

$$S = \frac{p(1-t)q}{2e}$$

where S is the surplus, $p(1-t)q$ is price including tax times quantity (about \$92 billion), and e is the price elasticity of demand, assumed to be -1.3 following the academic literature and the APC's estimate for non-problem gamblers.⁵³ Thus, the total gambling revenues figure is divided by 2.6 to get the consumer surplus. For the purposes of the freedom index, producer surplus is irrelevant because the producer side of the industry is heavily oligopolistic or monopolistic due to state control.

However, if a nationwide liberalization of gambling occurred, revenues would not increase by nearly as much as they have in states that have liberalized gambling, because these states are drawing customers from other states. There is a limited pool of gamblers, and more state liberalization will have much smaller effects than the one-standard-deviation change would suggest. Between FY 2006 and FY 2008, Pennsylvania dramatically liberalized gambling and increased revenues by over \$800 million. But revenues increased, less than the rate of inflation, even though no states were tightening their laws, and some liberalized. This implies a diversion of gambling revenue from other states to Pennsylvania.

If all states liberalized to a degree that would generate a one-standard-deviation change in this variable (assuming no interjurisdictional externalities), then the *actual* change assuming interjurisdictional externalities might

50. American Gaming Association, "Gaming Revenue: Current-Year Data," January 2009, http://web.archive.org/web/20101226002631/http://www.americangaming.org/Industry/factsheets/statistics_detail.cfv?id=7.

51. For details on this procedure, see the `rsi_weights_11.xls` spreadsheet at www.freedominthe50states.org.

52. Brian Doherty and John Storer, "Assessing the Impact of Electronic Gaming Machines: A Conceptual Critique of the Productivity Commission's Methodology," *Gambling Research* 20, no. 1 (2008): 1-12.

53. Australian Gaming Council, "Estimating Consumer Surplus," accessed January 25, 2013, <http://www.austgamingcouncil.org.au/images/pdf/eLibrary/2330.pdf>.

Rank	State		
1.	Nevada	26.	Nebraska
2.	Louisiana	27.	Alabama
3.	Indiana	28.	Oklahoma
4.	Pennsylvania	29.	California
5.	Iowa	30.	Delaware
6.	Connecticut	31.	Virginia
7.	Missouri	32.	North Carolina
8.	Mississippi	33.	Ohio
9.	Montana	34.	West Virginia
10.	Illinois	35.	New York
11.	Michigan	36.	Arizona
12.	New Mexico	37.	Oregon
13.	New Jersey	38.	Idaho
14.	Maine	39.	Massachusetts
15.	Colorado	40.	Wyoming
16.	Alaska	41.	Kentucky
17.	South Dakota	42.	Hawaii
18.	South Carolina	43.	Vermont
19.	North Dakota	44.	Rhode Island
20.	Florida	45.	New Hampshire
21.	Minnesota	46.	Tennessee
22.	Maryland	47.	Kansas
23.	Arkansas	48.	Georgia
24.	Washington	48.	Utah
25.	Texas	50.	Wisconsin

Ties in rank indicate tied scores.

well be closer to one-fifth of this amount. Therefore, the weight of this variable is divided by five. This approach is admittedly arbitrary, but there is little research to guide these estimates given the data available. By this process, a nationwide, one-standard-deviation shift in state gaming revenues as a percentage of personal income is estimated to be worth \$10.5 billion.

While this variable makes up the vast majority of the gaming category's weight, the category also includes measures for whether social gaming is legal, whether "aggravated gambling" is a felony or misdemeanor, and whether there is an express ban on online gaming. These laws distinguish among the three states at the bottom of the list, each of which have zero gaming revenues.

EDUCATION

1.9%

Education policy as a whole is worth much less in this edition of *Freedom in the 50 States* than in prior editions. The estimates of freedom values used in this edition reveal that states' school-choice policies, at least up to the end of 2010 (not including Indiana's new voucher system, for instance), were rather timid.⁵⁴

Within education policy, mandatory licensure of private school teachers appears to be the most harmful regulation, and it alone constitutes slightly more than half of the overall educational freedom weight.⁵⁵ The other variables included here, in order of importance, are years of mandatory schooling, extent of private school curriculum control, tax credits and deductions for private or home schools (for parents or as contributions to scholarship funds), mandatory government approval of new private schools, home school curriculum control, standardized testing or other evaluation requirements for home schools, extent of home school recordkeeping requirements, teacher qualifications for home schools, an index of home school notification requirements, mandatory kindergarten attendance, the existence of a statute explicitly permitting homeschooling, and mandatory registration of private schools.⁵⁶

54. See especially Friedman Foundation for Educational Choice, "Illinois—Tax Credits for Educational Expenses," accessed January 25, 2013, <http://www.edchoice.org/School-Choice/Programs/Tax-Credits-for-Educational-Expenses.aspx>; and Andrew J. Coulson, "Choosing to Save: The Fiscal Impact of Education Tax Credits on the State of Nevada," Cato Institute, January 12, 2009, http://www.cato.org/pubs/20090113_Choosing_to_Save.pdf.

55. This estimate is based on Morris Kleiner's estimates of the consequences of occupational licensing: Morris Kleiner, *Licensing Occupations: Ensuring Quality or Restricting Competition?* (Kalamazoo, MI: W.E. Upjohn Institute, 2006).

56. For coding details see the `e_educ_11.xls` spreadsheet at www.freedominthe50states.org.

Rank	State
1.	Florida
2.	Arizona
3.	North Carolina
4.	Idaho
5.	Georgia
6.	Illinois
7.	Montana
8.	Vermont
9.	Mississippi
10.	Indiana
11.	New Jersey
12.	Missouri
13.	Kentucky
14.	Oregon
15.	West Virginia
16.	Texas
17.	Arkansas
18.	Utah
19.	Colorado
20.	New York
21.	Oklahoma
22.	Delaware
23.	California
24.	Virginia
25.	New Mexico

26.	Massachusetts
27.	Alaska
28.	Hawaii
29.	South Carolina
30.	Minnesota
31.	Wisconsin
32.	Connecticut
33.	New Hampshire
34.	Wyoming
35.	Pennsylvania
36.	Alabama
37.	Kansas
38.	Tennessee
39.	South Dakota
40.	Michigan
41.	Nebraska
42.	Ohio
43.	Iowa
44.	Louisiana
45.	North Dakota
46.	Washington
47.	Maine
48.	Rhode Island
49.	Nevada
50.	Maryland

MALA PROHIBITA AND CIVIL LIBERTIES

0.6%

Mala prohibita refers to acts defined as criminal in statute, even though they are not harms in common law (*mala in se*). The civil liberties category is a grab bag of mostly unrelated policies, including raw milk laws, fireworks laws, prostitution laws, physician-assisted suicide laws, religious freedom restoration acts, rules on taking DNA samples from criminal suspects, trans-fat bans, and laws that can be used to prosecute people who audiorecord public officials in the performance of their duties.

Of these, the policy with the greatest potential cost to victims is prostitution prohibition. If Nevada-style policies legalizing but regulating brothels were in effect nationwide, the industry would garner an estimated \$5 billion in revenue.⁵⁷ Next most important is California's restaurant trans-fat ban, which if implemented nationwide would cost consumers—at a reasonable estimate—over \$3.5 billion worth of pleasure a year.⁵⁸ Next is the legalization of raw milk, followed closely by physician-assisted suicide and two-party consent laws for audiorecording public officials, both of which receive “constitutional weights” boosting them by a factor of 10. Then come fireworks laws, followed by laws related to taking DNA from criminal suspects, and state religious freedom restoration acts (the last two receiving constitutional weights).⁵⁹

57. Daria Snadowsky, “The Best Little Whorehouse is Not in Texas: How Nevada’s Prostitution Laws Serve Public Policy, and How Those Laws May Be Improved,” *Nevada Law Journal* 6 (2005): 217–19.

58. Gary Becker, “Comment on the New York Ban on Trans Fats,” *The Becker-Posner Blog*, December 21, 2006, <http://www.becker-posner-blog.com/2006/12/comment-on-the-new-york-ban-on-trans-fats--becker.html>.

59. For coding details on these variables, as well as gaming and travel variables, see the `d_mala_11.xls` spreadsheet at www.freedominthe50states.org.

Rank	State
1.	Nevada
2.	Oregon
3.	Washington
4.	New Mexico
5.	Montana
6.	Texas
7.	South Carolina
8.	Idaho
8.	Oklahoma
10.	Indiana
11.	Missouri
12.	Tennessee
13.	Minnesota
14.	Arizona
15.	South Dakota
16.	Nebraska
17.	Maine
18.	Utah
19.	Pennsylvania
20.	Wyoming
21.	Alaska
22.	Virginia
23.	Kansas
24.	New York
25.	Rhode Island

26.	Mississippi
27.	Georgia
27.	Hawaii
27.	Kentucky
27.	West Virginia
27.	Wisconsin
32.	Connecticut
33.	Colorado
34.	Arkansas
35.	New Hampshire
36.	North Carolina
37.	Alabama
38.	Iowa
39.	Louisiana
39.	North Dakota
41.	Ohio
42.	Illinois
43.	Vermont
44.	Delaware
44.	New Jersey
46.	Maryland
46.	Michigan
48.	Massachusetts
49.	Florida
50.	California

Ties in rank indicate tied scores.

TRAVEL

0.5%

Seat belt laws and mandatory uninsured/underinsured motorist coverage are the two most important variables in the travel category, based on estimated costs in terms of tickets and uncompensated premiums to drivers who do not prefer to perform such activities.⁶⁰ After that come motorcycle helmet laws, bicycle helmet laws, bans on driving while using a cell phone, open container laws, and sobriety checkpoints, in that order. Sobriety checkpoints receive a “constitutional weight” boosting their weight by 10, since in some jurisdictions they are held to violate the Fourth Amendment.

These variables were included in previous editions of *Freedom in the 50 States* and some of them generated a fair amount of comments by readers and audience members at public presentations. In particular, it was argued that some of these variables seem to be justified on the grounds of enhancing public safety. But not every measure that enhances public safety is morally justifiable—consider random searches of pedestrians. A preferable approach would utilize penalties for “distracted driving” of whatever cause, rather than a blanket ban on using a hand-held phone while driving, which does not always pose a risk to others. Likewise, it would be better to focus on penalties for drunk driving rather than punishing people for having opened beverage containers in their vehicles, another behavior that does not necessarily pose a direct risk to others. In states with a federally conforming open-container law, having an unsealed but closed wine bottle on the floor of the passenger side of a car is sufficient to trigger a misdemeanor violation and possible jail time.

60. See the `rsi_weights_11.xls` spreadsheet at www.freedominthe50states.org for weighting details.

Rank	State
1.	New Hampshire
2.	Idaho
2.	Wyoming
4.	Arizona
4.	Colorado
4.	Montana
4.	Ohio
8.	Utah
9.	Pennsylvania
10.	Nevada
11.	Missouri
12.	North Dakota
12.	South Dakota
14.	Arkansas
15.	West Virginia
16.	Alaska
16.	Iowa
16.	Texas
19.	Virginia
20.	Indiana
20.	Kentucky
20.	Oklahoma
23.	Nebraska
23.	Vermont
25.	Rhode Island

26.	Mississippi
27.	Michigan
28.	Florida
28.	Hawaii
28.	New Mexico
31.	Illinois
31.	Kansas
31.	South Carolina
34.	Massachusetts
35.	Connecticut
35.	Delaware
37.	Washington
38.	Minnesota
38.	Wisconsin
40.	Alabama
40.	Georgia
40.	Louisiana
40.	Tennessee
44.	California
45.	Maine
46.	New York
47.	North Carolina
48.	Maryland
49.	Oregon
50.	New Jersey

Ties in rank indicate tied scores.

ASSET FORFEITURE

0.1%

The calculation for the ease of civil asset forfeiture is based on results reported in the Institute for Justice study *Policing for Profit*.⁶¹ This index basically reflects the extent to which a state's tight asset forfeiture rules encourage revenue-sharing with the Department of Justice. Tight rules are indeed better, since the government should not take private property simply because it was allegedly used in a crime or allegedly constitutes proceeds of a crime, unless the owner of the property is found culpable in a court of law and the seizure is used to compensate victims. But as the Institute for Justice study found, tight rules simply encourage forfeiture by the federal government.

Asset forfeiture abuse is a grave injustice. However, because the US Department of Justice easily evades state asset forfeiture restrictions by “adopting” cases and sharing forfeiture proceeds with local departments, state restrictions on asset forfeiture abuse are basically a dead letter. There is no statistically significant evidence of a link between a state's asset forfeiture rules and the prevalence of civil forfeiture. However, there is a substantively tiny and statistically insignificant link, which is used to generate the freedom index's victim cost estimate.

A nationwide move by all the states to abolish or sharply limit civil asset forfeiture would prevent only an estimated \$100 million of forfeitures a year, given that the Department of Justice will circumvent state law. In the future, states will need to ban revenue-sharing with the Department of Justice if they want their restrictions on forfeiture abuse to have any meaning. Even with a “constitutional weight” boost by a factor of 10 because of its Fourth Amendment implications, therefore, the asset forfeiture variable is worth only a tiny amount of the overall freedom index.

61. Marian R. Williams et al., *Policing for Profit: The Abuse of Civil Asset Forfeiture* (Institute for Justice, March 2010), <http://ij.org/policing-for-profit-the-abuse-of-civil-asset-forfeiture-4>.

Rank	State
1.	North Carolina
2.	California
3.	Colorado
4.	Florida
5.	Oregon
6.	Vermont
7.	Nebraska
7.	Wisconsin
9.	Indiana
9.	Maine
11.	Kansas
11.	Michigan
13.	Maryland
14.	Connecticut
15.	New Mexico
15.	Utah
17.	New York
18.	Kentucky
19.	Minnesota
20.	Missouri
21.	Louisiana
21.	Mississippi
23.	Nevada
24.	New Hampshire
24.	Texas

26.	Alabama
27.	Arizona
27.	Arkansas
27.	Hawaii
27.	Idaho
27.	Iowa
27.	New Jersey
27.	Ohio
27.	Oklahoma
27.	Pennsylvania
27.	Tennessee
27.	Virginia
27.	West Virginia
39.	Illinois
39.	Rhode Island
39.	South Carolina
42.	Georgia
42.	North Dakota
42.	South Dakota
42.	Washington
46.	Alaska
46.	Delaware
46.	Massachusetts
46.	Montana
46.	Wyoming

Ties in rank indicate tied scores.

CAMPAIGN FINANCE

<0.1%

The campaign finance policy category covers public financing of campaigns and contribution limits (individuals to candidates, individuals to parties, an index of individuals to PACs and PACs to candidates, and an index of individuals to PACs and PACs to parties).⁶² While these policies receive “constitutional weights” boosting them by a factor of 10 because of their First Amendment implications, they receive low weights even so because there is not much evidence that contribution limits reduce private actors’ involvement in politics, unless the limits are extremely low (and Vermont’s extremely low limits were struck down by the US Supreme Court in 2006).⁶³

Also, there just is not much money in state elections, even in states without contribution limits. According to www.followthemoney.org, in the last three election cycles nationwide individual contributions to state legislative candidates amounted to about \$850 million per two-year cycle, or less than \$3 per person in the country. Finally, even being prevented from making, say, a \$1,000 donation to a candidate does not result in a \$1,000 loss to the frustrated donor, since the donor can put those funds to a different use. The freedom index assumes a utility loss equivalent to 10 percent of the planned contribution when calculating victim cost. In sum, the nationwide victim losses from state campaign finance restrictions come to a figure in the tens of millions of dollars a year, at most.

62. For coding details, see the `t_elec_11.xls` spreadsheet at www.freedominthe50states.org.

63. *Randall v. Sorrell*, 548 U.S. 230 (2006).

Rank	State
1.	Alabama
1.	Indiana
1.	Mississippi
1.	Missouri
1.	North Dakota
1.	Oregon
1.	Pennsylvania
1.	Texas
9.	Virginia
10.	Iowa
10.	Utah
12.	Nebraska
13.	Wyoming
14.	Nevada
15.	Georgia
16.	Tennessee
17.	Montana
18.	Washington
19.	New Mexico
20.	South Dakota
21.	Idaho
22.	Arkansas
23.	New York
24.	South Carolina
25.	Illinois

26.	Michigan
27.	Maryland
28.	California
29.	Minnesota
30.	Florida
31.	Ohio
32.	Maine
33.	North Carolina
34.	Delaware
35.	Louisiana
36.	Kansas
37.	Alaska
38.	Rhode Island
39.	New Jersey
40.	New Hampshire
41.	Vermont
42.	Hawaii
43.	Arizona
44.	Oklahoma
45.	West Virginia
46.	Kentucky
47.	Colorado
48.	Massachusetts
49.	Wisconsin
50.	Connecticut

Ties in rank indicate tied scores.

OVERALL PERSONAL FREEDOM RANKING

32.7%

The top states in the personal freedom dimension tend to be more rural (Alaska, New Hampshire, Maine, West Virginia), while the bottom states have relatively urbanized populations (Maryland, Illinois, New York, California). Socially conservative states such as Alabama, Mississippi, Louisiana, and South Dakota rank near the bottom. The reason for the rural-urban relationship is likely voters' fears of crime, which leads them to support harsh policing and prosecutorial tactics, stricter drug and gun laws, and more limits on civil liberties. However, there is no statistical relationship between personal freedom and *actual* crime rates. It is well known that public perceptions of crime can diverge widely from the truth.⁶⁴ An alternative explanation is that there are more negative externalities of personal behavior in urban settings. But if this were the case, one would also expect urbanized states to have more economic regulation and higher taxation, and they do not. Socially conservative states tend to restrict alcohol, gambling, marijuana, and marriage freedoms, but permit greater freedom in education and have more respect for gun rights.

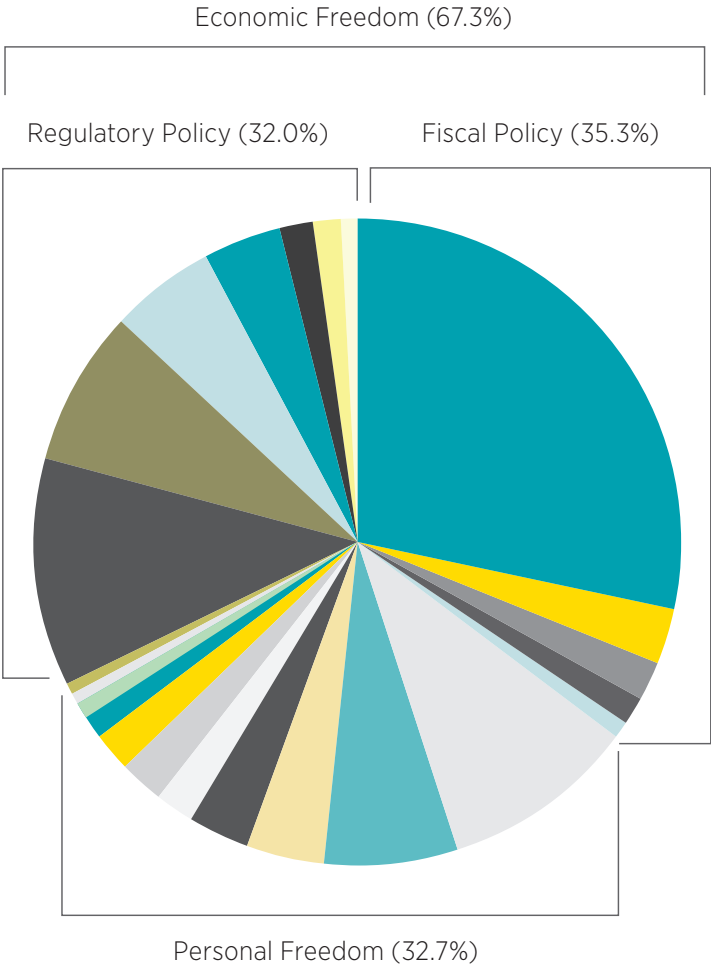
64. Lydia Saad, "Perceptions of Crime Problem Remain Curiously Negative," *Gallup*, October 22, 2007, <http://www.gallup.com/poll/102262/perceptions-crime-problem-remain-curiously-negative.aspx>; University of Texas, "Crime on the Rise? Public Perception of Crime Remains Out of Sync with Reality, Criminologist Contends," November 10, 2008, <http://www.utexas.edu/features/2008/crime/>.

Rank	State	Personal Freedom Score
1.	Alaska	21.4
2.	Nevada	18.7
3.	Maine	14.5
4.	New Mexico	14.5
5.	New Hampshire	14.5
6.	Colorado	8.9
7.	Indiana	8.0
8.	Missouri	7.0
9.	West Virginia	6.6
10.	Massachusetts	5.5
11.	Vermont	5.4
12.	Georgia	4.7
13.	Kansas	4.1
14.	North Carolina	3.6
15.	Kentucky	3.3
16.	Washington	2.9
17.	Arkansas	2.8
18.	South Carolina	2.5
19.	Oregon	2.4
20.	North Dakota	0.9
21.	Wyoming	0.5
22.	Nebraska	0.1
23.	Montana	-1.0
24.	Tennessee	-1.3
25.	Minnesota	-1.6

26.	Arizona	-1.9
27.	Utah	-2.0
28.	Oklahoma	-2.2
29.	Iowa	-2.3
30.	Delaware	-2.6
31.	Texas	-3.0
32.	Connecticut	-3.8
33.	Rhode Island	-4.6
34.	Ohio	-4.6
35.	Pennsylvania	-4.7
36.	Florida	-4.8
37.	Wisconsin	-6.5
38.	Virginia	-7.8
39.	Idaho	-8.7
40.	Louisiana	-9.3
41.	Michigan	-9.3
42.	New Jersey	-9.6
43.	Alabama	-9.7
44.	Mississippi	-9.8
45.	Hawaii	-10.9
46.	South Dakota	-11.4
47.	California	-13.9
48.	New York	-16.6
49.	Maryland	-17.9
50.	Illinois	-22.1

PART 2
POLITICS OF
FREEDOM

The first section of part 2 presents the freedom index for 2011, changes between 2009 and 2011, and changes between 2001 and 2011. We highlight some of the reasons for individual states' performance. Then we analyze more rigorously the patterns in the data to figure out the relationship between state public opinion (or state culture) and freedom. The second section of this part investigates empirically the consequences of the three dimensions of freedom for economic growth and interstate migration.



*Category Weightings:
Three Dimensions Together*

DATA AND ANALYSIS

The pie chart opposite gives the weights for three dimensions of freedom and for the categories within them. The weights for the categories and the three overarching dimensions are simply the sum of the weights of the variables assigned to each category. For the individual variables' weights, consult Appendix B.

The weighted sum of all the variables is used to produce the overall freedom ranking of the states. The overall freedom scores, meanwhile, rate states on how free they are relative to other states. A score of 100 would correspond to a state's being one standard deviation above average in every single variable, although in reality, every state scores better on some variables and worse on others. A score of 0 would be equivalent to a state's being absolutely average on every variable, and a score of -100 to a state's being one standard deviation below average on every variable. The overall freedom index as of 2011 can be found on page 81.

OVERALL FREEDOM RANKING

North Dakota is the freest state, followed at a modest distance by South Dakota and Tennessee. New Hampshire and Oklahoma round out the top five. New York is by far the least free state, followed by California, New Jersey, Hawaii, and Rhode Island. However, Rhode Island's score is not nearly as bad as the scores of the bottom four states. Note that most states' scores reflect the legal situation at the end of the terms of the legislatures elected in the November 2008 general election (though a few states had general elections in 2009). In other words, most of the legislatures responsible for these policies were in power in 2009 and 2010.

One of the things our rankings demonstrate is that freedom blooms on

the hills and prairies of the Dakotas. For the first time, North Dakota and South Dakota are the top two states in the freedom index. North Dakota has been gaining on the freest states for years and has finally eclipsed them all. It moved from 16th in 2001 to 10th in 2007 to 5th in 2009 and finally into the number one spot this year. Some of its relative gains have been due to high-ranking states in 2007 like Colorado and New Hampshire becoming less free overall.¹ However, North Dakota's own freedom score has risen substantially over the years as well.

South Dakota slipped to the second spot between 2009 and 2011 and also fell in terms of overall freedom, particularly personal freedom. Nonetheless, the state is still doing a lot better than others at securing individual liberty. If it wishes to regain the top spot and advance freedom at home, it should mimic its northern neighbor by protecting more personal freedoms. Although neither of the Dakotas is considered a highly desirable locale by coastal elites, denizens of these two states have much to be proud of and the rest of us should be more willing to look to the Dakotas as models to emulate.

What might be most remarkable about these rankings and the overall freedom scores is how much worse New York is than even the next-lowest-ranking state. Indeed, the Empire State scores a full 100 points worse than almost every other state in the Union, and more than 200 points worse than the freest state, North Dakota! The difference between New York's and North Dakota's scores corresponds to two standard deviations on every single variable. New York also performs poorly across the board, ranking at or near the bottom in all three dimensions of freedom. Thus New Yorkers feel the heavy hand of government in every area of their lives. Is it any wonder that people are fleeing the state in droves? Fully 8.9 percent of the state's 2000 population, *on net*, left New York for another state between 2000 and 2010, the highest figure in the nation. Fortunately, the state remains a magnet for foreign immigrants. Otherwise, it might be facing some of the same problems bedeviling demographically challenged countries outside the United States.

Of the top 10 states in our rankings, eight (and 13 of the top 15) were carried by the Republican candidate for president in both the 2008 and 2012 elections. New Hampshire and Virginia were the only ones whose electoral votes were—narrowly—captured by the Democratic Party nominee. This is replicated in reverse for the bottom 10 states. Eight of the 10 (and all eight at the very bottom) were carried by the Democratic Party nominee and presidential election winner Barack Obama. This would suggest that the freedom index is affected by the so-called “red state/blue state” divide in American politics. For a more systematic analysis, see “Public Opinion and Freedom” below, particularly figure 4.

1. New Hampshire's dip in the rankings and in freedom score may have been stopped and even reversed by the 2011–12 legislature under Speaker William O'Brien, which enacted serious spending cuts and other reforms.

OVERALL FREEDOM RANKING 2011

Rank	State	Overall Freedom Score			
1.	North Dakota	66.6	26.	Kansas	13.1
2.	South Dakota	61.3	27.	Kentucky	8.4
3.	Tennessee	60.8	28.	Oregon	8.0
4.	New Hampshire	55.6	29.	Washington	5.6
5.	Oklahoma	47.9	30.	Massachusetts	-1.6
6.	Idaho	43.2	31.	Pennsylvania	-3.9
7.	Missouri	37.6	32.	Arkansas	-5.8
8.	Virginia	37.3	33.	Ohio	-7.1
9.	Georgia	36.6	34.	Minnesota	-9.4
10.	Utah	35.7	35.	Michigan	-14.7
11.	Arizona	32.5	36.	Wyoming	-15.8
12.	Montana	29.5	37.	Louisiana	-17.0
13.	Alaska	28.6	38.	Wisconsin	-19.9
14.	Texas	27.5	39.	Maine	-21.0
15.	South Carolina	24.9	40.	Connecticut	-25.0
16.	Indiana	22.6	41.	Mississippi	-29.0
17.	Delaware	21.9	42.	West Virginia	-29.4
18.	Alabama	21.6	43.	Vermont	-34.0
19.	Colorado	20.5	44.	Maryland	-35.2
20.	Nevada	20.3	45.	Illinois	-35.2
21.	New Mexico	18.0	46.	Rhode Island	-40.4
22.	Nebraska	17.5	47.	Hawaii	-67.3
23.	Florida	16.9	48.	New Jersey	-78.8
24.	North Carolina	16.4	49.	California	-85.8
25.	Iowa	16.3	50.	New York	-150.2

CHANGE OVER TIME

The following list pulls out the most improved and worsened states in the period from 2009 to 2011. It shows changes that have occurred since the last edition of the freedom index (published in 2011), which had a data cutoff of December 31, 2008, and captures policies that came into effect in 2009. It is important to recognize that short-term changes will be caused by a great deal of noise in the fiscal data that may or may not be due to significant policy changes. Nonetheless, it is worth noting which states saw the most change in individual freedom in the period our data cover.

On the positive side, during this two-year period more than half of the states increased their overall freedom score, and overall freedom increased across the United States by an average of three points. The states that improved the most did so largely due to scoring better in the fiscal policy dimension, especially in terms of tax revenue as a percentage of personal income.

Idaho was one of the states that showed the greatest increase in its fiscal policy score. Its tax revenue as a percentage of personal income fell by more than 8 percent. It also saw a rise in its court system rating, although that increase could reflect sampling error.

Arizona, Georgia, and New Mexico also scored better based largely on their substantially lower tax revenues. However, in the case of Arizona, this was offset slightly by increased state debt as well as a reduction in the state's overall freedom from victimless crimes score. Georgia and New Mexico also saw increases in state debt.

North Dakota's overall freedom score rose and it climbed from fifth to first in the rankings largely due to its own substantial reduction in tax revenues as a percentage of personal income. This overcame an increase in state debt and spending, as well as an increase in victimless crimes arrests.

On the negative side, Oregon, Colorado, and Arkansas saw the greatest declines in freedom from 2009 to 2011. Oregon's two-year decline is part of a longer trend, since it is also one of the states that has fallen most since 2001 (see below). However, it did have an upward blip in 2009. A big part of its recent decline has been an increase in state debt, spending, and tax revenue as a percentage of personal income. It has also instituted cell phone restrictions and increased health insurance mandates.

Colorado, like Oregon, has witnessed a two-year decline that is part of a longer trend going back to 2001. In this shorter period, the state's fiscal policy score fell precipitously in both absolute and relative terms (its rank fell from 10th to 21st). This was largely due to a substantial growth in tax revenue as a percentage of personal income, as well as to increased debt. Colorado also permitted police to take the DNA of all felony arrestees, and its regulatory policy score declined marginally. This downward slide was mitigated somewhat by an increase in personal freedom, with a change to

CHANGE IN OVERALL FREEDOM SCORE JANUARY 1, 2009, TO JANUARY 1, 2011

	State	Change
1.	Idaho	+23.2
2.	Arizona	+21.6
3.	North Dakota	+20.1
4.	Georgia	+19.3
5.	New Mexico	+17.8
46.	Kansas	-10.0
47.	Wyoming	-10.8
48.	Arkansas	-15.1
49.	Colorado	-15.6
50.	Oregon	-17.8

domestic partnership laws and better scores on victimless crimes. Moreover, its liberalization of marijuana laws in 2012 will increase its personal freedom score in the next edition.

Arkansas's freedom score also declined substantially in the recent period. The state saw an increase in state debt but did not increase tax revenue as a percentage of personal income. However, its seat belt laws were strengthened, police were given the power to take the DNA of certain felony arrestees, its crime-rate-adjusted incarceration rate went up, and health insurance freedom declined.

It is also worth noting that the two top states in 2009 fell by 2011 as well. That year's freest state, South Dakota, declined in both absolute and relative terms, leaving it number two in this edition of the freedom index. In fact, South Dakota slid to second due to the sixth greatest decline in overall freedom score.

New Hampshire was the second freest state in 2009 but slid down to fourth in the current overall rankings, despite having a stable overall freedom score. New Hampshire's decline came in the period from 2007 to 2009, when it lost its first-place ranking. Unfortunately for Granite Staters, some of the freest states have caught up to New Hampshire. However, as previously noted, the 2011–12 legislature has cut spending significantly in the time since the data cutoff for this edition of the freedom index. This move, along with other freedom-enhancing legislation, is likely to help New Hampshire in the next edition (for more information, see New Hampshire's state profile in part 3). However, one wonders whether those gains can be protected from the new legislature and governor elected in 2012.

Aside from what happened to particular states, it is also worth discussing briefly the policies that were most frequently the subject of change across the country. As one might guess from the foregoing discussion, fiscal policy changes varied across the states. Some of these may have been partly a result of the differing effects of the recent recession and the federal fiscal stimulus. Debt problems, in particular, continued to get worse in many places (California, for example). On the personal freedom front, laws dealing with domestic partnerships, civil unions, and gay marriage changed in several states (Colorado, Iowa, New Hampshire, Vermont, and Wisconsin) between 2009 and 2011, with several other states shifting after the data cutoff for this edition of the freedom index. More dramatically, nearly half of all states increased their cigarette taxes, including New York, which raised these taxes a whopping \$1.60 a pack—an increase greater than many states’ total tax! Travel freedom also shrank in a number of states. Legislators in more than half the states busied themselves banning texting while driving, and seat belt laws got tougher in a number of places as well (Arkansas, Florida, Kansas, Minnesota, and Wisconsin). On the regulatory front, it is notable that employment-weighted licensure increased slightly in nearly every state.

The list opposite shows how freedom evolved over the course of the 2001 to 2011 decade at the state and local levels. Oklahoma, North Dakota, Idaho, Utah, New Mexico, and Mississippi improved significantly, while Wyoming, Illinois, New Jersey, New York, and Kansas worsened significantly. Overall, the average state freedom score declined in the United States by 9 points. Fiscal and regulatory policy scores increased on average, while personal freedom scores declined significantly, by 13 points on average.

We would issue a cautionary note on Wyoming. Wyoming’s falling score is mostly attributable to falling personal income since the 2007 recession, which has made Wyoming’s fiscal policy score drop by 58 points between FY 2000 and FY 2010, most of that drop occurring since FY 2006. We suspect this is to a considerable extent an artifact of Wyoming’s unusual, energy-dependent economy and the state’s dependence on sales taxes, which are more recession-proof than income taxes. Severance taxes, which we do not measure as part of our tax burden variable, actually fell between FY 2006 and FY 2010, from 4.6 percent to 2.8 percent of personal income. However, almost every other category of tax has increased as a percentage of the economy, especially property taxes. Wyoming has also had some problems in personal freedom, with incarceration and drug arrest rates rising and *Salvia* banned (but gun laws improving), but it has improved just as much on regulatory policy since 2001.

New York’s and New Jersey’s fiscal policy positions have deteriorated significantly, with the former losing more than 24 points and the latter declining by a whopping 37 points. In the regulatory policy dimension,

CHANGE IN OVERALL FREEDOM SCORE JANUARY 1, 2001, TO JANUARY 1, 2011

	State	Change			
1.	Oklahoma	35.4	26.	Ohio	-13.7
2.	North Dakota	35.0	27.	Hawaii	-13.9
3.	Idaho	22.4	28.	Connecticut	-14.5
4.	Utah	19.6	29.	Nebraska	-15.8
5.	New Mexico	18.2	30.	Maryland	-17.5
6.	Mississippi	18.0	31.	Washington	-17.6
7.	Alabama	14.7	32.	Tennessee	-18.1
8.	Georgia	12.5	33.	Alaska	-18.6
9.	Maine	10.4	34.	Florida	-18.8
10.	Montana	9.3	35.	Arkansas	-19.7
11.	Arizona	7.3	36.	Rhode Island	-21.1
12.	South Carolina	6.8	37.	Pennsylvania	-21.2
13.	South Dakota	4.3	38.	North Carolina	-22.9
14.	Louisiana	4.0	39.	Indiana	-23.7
15.	Texas	3.1	40.	New Hampshire	-24.3
16.	Missouri	1.8	41.	Oregon	-27.0
17.	Wisconsin	1.1	42.	Colorado	-28.6
18.	West Virginia	0.5	43.	California	-28.9
19.	Massachusetts	-0.3	44.	Vermont	-29.0
20.	Delaware	-0.9	45.	Nevada	-30.8
21.	Minnesota	-3.3	46.	Kansas	-33.7
22.	Virginia	-6.7	47.	New York	-37.7
23.	Michigan	-6.8	48.	New Jersey	-45.8
24.	Iowa	-7.0	49.	Illinois	-49.7
25.	Kentucky	-8.3	50.	Wyoming	-58.3

the states treaded water both absolutely and relatively during the decade. However, New York and New Jersey saw their personal freedom scores decline substantially.

Illinois changed most dramatically between 2001 and 2011 in the personal freedom arena. It experienced a 30-point drop in personal freedom and moved from a middling state to the worst in the country in that dimension. It also lost ground on fiscal and regulatory policy. On the latter, it mirrored its change in personal freedom, declining from a pretty average state to one of the worst in the country.

Kansas's position as one of the states whose overall score declined the most over the last decade may be a bit of a surprise for many readers. Unfortunately for Kansans, the state retreated from freedom-enhancing policies in all three dimensions. There was nothing particularly dramatic, but the state lost ground both absolutely and relatively in the 10-year interval. It dropped almost 10 points (and went from 2nd to 10th) in regulatory policy, lost 12 points in fiscal policy (and fell from 26th to 37th), and stayed about the same in the rankings (12th to 13th) on personal freedom but lost nearly 15 points.

Tobacco policy is the most notable area in which state policies have become more restrictive of personal freedom, with massive increases in taxes as well as greater and greater restrictions on where one can smoke. Laws dealing with domestic partnerships, civil unions, and gay marriage also changed dramatically. Only three states (California, Hawaii, and Vermont) legally recognized even one of these options 10 years ago. In 2011, 15 states did, and others have added legal recognition after our data cutoff. On the regulatory side, eminent domain reform occurred in some fashion in most states following the infamous *Kelo* decision by the US Supreme Court in 2005. The data on the website provide more details about these and other changes in the last decade.

PUBLIC OPINION AND FREEDOM

Figure 1 is a scatter plot of state economic and personal freedom scores. Most states are clustered in the center, but the outliers are instructive. In the bottom right quadrant we see economically freer, personally less free states such as South Dakota, Idaho, Alabama, and Virginia. In the upper right are economically and personally free states such as New Hampshire, Missouri, Indiana, Colorado, and Georgia. Tennessee and North Dakota are mediocre on personal freedom but strong on economic freedom. In the upper center are Alaska, Nevada, and New Mexico, not particularly economically free but strong on personal freedom. At the bottom center are Illinois and Maryland, relatively weak on personal freedom but mediocre on economic freedom. Far out on the bottom left is New York, which scores quite poorly in both

economic and personal freedom. California, New Jersey, and Hawaii also score badly in both. Rhode Island does pretty poorly on economic freedom but is mediocre on personal freedom. Finally, in the upper left, Vermont, Maine, and West Virginia do well on personal but not economic freedom. Generally, then, conservative states do better than left-liberal states on economic freedom and rural/western/New England states do better than urban/southern/mid-Atlantic states on personal freedom.

There is a common misconception that libertarians are “fiscally conservative and socially liberal,” or that from a libertarian point of view conservative governance is good for economic but bad for personal freedom, while the opposite is true of left-liberal governance. In fact, the freedom index shows that there is significant heterogeneity among both conservative and left-liberal states, while personal freedom does not relate straightforwardly to the left-right spectrum at all. As the scatter plot shows, there is a group of states that rank relatively highly on the overall freedom index, are mostly moderately right-of-center, and are *not* especially controlling in the personal freedom dimension. These include states such as New Hampshire (4th overall/5th personal freedom), Missouri (7th/8th), Georgia (9th/12th), Alaska (13th/1st), and Indiana (16th/7th).

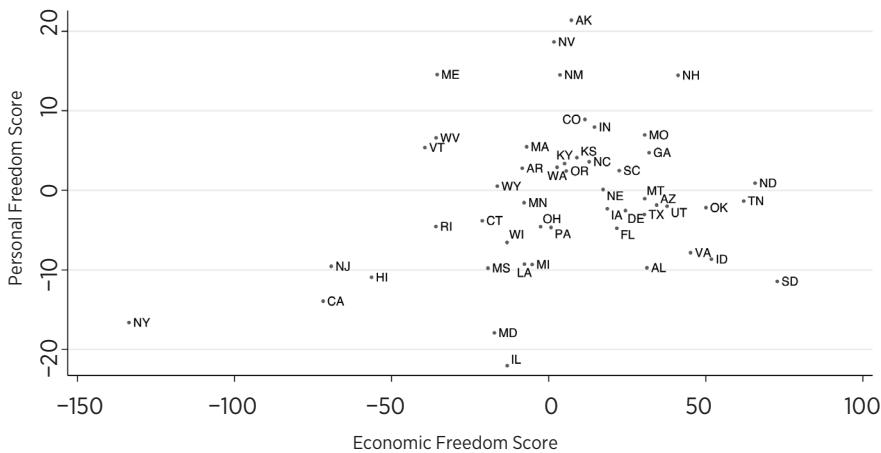
Of course, states at the bottom of the index tend to score poorly across the board. New York, for example, is low on both economic and personal freedom. All the other “blue” states among the bottom 10 overall also fare badly in the personal freedom realm, with the exception of Vermont (which comes in 11th on personal freedom despite an overall 43rd ranking). California is 47th on personal freedom, New Jersey 42nd, Hawaii 45th, Rhode Island 33rd, Illinois 50th, and Maryland 49th. This suggests that many left-of-center states are paternalistic or “nanny” states in all areas of life, belying the common view that “blue” states are relatively free outside the economic realm. Moreover, as we explain below and show in figures 2, 3, and 4, there is a substantial negative relationship between higher levels of Democratic and Green vote share and economic and overall freedom, while conservative and liberal states tend to do better on different areas of personal freedom.

All this being said, there are “red” states that fit the stereotype of places that are freer economically but less free personally. Many of these are in the South. For example, states like Alabama (11th on economic freedom/43rd on personal freedom), Florida (17th/36th), Texas (14th/31st), and Virginia (6th/38th) fit this pattern. The most extreme example, though, is South Dakota, which is first on economic freedom but 46th on personal freedom! Idaho also fits the pattern, coming in fourth on economic freedom and 39th on personal freedom. These states tend to have high incarceration and arrest rates especially.

Finally, there are “red” states that are both economically and personally less free and look more like their deep blue brethren than they might expect. For example, Louisiana (34th/40th) and Mississippi (41st/44th) score badly on both economic and personal freedom. States like these help provide the upward slope in the curve at low values of Democratic plus Green vote share in figures 2, 3, and 4.

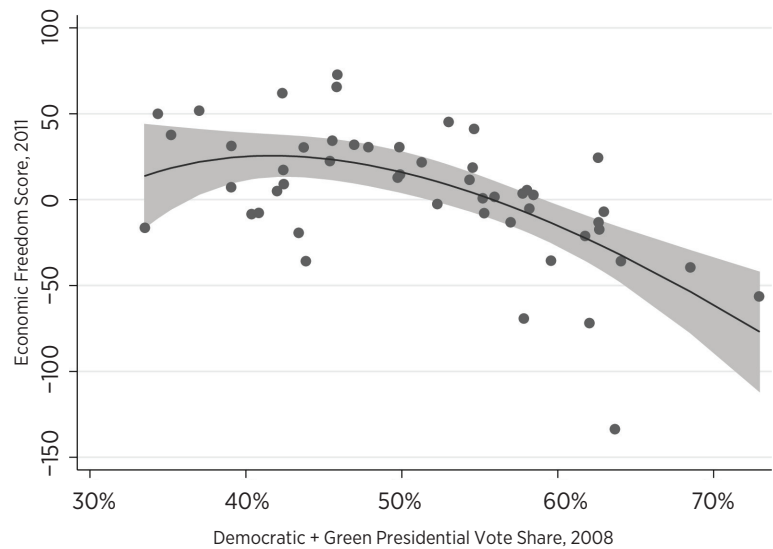
Figure 2 is a scatter plot with a curved line showing the relationship between state public opinion ideology, as measured by presidential vote shares in 2008, and economic freedom. Figure 3 shows the same for personal freedom. More left-of-center states score lower on economic freedom, but the relationship is much weaker or nonexistent on personal freedom, reflecting the fact that more conservative states are better on some personal freedoms (such as education, tobacco, guns, and travel) but worse on others (such as marriage, victimless crimes, marijuana, and alcohol). Figure 4 shows the relationship between ideology and overall freedom. The relationship between liberalism and overall freedom is especially negative among the most left-leaning states. In short, moderate states are about as free as conservative states, but liberal states tend to be less free, particularly on economic issues. One possible reason that moderate states do well is that political competitiveness may be higher in such states, but this is a topic for future research.²

Figure 1. Scatter Plot of Personal and Economic Freedom



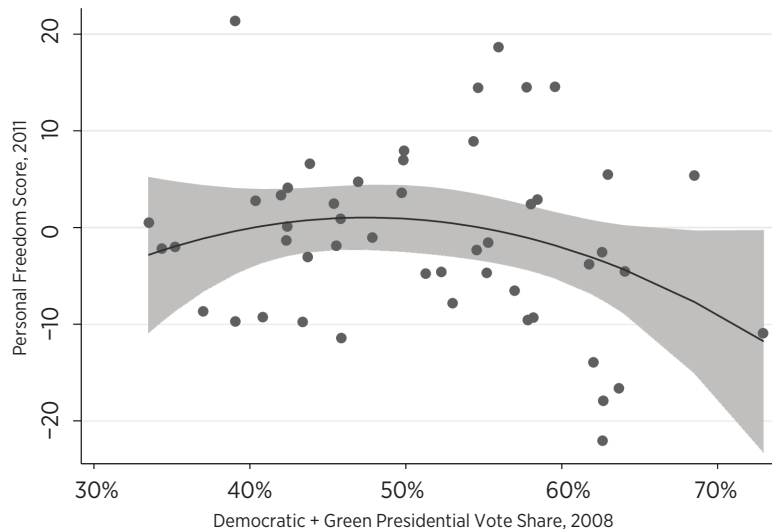
2. We are grateful to policy expert Ted Bolema for this suggestion.

Figure 2. State Ideology and Economic Freedom



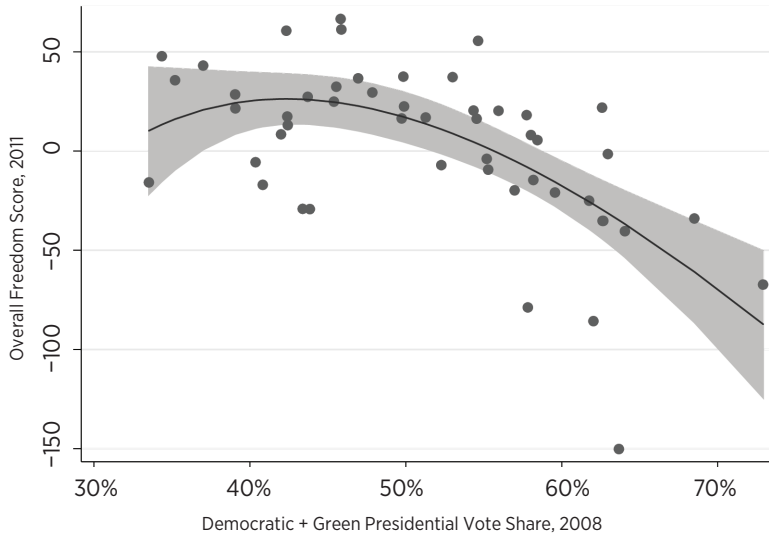
Note: Line displays best polynomial fit in two degrees. Shaded area is 95% confidence interval.

Figure 3. State Ideology and Personal Freedom



Note: Line displays best polynomial fit in two degrees. Shaded area is 95% confidence interval.

Figure 4. State Ideology and Overall Freedom



Note: Line displays best polynomial fit in two degrees. Shaded area is 95% confidence interval.

We also try regressing overall freedom on the Democratic-Green percentage of the vote in 2008 and its square, percentage of the state population living in urban areas according to the 2000 Census (“urbanization rate”), and percentage of the state population that is black according to the 2000 Census.³ In another study, we have found urbanization and black population to be especially related to criminal-justice policies.⁴ The results are in table 1.

The coefficients on the ideology variables in figure 4 imply that the Democratic-Green vote is positively associated with freedom until it reaches about 41 percent, after which it is negatively associated with freedom, similarly to the uncontrolled bivariate relationship displayed in figure 4. Urbanization is not significantly correlated with freedom, implying that ideology is not somehow simply a proxy for urbanization. Percentage black is negatively associated with freedom, consistent with other research showing that states with large black populations tend to have stricter criminal-justice policies. We caution against a direct or simple causal interpretation, but this variable helps the model explain why Deep South states are consistently less free than equally conservative Rocky Mountain states. The variable may reflect social

3. These variables are only modestly correlated together, implying little multicollinearity bias. We use data from the 2000 rather than the 2010 Census because it should take some time for social structure to affect public opinion and then public policy. See, as just one example of a similar approach in the academic literature, Jeffrey R. Lax and Justin H. Phillips, “Gay Rights in the States: Public Opinion and Policy Responsiveness,” *American Political Science Review* 103, no. 3 (2009): 376.

4. Jason Sorens, Fait Muedini, and William P. Ruger, “U.S. State and Local Public Policies in 2006: A New Database,” *State Politics and Policy Quarterly* 8, no. 3 (2008): 309–26.

Table 1. Overall Freedom Regression

VARIABLE	COEF. (SE)
Democratic-Green vote	0.12 (0.04)**
(Democratic-Green vote) ²	-0.0014 (0.0004)**
Urbanization rate	-0.21 (0.31)
Percentage black	-0.010 (0.005)*
Intercept	-2.0 (1.1)
<i>N</i>	50
Adj. <i>R</i> ²	44.9%
<i>F</i>	7.23***

* $p < 0.05$. ** $p < 0.01$. *** $p < 0.001$. Robust standard errors.

conservatism, “racial threat” fears of whites stimulating overcriminalization, or tough-on-crime attitudes among black voters themselves.

Figure 5 maps the state scores on freedom, rendering the regional patterns visually clearer. The states are grouped into seven categories along natural breaks in the statistical distribution. With the exceptions of Wyoming, Minnesota, and Arkansas, the territory between the Mississippi River and the Rocky Mountains stands out for freedom. On the other hand, the Northeast (except New Hampshire) and Great Lakes (except Indiana) are generally less free. The South is heterogeneous, ranging from relatively unfree states like West Virginia and Mississippi to relatively free states like Tennessee, Oklahoma, Virginia, and Georgia.

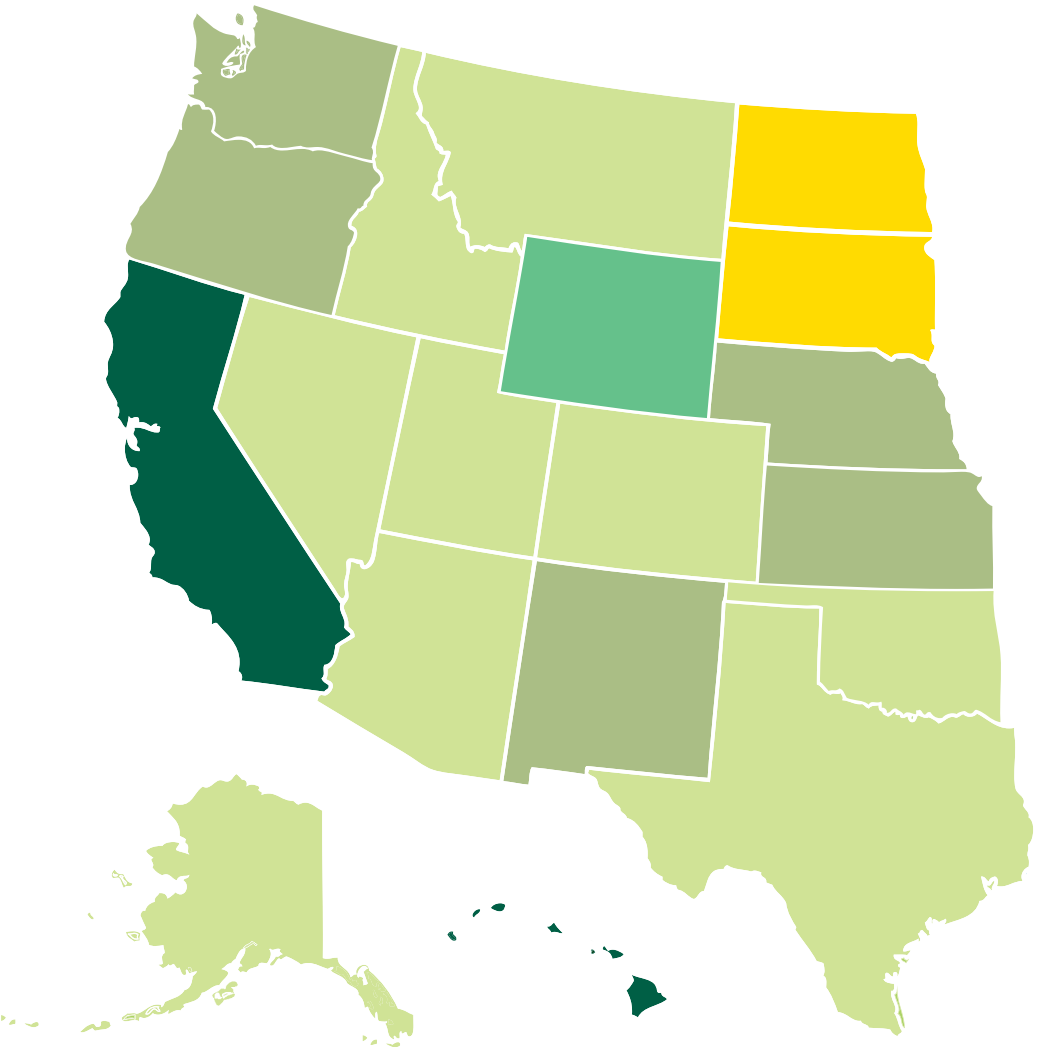
FREEDOM, GROWTH, AND MIGRATION

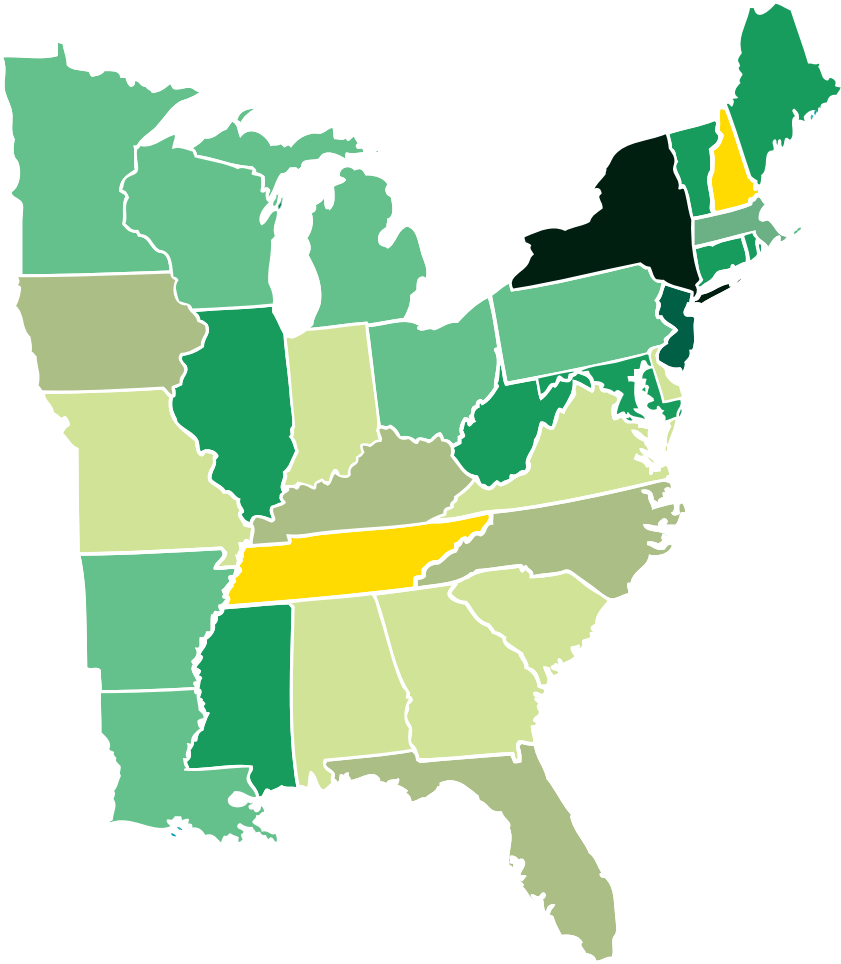
Do Americans value freedom as we define it? One way to try to answer this question is to analyze the relationship between freedom and net interstate migration, that is, the movement of people between states. If, all else being equal, Americans prefer to move to freer states, that would be evidence in favor of the hypothesis that Americans value freedom. In this edition of the index, we report more sophisticated empirical results on this question than we have heretofore done.

As a first step, figures 6, 7, and 8 plot the relationship between net interstate migration from January 2000 to January 2010 and fiscal policy, regulatory policy, and personal freedom score, respectively, in early 2001.⁵

5. For these figures and the statistical analyses below, each freedom score has been divided by 100 for clarity of presentation.

FIGURE 5. MAP OF STATE FREEDOM SCORES





LEAST FREE

MOST FREE



< -100



-100 to -50



-50 to -20



-20 to 0



0 to +20



+20 to +50



> +50



below the 2011 average



above the 2011 average

Figure 6. Fiscal Policy and Interstate Migration

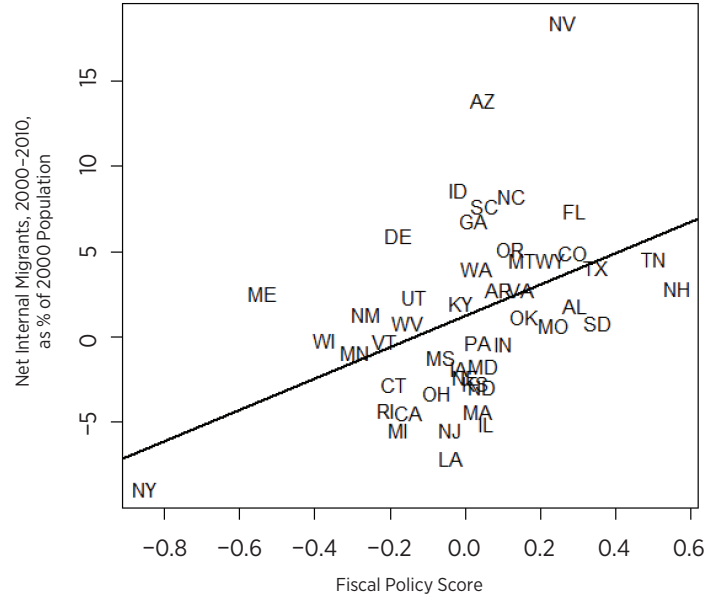


Figure 7. Regulatory Policy and Interstate Migration

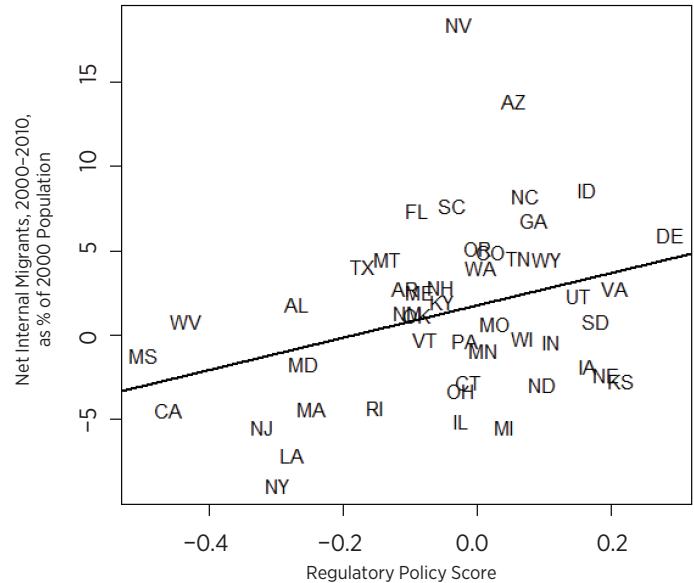
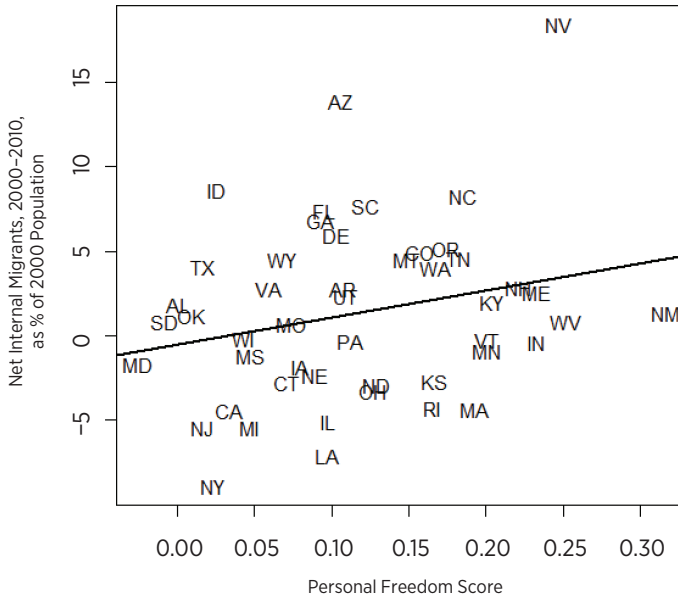


Figure 8. Personal Freedom and Interstate Migration



In each case, the bivariate relationship between freedom and migration is positive. However, it is strongest for fiscal freedom and weakest for personal freedom. Some states also systematically lie above the bivariate regression line and others below it. Louisiana, New Jersey, Massachusetts, Illinois, and Michigan have lost more residents than expected, while Arizona, Nevada, Idaho, the Carolinas, Georgia, and Maine have gained more than expected.

Multiple regression allows us to control for factors such as climate that clearly influence migration. We tried controlling for climate using variables such as average January temperature, heating degree days, cooling degree days, and rainfall, but in the end the best predictor of migration was accommodations GDP in thousands of dollars per capita in 2000 from the Bureau of Economic Analysis. The size of the hospitality sector of the economy captures not just desirable climate but other natural amenities such as mountains, which attract people to not-exactly-warm destinations such as Maine, Idaho, and Colorado.⁶

We also try a regression specification including state cost of living from 2000, as estimated by political scientists William D. Berry, Richard C. Fording,

6. A review suggests that climate variables are more likely exogenous than accommodations GDP. That is true, but the results on the freedom variables are even stronger when we use climate variables instead, and we want to put the freedom variables through the strongest reasonable tests.

and Russell L. Hanson.⁷ This is an index variable linked to a value of 10 for the national average in 2007, the last date for which a value is available. There is some concern that this variable is endogenous to freedom. For instance, it correlates with the Wharton land-use regulation variable at $r = 0.67$, implying that strict land-use regulation drives up the cost of living. It also correlates with fiscal freedom at -0.35 , perhaps implying that taxation can also drive up cost of living.

Finally, we also try including growth in personal income from 2000 to 2007 from the Bureau of Economic Analysis, adjusted for change in state cost of living from Berry, Fording, and Hanson. This variable is even more clearly endogenous to economic freedom, as well as to migration (more workers means more personal income). Nevertheless, we want to put the hypothesis that freedom attracts people to the strictest reasonable tests.

Table 2 presents the results of regressions of interstate migration from 2000 to 2010 for the lower 48 states on fiscal policy, regulatory policy, and personal freedom and on accommodations GDP per capita, successively adding cost of living and income growth.⁸

While all three dimensions of freedom are positively associated with migration, the results are especially strong for fiscal and regulatory policies' association with migration. Personal freedom barely misses the standard thresholds for statistical significance in the first equation shown in the table ($p = 0.051$). Fiscal policy drops in substantive and statistical significance when cost of living is added to the model in equation 2, because the two are correlated. With only 48 observations and four of the independent variables moderately correlated with each other, it is perhaps unsurprising that it is difficult to identify the effect of each variable with great precision. Real income growth appears to add nothing to the model in equation 3.⁹

Finally, we also tried dropping New York, Arizona, and Nevada (the biggest outliers) from the estimations, with essentially no difference in results.

The estimates from equation 2 imply that a half-unit change in fiscal policy score, for instance from Michigan to New Hampshire (2011 values), is associated with an increase in net interstate migration of about 2 percent of 2000 population; a half-unit change in regulatory policy score, for instance from New Jersey to Virginia (2011 values), is associated with an increase in net interstate migration of about 4.2 percent of 2000 population; and a

7. William D. Berry, Richard C. Fording, and Russell L. Hanson, "An Annual Cost of Living Index for the American States, 1960–1995," *Journal of Politics* 62, no. 2 (2000): 550–67.

8. Alaska and Hawaii are excluded because their distance dampens interstate migration to and from these states. However, the results are quite similar when they are included.

9. This is somewhat surprising but makes more sense once one looks at the list of fast-growing states. Wyoming, Nevada, Florida, South Dakota, and Arizona were the fastest-growing states in 2000 to 2007. Most of those states were then hit particularly hard by the recession (South Dakota is the exception). Michigan, California, Oregon, Massachusetts, and New Jersey were the slowest-growing states in this period.

Table 2. Interstate Migration Regressions

VARIABLE	(1) COEF. (SE)	(2) COEF. (SE)	(3) COEF. (SE)
Fiscal policy	6.8 (1.7)***	3.8 (1.5)*	3.8 (1.5)*
Regulatory policy	7.6 (3.1)*	8.2 (2.7)**	7.8 (2.8)**
Personal freedom	11.6 (5.8)	11.1 (5.0)*	11.6 (5.2)*
Accomm. GDP	3.1 (0.3)***	3.3 (0.2)***	3.2 (0.4)***
Cost of living		-0.30 (0.06)***	-0.27 (0.07)***
Real income growth			0.3 (0.7)
Intercept	-1.3 (1.0)	22.9 (5.4)***	20.3 (6.5)**
<i>N</i>	48	48	48
Adj. <i>R</i> ²	42.0%	55.4%	54.5%
<i>F</i>	135.3***	201.0***	219.8***

* $p < 0.05$. ** $p < 0.01$. *** $p < 0.001$. Robust standard errors.

quarter-unit change in personal freedom score, for instance from Alabama to Maine (2011 values), is associated with an increase in net interstate migration of about 2.5 percent of 2000 population. If we can interpret these relationships as causal, then to policy makers interested in attracting new residents and businesses we would recommend measures to increase freedom and reduce cost of living.

In addition to analyzing the association of freedom with migration, we also analyze the association of freedom with income growth. The dependent variable here is annualized percentage change in total state personal income, adjusted for change in cost of living, from 2000 to 2007, the latest year available. Total income growth, not per capita income growth, is the standard measure of state-level income growth, since interstate migration quickly eliminates interstate wage differentials for equivalent workers.¹⁰ The independent variables are the three categories of freedom, logged capital per worker in 2000 (to control for conditional convergence), accommodations GDP per capita, and mining GDP per capita in 2000 (to control for the resource boom during this decade). The reason personal freedom and accommodations GDP per capita are included is that migration of workers should increase income. However, we only expect good fiscal and regulatory policy to increase capital accumulation and the efficiency of the domestic economy.

10. See, e.g., chapter 4 in Mancur Olson, *The Rise and Decline of Nations: Economic Growth, Stagflation, and Social Rigidities* (New Haven, CT: Yale University Press, 1982).

Table 3. Real Income Growth Regression

VARIABLE	COEF. (SE)
Fiscal policy	0.76 (0.45)
Regulatory policy	1.45 (0.60)*
Personal freedom	-2.2 (2.0)
Capital/worker	-0.46 (0.30)
Accom. GDP	0.37 (0.07)***
Mining GDP	0.13 (0.02)***
Intercept	5.4 (2.8)
N	48
Adj. R ²	29.8%
F	21.4***

* $p < 0.05$. ** $p < 0.01$. *** $p < 0.001$. Robust standard errors.

We find that regulatory policy is statistically significantly, positively related to income growth, personal freedom is negatively but not statistically significantly related to growth, and fiscal policy is positively but not quite statistically significantly related to growth (table 3). Accommodations GDP and mining GDP, as expected, are positive and significant, while log capital per worker is negative as expected but not quite statistically significant. The coefficients imply that a half-unit increase in regulatory freedom is associated with a 0.7-point increase in annual income growth. For context, a standard deviation of income growth is 1.0 in this dataset.

In summary, while fiscal policy, regulatory policy, and personal freedom are all positively associated with migration, which might ordinarily be expected to increase income growth, we can only be confident that regulatory policy is positively associated with income growth. Why might this be? If personal freedoms and low taxes attract more retirees than workers, they can bid up the price of land without increasing the labor supply. In that case, a rise in the cost of production inputs could offset (part of) the benefits of migration to the domestic economy. However, regulatory freedom is probably not something that retirees seek out; instead, businesses big and small are likely to be attracted to favorable regulatory environments, bringing productive workers with them. This explanation is purely speculative, however.

If Americans seem generally to prefer freedom as we have measured it, how did some states come to restrict freedom to such a degree? Perhaps the most regulated states on our index have been responding more to interest group pressures and politicians' self-interest than to citizens' most strongly held preferences.

CONCLUSIONS

Although we hope we have demonstrated that some states provide freer environments than others, it would be inappropriate to infer that the freest states necessarily enjoy a “libertarian streak,” while others suffer from a “statist mentality.” Other research has shown that state politics, like federal politics in the United States, plays out *largely* on a single left-right ideological dimension defined by sociocultural attitudes toward equality, authority, and tradition.¹¹ On the other hand, preliminary unpublished research of ours suggests that states with larger libertarian blocs tend to have more personal (but not economic) freedom, but the effect, if it is a causal relationship, is small. One might well argue that throughout history human freedom has emerged not because political leaders have consciously sought it, but as a consequence of balancing forces (church and state, king and nobles, and institutional forms) that happen to check the arbitrary exercise of power in particular times and places.

Why then do some states protect individual liberty more thoroughly than others, if not because of a libertarian ideology? Left-right ideology does play a role. On personal freedom we find little difference in overall scores between conservative and liberal states in general. While liberal states are freer than conservative states on marijuana and same-sex partnership policies, when it comes to gun owners, home schoolers, motorists, or smokers, liberal states are nanny states, while conservative states are more tolerant. On economic freedom conservatives and libertarians are usually allies, and thus conservative states tend to do better. Still, there are some economic issues that are high-profile for libertarians but not conservatives, such as occupational licensing, and here we have found no relationship between left-right citizen ideology and freedom.¹² Thus, we must look beyond just ideology to fully understand policy variation.

Another reason why freedom tends to prosper in some places and falter in others is institutional design. There has been much research on the effects of institutions on government spending across countries,¹³ as well as on institutions and the dynamics of policy change in the American states.¹⁴ Variables of interest include size of the legislature, gubernatorial power, professionalization of the legislature, fiscal decentralization, term limits, and initiative and referendum. In theory, institutions could have consistent effects on individual liberty in one direction or the other, but it is more likely that most

11. Robert S. Erikson, Gerald C. Wright, and John P. McIver, *Statehouse Democracy: Public Opinion and Policy in the American States* (Cambridge: Cambridge University Press, 1993); Keith Poole and Howard Rosenthal, *Congress: A Political-Economic History of Roll-Call Voting* (New York: Oxford University Press, 1997).

12. Sorens, Muedini, and Ruger, “State and Local Public Policies.”

13. See for instance Torsten Persson and Guido Tabellini, *The Economic Effects of Constitutions* (Cambridge, MA: MIT Press, 2003).

14. See for instance Charles R. Shipan and Craig Volden, “Bottom-Up Federalism: The Diffusion of Antismoking Policies from U.S. Cities to States,” *American Journal of Political Science* 50, no. 4 (2006): 825–43.

institutions affect freedom positively in some areas and negatively in others. For instance, popular initiatives have helped pass strict tax limitation rules such as Colorado's Taxpayer Bill of Rights (TABOR) but have also allowed massive spending increases to become law, such as Florida's 2002 initiative requiring that universal prekindergarten be offered throughout the state and a 2000 initiative requiring construction of a high-speed rail system to connect all of Florida's five major cities. As a time series of freedom scores emerges, it will become possible to do interesting research on the determinants of policy change in pro- and anti-liberty directions.

Finally, we must not discount the role of political entrepreneurs and individual activists, especially at the state and local levels. The late Jerry Kopel, a Colorado legislator and activist, authored the original "sunrise" and "sunset" legislation for occupational licensing agencies and maintained a website where he kept a close watch on licensing regulation.¹⁵ Quite probably due to his indefatigable efforts, Colorado remains today the highest-rated state in the nation for occupational freedom.

Freedom is not the *only* determinant of personal satisfaction and fulfillment, but as our analysis of migration patterns shows, it makes a tangible difference for people's decisions about where to live. Moreover, we fully expect people in the freer states to develop and benefit from the kinds of institutions (such as symphonies and museums) and amenities (such as better restaurants and cultural attractions) seen in some of the older cities on the coast, in less free states such as California and New York, as they grow and prosper. Indeed, urban development expert and journalist Joel Kotkin recently made a similar point about the not-so-sexy urban areas that are best situated to recover from the economic downturn:

Of course, none of the cities in our list competes right now with New York, Chicago, or L.A. in terms of art, culture, and urban amenities, which tend to get noticed by journalists and casual travelers. But once upon a time, all those great cities were also seen as cultural backwaters. And in the coming decades, as more people move in and open restaurants, museums, and sports arenas, who's to say Oklahoma City can't be Oz?¹⁶

These things take time, but the same kind of dynamic freedom enjoyed in Chicago or New York in the 19th century—that led to their rise—might propel places in the middle of the country to be a bit more hip to those with urbane tastes.

15. See <http://www.jerrykopel.com/>.

16. Joel Kotkin, "Welcome to Recoveryland: The Top 10 Places in America Poised for Recovery," November 8, 2010, <http://www.joelkotkin.com/content/00320-welcome-recoveryland-top-10-places-america-poised-recovery>.

Finally, we would stress that the variance in liberty at the state level in the United States is quite small in the global context. Even New York provides a much freer environment for the individual than the majority of countries. There are no Burmas or North Koreas among the American states. Still, our federal system allows states to pursue different policies in a range of important areas. The policy laboratory of federalism has been compromised by centralization, most recently in health insurance, but is still functioning. Indeed, Colorado and Washington proved how robust this laboratory can be even in the face of federal power when their marijuana laws were significantly liberalized by ballot measures passed in November 2012.

As Americans grow richer in future years, quality of life will matter more to residence decisions, while the imperative of decent employment will decline by comparison. As a result, we should expect more ideological “sorting” of the kind economist and geographer Charles Tiebout foresaw.¹⁷ High-quality information on state legal environments will matter a great deal to those seeking an environment more friendly to individual liberty.

17. Charles Tiebout, “A Pure Theory of Local Expenditures,” *Journal of Political Economy* 64 (1956): 416–24.

PART 3

**FREEDOM STATE
BY STATE**

The state profiles that follow highlight some of the most interesting aspects of how each state's public policies affect individual freedom. Researchers will find further details about particular states' policies in the policy spreadsheets at www.freedominthe50states.org. Please note that the information used for these state profiles was accurate as of December 31, 2010; policy changes since that time do not yet show up in the data.

1

ALABAMA

2012 RANK
18th

SCORE

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	5	5	7	5
REGULATORY	44	40	38	38
PERSONAL	50	46	46	43
OVERALL	32	32	21	18



2



Personal income per capita

\$34,650

Share of total US GDP

1.16%

State GDP ranking

26th

3



Population

4,802,740

Share of total US population

1.5%

Population ranking

23rd

Net migration rate

1.8%

4



State and local tax burden

7.6%

Government consumption and subsidies

12.4%

State and local debt burden

17.1%

5

POLITICS

	2009	2011	2013
Governor	Rep.	Dem.	Dem.
Senate	Rep.	Dem.	Dem.
House of Representatives	Rep.	Dem.	Dem.

LEGISLATIVE SESSION DATES:
80 LB within 105 CD

FBI - FREEDOM IN THE 50 STATES

6

ANALYSIS

Alabama is one of the most conservative states in the country, especially socially. As might be expected, it scores very well on economic policy—especially taxation—but rather poorly on personal freedom.

Alabama is also one of the poorer states and accordingly receives a substantial share of federal funding. This allows the state to maintain one of the nation's lowest tax burdens, at 7.6 percent of personal income, while spending well above the national average: government consumption and subsidies are 12.4 percent of income. Government employment is also high, at 15.5 percent of private employment, while state and local debt is slightly lower than average, at 17.1 percent of income.

Alabama's court system ranks as one of the worst in the country according to the Chamber of Commerce survey (see part II), but it has improved significantly since the first survey in 2001. Otherwise, the state scores reasonably well on regulatory policy, although it may lose ground in the next edition of the index because of harsh legislation aimed at undocumented immigrants passed after this edition's closing date. Real property rights protection is strong due to flexible, decentralized zoning rules and comprehensive eminent domain reform. Labor laws are also market-friendly, with right-to-work in place. The health insurance market is relatively free, with far fewer mandates than the national average and virtually no price controls. Life insurance and property/casualty insurance are far more tightly regulated, however.

Alabama scores poorly on some important personal freedoms, especially on incarceration rates, in which it is over a standard deviation and a half worse than the national average, even though violent crimes arrest rates are lower than average. It also scores poorly on marijuana laws, of which it has the very harshest in the country; alcohol laws, due to its especially high taxes on beer and spirits; and marriage freedom. It does well on a few other personal freedoms, however, such as tobacco and gun control—although the state has stricter gun regulations than some other states, especially for dealers and carriers of concealed weapons. It also does not limit campaign contributions.

POLICY RECOMMENDATIONS

- Reduce government employment and spending in areas where the state is above the national average, such as publicly owned hospitals, liquor stores, and utilities.
- Move from partisan elected to non-partisan or appointed judges in order to further improve the quality of the state's judiciary system.²
- Eliminate mandatory minimum sentences for nonviolent offenders and otherwise reform the sentencing of nonviolent criminals. If Alabama only imprisoned the number of people one would expect given its (high) crime rate, its personal freedom rank would have improved from 49th to 27th.

2. See Michael and Jessica M. Tokheim, "The Effect of Elected/Judicialism on Tort Awards," *American Law and Economics Review* 4, no. 2 (2002): 341-70.

8

✓	Separate spending and tax committees?	Firm reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	YES	NO

STATE PROFILE 11

sample spread

KEY TO THE PROFILES

The following profiles contain some basic information about each state, including the state's freedom rankings over time and various institutional, political, demographic, and economic indicators of interest. The next few pages provide a brief description of each element contained in the profiles, keyed to the sample profile opposite. They also supply more information about the variables we have chosen to include.¹

1

STATE ID

State Name

State profiles appear in alphabetical order. The District of Columbia and unincorporated organized territories are not included in this index.

State Rankings

Each state's overall rank for 2011 is displayed prominently at the top of the spread, next to the state name. A table below the state name presents the state's segmented, historical rankings for 2001, 2007, 2009, and 2011.

Score and Change in Score

Each state's profile shows the state's scores for 2001 and 2011. As

described in parts 1 and 2, the score corresponds to how well a state performs on freedom compared to a hypothetical state that has an average level of freedom on every variable. A perfectly average state would have a score of zero, so freer-than-average states have positive scores and states with below-average levels of freedom have negative scores.

2

INCOME AND WEALTH

Personal Income per Capita

Personal income per capita is aggregate personal income divided by population, calculated by the Bureau of Economic Analysis for 2011 (June 2012 vintage, subject to revision). Personal income includes money income that accrues to individuals or households (wages and salaries, interest, dividends, and transfers, but not capital gains). The data are not adjusted for differences in cost of living between states. People often mistakenly assume that this variable measures the "wealth" of a state. In fact, it measures cost of living plus the relative desirability of a state for high-skill and low-skill workers.

1. Sources for data are the Census Bureau, the Bureau of Economic Analysis, and the National Conference of State Legislatures. The tax and spending committee information comes from Matthew Mitchell and Nick Tuszynski, "Institutions and State Spending: An Overview" (Mercatus Working Paper, Arlington, VA: Mercatus Center at George Mason University, October 2011).

Expensive states with large research universities, like California and Massachusetts, tend to repel low-skill workers more than high-skill workers, which increases measured personal income per capita, even though more people are leaving these states than are entering them. A better measure of the health of a state's economy is its net migration rate, which is provided to the right.

Share of Total US GDP

This figure, also from the Bureau of Economic Analysis, gives the state's percentage of national gross domestic product for 2011. It is a measure of the relative size of a state's economy.

State GDP Ranking

This figure is the state's rank in total GDP out of the 50 states, as of 2011, calculated by the Bureau of Economic Analysis (June 2012 vintage). It is another measure of the relative size of a state's economy.



DEMOGRAPHICS

Population

This is the number of people who lived in the state in 2011, as estimated by the Census Bureau.

Share of Total US Population

This is the state's population as a percentage of national population

in 2011, as estimated by the Census Bureau.

Population Ranking

This is the state's rank, in terms of population, out of the 50 states.

Net Migration Rate

The net migration rate from 2000 to 2011 is the number of in-migrants to the state between July 1, 2000, and July 1, 2011, from other states and DC, minus the number of out-migrants from the state over the same period to other states and DC, divided by the July 1, 2000, population and expressed as a percentage. (Data are from the Census Bureau.) Thus, a state with a net migration rate of zero sees all its population growth coming from natural increase and net international immigration. This measure is one of the best indicators of the growth of a state's economy. Per capita income and GDP figures reward states for turning out their low-skill workers. Population growth rewards states that have lots of babies (like Utah) or states that happen to have major international airports (like New York). By contrast, a state that attracts people from other states almost certainly does so because it is offering more employment opportunities or a better quality of life than other states.

4

FISCAL FACTORS

State and Local Tax Burden

This is the percentage of personal income that residents paid in taxes and license fees, excluding alcohol, tobacco, motor fuel, and severance taxes, for fiscal year 2010. This statistic comes from the Census Bureau and is the taxation variable used in the freedom index.

Government Consumption and Subsidies

This variable also appears in the index. It is the percentage of personal income devoted to state and local government consumption activities and subsidies for calendar year 2010. Government consumption includes wages paid and goods and services consumed for the government's own use. The statistic comes from the Bureau of Economic Analysis.

State and Local Debt Burden

This is state and local long- and short-term debt as a percentage of personal income for fiscal year 2010. It is included in the index. The data come from the Census Bureau.

5

POLITICS

This section provides information on party control of the legislature

and governorship between 2009 and 2013. Red indicates Republican control; blue indicates Democratic control. The table also gives the name of the governor. Unified party control of the legislature and governor's office allows observers to ascribe responsibility for policy actions to the party in control. One topic for political science research is how unified Republican, unified Democratic, and divided state governments affect the policy environment on fiscal, regulatory, and personal freedom issues.

This section also provides information on legislative session dates and lengths, a useful reference for citizens who want to contact their legislators on issues of the day. Following usage by the National Conference of State Legislatures, the abbreviations LD and CD stand for legislative days and calendar days, respectively. All information on legislative sessions and party control of state government comes from the National Conference on State Legislatures, state legislature websites, and the Census Bureau.

6

ANALYSIS

The analysis section of each state profile begins with an introduction and then discusses fiscal, regulatory, and personal freedom issues in the state, in that order.

POLICY RECOMMENDATIONS

There are three policy recommendations for each state, corresponding to the three dimensions of freedom: fiscal policy, regulatory policy, and personal freedom, in that order. We considered three criteria as we decided which policy recommendations to include in this book:

1. **Importance.** The recommended policy change would result in a significant boost to the state's freedom score.
2. **Anomalousness.** The policy change would correct a significant deviation of the state's policies from national norms.
3. **Feasibility.** The policy change would likely prove popular, taking into account the state's ideological orientation and the political visibility of the issue.

The recommendations for changes to fiscal policy typically pair specific spending reductions with either taxation or debt reductions, since the two sides of the budget, revenue and expenditure, are inextricably linked.

We have made a conscious effort not to recommend changes to state health insurance policies, except for changes to benefit mandates. When the Patient Protection and Affordable

Care Act comes fully into effect, community rating, guaranteed issue, and an individual purchase mandate will be imposed nationwide, putting to an end all state-level experiments in making health insurance affordable and available. However, the Department of Health and Human Services is currently allowing states to set the criteria determining which benefits must be included in the plans sold in their states.

We have made every effort to exclude from our policy recommendations any changes that have already been made since December 31, 2010.

INSTITUTIONAL CONSTRAINTS

Separate Spending and Tax Committees?

This column indicates whether a state's legislature has separate committees for raising taxes and spending (most do). Economists Matthew Mitchell and Nick Tuszynski find that this institutional feature is the strongest correlate of low spending.² The explanation seems to be that committees tasked with raising taxes will have an interest in blocking spending increases from the committee tasked with appropriations.

Item Reduction Veto?

This column indicates whether a governor may reduce an itemized

2. Matthew Mitchell and Nick Tuszynski, "Institutions and State Spending."

appropriation with a veto, rather than just blocking it altogether. An item-reduction veto thus goes beyond a line-item veto. Governors might be chary of vetoing an appropriation altogether, preferring instead to reduce the appropriation by a certain amount. When governors do this, legislatures have to obtain supermajorities to override the item reduction. Therefore, item-reduction vetoes keep state spending and taxes lower.

Strict Balanced Budget Requirements?

This column indicates whether a state must adjust its budgets at the end of the fiscal year to make up for any deficits incurred. In some states with balanced budget requirements, the legislature simply has to “project” a balanced budget, and there is no accountability for mistaken projections. Obviously, the incentive in such states is to make unrealistic revenue projections, increase spending, and cover the difference that emerges with new debt.

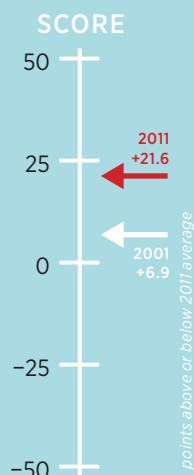
Supermajority for Tax Increases?

This column indicates whether tax increases require a supermajority vote in the legislature. Supermajority requirements can make it easier to block tax increases and keep state government smaller.

ALABAMA

2011 RANK
18th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	5	5	7	5
REGULATORY	44	40	38	38
PERSONAL	50	46	46	43
OVERALL	32	22	21	18



Personal income per capita

\$34,650



Population

4,802,740



State and local tax burden

7.6%

Share of total US GDP

1.16%

Share of total US population

1.5%

Government consumption and subsidies

12.4%

State GDP ranking

26th

Population ranking

23rd

State and local debt burden

17.1%

Net migration rate

2.0% ▲

POLITICS

	2009	2011	2013
Governor	Riley	Bentley	Bentley
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
30 LD within 105 CD

ANALYSIS

Alabama is one of the most conservative states in the country, especially socially. As might be expected, it scores very well on economic policy—especially taxation—but rather poorly on personal freedom.

Alabama is also one of the poorer states and accordingly receives a substantial share of federal funding. This allows the state to maintain one of the nation’s lowest tax burdens, at 7.6 percent of personal income, while spending well above the national average: government consumption and subsidies are 12.4 percent of income. Government employment is also high, at 15.5 percent of private employment, while state and local debt is slightly lower than average, at 17.1 percent of income.

Alabama’s court system ranks as one of the worst in the country according to the Chamber of Commerce survey (see part 1), but it has improved significantly since the first survey in 2001. Otherwise, the state scores reasonably well on regulatory policy, although it may lose ground in the next edition of the index because of harsh legislation aimed at undocumented immigrants passed after this edition’s closing date. Real property rights protection is strong due to flexible, decentralized zoning rules and comprehensive eminent domain reform. Labor laws are also market-friendly, with right-to-work in place. The health insurance market is relatively free, with far fewer mandates than the national average and virtually no price controls. Life insurance and property/casualty insurance are far more tightly regulated, however.

Alabama scores poorly on some important personal freedoms, especially on incarceration rates, in which it is over a standard deviation and a half worse than the national average, even though victimless crimes arrest rates are lower than average. It also scores poorly on marijuana laws, of which it has the very harshest in the country; alcohol laws, due to its especially high taxes on beer and spirits; and marriage freedom. It does well on a few other personal freedoms, however, such as tobacco and gun control—although the state has stricter gun regulations than some other states, especially for dealers and carriers of concealed weapons. It also does not limit campaign contributions.

POLICY RECOMMENDATIONS

- Reduce government employment and spending in areas where the state is above the national average, such as publicly owned hospitals, liquor stores, and utilities.
- Move from partisan elected to non-partisan or appointed judges in order to further improve the quality of the state’s liability system.³
- Eliminate mandatory minimum sentences for nonviolent offenders and otherwise reform the sentencing of nonviolent criminals. If Alabama only imprisoned the number of people one would expect given its (high) crime rate, its personal freedom rank would have improved from 45th to 27th.

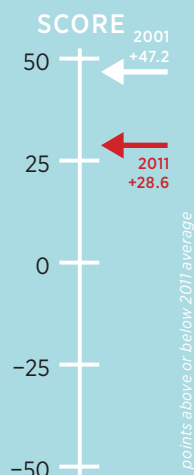
3. Eric Helland and Alexander Tabarrok, “The Effect of Electoral Institutions on Tort Awards,” *American Law and Economics Review* 4, no. 2 (2002): 341–70.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	YES	NO

ALASKA

2011 RANK
13th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	11	18	38	22
REGULATORY	31	29	15	28
PERSONAL	2	2	1	1
OVERALL	6	11	22	13



Personal income per capita

\$45,529

Share of total US GDP

0.34%

State GDP ranking

43rd



Population

722,718

Share of total US population

0.2%

Population ranking

47th

Net migration rate

-1.3%



State and local tax burden

8.5%

Government consumption and subsidies

15.9%

State and local debt burden

32.6%

POLITICS

	2009	2011	2013
Governor	Parnell	Parnell	Parnell
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
90 CD (typically January through April)

ANALYSIS

Alaska is an unusual state, with ample protection for personal freedoms, conservative ideology, powerful labor unions, and the biggest state government in the country, funded by taxes on energy companies. The methodological changes in this edition of *Freedom in the 50 States* have upgraded the state, which was formerly downgraded sharply for its fiscal regime.

Alaska suffers significantly from not having to make hard fiscal choices. It has characteristics of a rentier state. For instance, over a quarter of the state’s workforce is employed by state or local government, and that figure does not include federal employees. Alaska has the second highest debt and government consumption to personal income ratios in the country. Taxes on residents are low, however, because mineral severance taxes make up such a significant share of the state budget.

In the regulatory policy dimension, Alaska scores poorly on eminent domain reform, as well as on labor law because of its minimum wage, lack of a right-to-work law, and strict workers’ compensation rules. But it scores relatively well on health insurance due to few price controls, especially in the nongroup market, and on local zoning regulation. Alaska ranks in the middle on occupational freedom, scoring far worse than average on the extent of occupational licensing but far better than average on health professionals’ scope of practice. The state’s court system is a bit worse than average. It also has a certificate-of-need (CON) law for new hospital construction.

Alaska does extremely well on personal freedom, however, scoring first on the freedom index’s ranking. Reasons for this score

include the fully legalized possession of small amounts of marijuana (accomplished through a court ruling); among the least restrictive gun control laws in the country, including the right to carry concealed weapons without a permit; low incarceration and drug arrest rates; and possibly the least restrictive homeschooling laws in the country. (Private schools are also not heavily regulated, with the exception of a partial teacher licensing law.) Nevertheless, Alaska could improve on alcohol laws (taxes are high), gaming freedom, privacy (police may take DNA from all felony arrestees), asset forfeiture, marriage freedom (no same-sex partnerships are recognized, and there is a waiting period), and campaign finance freedom (contribution limits are quite low).

POLICY RECOMMENDATIONS

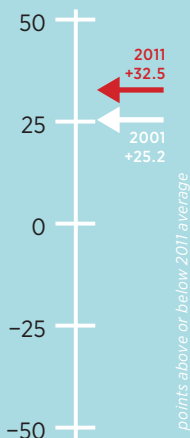
- Cut spending on the areas of grossest overspending relative to national averages: public schools (for which Alaska has the highest spending-to-income ratio in the nation), police and fire protection, corrections, administration (especially financial administration and public buildings), and “miscellaneous commercial activities.”
- Repeal CON requirements for hospital construction. Among politically feasible regulatory policy reforms, this one is likely to make the most difference.
- Allow same-sex civil unions, which are not prohibited by the same-sex marriage ban in the constitution, and repeal waiting periods on marriages. This change would raise Alaska two places in the overall freedom index.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	YES	NO	NO

ARIZONA

2011 RANK
11th

SCORE



	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	22	15	19	13
REGULATORY	16	13	14	13
PERSONAL	25	13	32	26
OVERALL	17	8	23	11



Personal income per capita

\$35,875



Population

6,482,505



State and local tax burden

8.5%

Share of total US GDP

1.73%

Share of total US population

2.1%

Government consumption and subsidies

10.6%

State GDP ranking

20th

Population ranking

16th

State and local debt burden

22.8%

Net migration rate

13.9% ▲

POLITICS

	2009	2011	2013
Governor	Brewer	Brewer	Brewer
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Up to Saturday of week in which
100th CD falls (typically January
through April)

ANALYSIS

Arizona scores well on economic freedom but its personal freedom score is mediocre. Arizona was one of the most improved states between 2009 and 2011, after declining between 2007 and 2009. Fiscal policy was the major factor in this apparent reversal, perhaps because the state was hit hard by the housing bust.

The state scores particularly well on taxes, which are 8.5 percent of personal income, and on fiscal decentralization, which is nearly a standard deviation better (more decentralized) than average. But it scores poorly on government debt, which is 22.8 percent of income. Government spending and employment are slightly better (lower) than average.

In the regulatory policy dimension, Arizona scores well on property takings: a fairly strong statewide law requires compensation for regulatory takings, and eminent domain reform has gone reasonably far. It also scores well on labor laws—a right-to-work law is in place—but an E-Verify mandate and a minimum wage drag down the state’s score somewhat. It imposes very few price controls on health and other insurance, especially on nongroup health insurance, and uses a flexible use-and-file system for homeowners’ and personal auto insurance rates. It scores well on liability system, but poorly on zoning, which is nearly a standard deviation stricter than the national average, and on occupational freedom. Fee, education/experience, and examination requirements are far higher than average, but the state does do extremely well on health professions’ scope of practice.

In the personal freedom dimension, Arizona scores well on gun control laws (no permit is required for concealed carry, as in Alaska, Vermont, and Wyoming); alcohol regulations and taxes, apart from a “happy hour” ban; and educational freedom (a tax credit law is in place, and private and home schools are not very regulated). It scores poorly on tobacco policies due to high cigarette taxes and extremely strict smoking bans, and on incarceration rates, which are a standard deviation worse (higher) than average.

Note that, because its most controversial provisions were thrown out by the courts, Arizona’s first-in-the-nation stop-and-identify law targeting undocumented immigrants is not included in the index.

POLICY RECOMMENDATIONS

- Reduce total government debt from 22.8 percent of personal income closer to the nationwide norm of 19.6 percent.
- Reduce Arizona’s fee, education/experience, and examination requirements. While the percentage of the workforce covered by mandatory licensing is not much worse than the national average, these requirements extend far beyond national norms.
- Reform sentencing policies for nonviolent offenders, with an eye to bringing incarceration rates down to national norms for the state’s crime rate. Such a move would have raised Arizona three places in the overall freedom index, into the top 10.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	YES

ARKANSAS

2011 RANK

32nd

SCORE



	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	17	29	21	24
REGULATORY	37	34	30	40
PERSONAL	26	18	15	17
OVERALL	30	32	25	32



Personal income per capita

\$34,014

Share of total US GDP

0.71%

State GDP ranking

34th



Population

2,937,979

Share of total US population

0.9%

Population ranking

32nd

Net migration rate

2.9%



State and local tax burden

9.2%

Government consumption and subsidies

11.9%

State and local debt burden

14.5%

POLITICS

	2009	2011	2013
Governor	Beebe	Beebe	Beebe
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = 60 CD; even years = 30 CD

ANALYSIS

Arkansas ranks higher on personal than economic freedom. It scores particularly poorly on regulatory policy and worsened noticeably in 2009 to 2010; however, this change is largely an artifact of apparent sampling error in the 2010 lawsuit climate survey by the US Chamber of Commerce: Arkansas dipped dramatically in that year’s survey but has since recovered in the 2012 survey, which is not included in this index. When the change in lawsuit climate is excluded, Arkansas’s freedom score is only slightly negative from 2001 to 2011.

While its taxes and government spending are only about average, Arkansas has one of the lowest debt burdens in the country: 14.5 percent of personal income. Arkansas’s Revenue Stabilization Law, requiring ex post balanced budgets, deserves some credit for this advantage.⁴ Arkansas spends more on education and public welfare than the average state and has high state and local sales and use taxes to make up for low property taxes.

The state could significantly improve its regulatory environment by repealing its health insurance mandates, which add an estimated 45.9 percent to the cost of a premium compared to one without any of the mandated coverages. “Prior approval” rate review is in place for both small group and nongroup health insurance. While local zoning is limited, the state has utterly failed to reform eminent domain. Labor laws are generally good, with a right-to-work law in place. Occupational freedom is limited, with the extent of licensure a standard deviation worse (higher) than the national average and education/experience requirements particularly onerous. Cable and telecom markets are unreformed. The aforementioned lawsuit

climate is poor, even if not quite as bad as the 2010 measure would suggest.

Like other states without large metropolitan areas, Arkansas scores well on certain personal freedoms. Arkansas has virtually no regulation of private schools, and its homeschooling laws are better than average, excepting notification requirements. Mandatory kindergarten attendance is in place. Smoking is banned in restaurants but not bars, and cigarette taxes are moderate by comparison with many other states. The incarceration rate is high, about two-thirds of a standard deviation worse than the national average.

POLICY RECOMMENDATIONS

- Reduce state grants to local school districts and enhance local tax autonomy, and cut the state sales and use tax.
- Prohibit private-to-private eminent domain transfers and tighten blight standards.
- Reform sentencing for nonviolent offenders to reduce incarceration rates toward national norms. This change alone would have moved the state up two places in the overall freedom ranking.

4. We are grateful to an anonymous reviewer for this information.

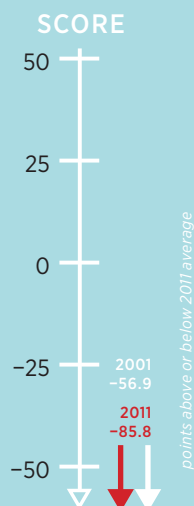
	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	YES

CALIFORNIA

2011 RANK

49th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	38	44	46	44
REGULATORY	49	50	50	50
PERSONAL	44	44	47	47
OVERALL	49	48	49	49



Personal income per capita

\$44,481

Share of total US GDP

13.08%

State GDP ranking

1st



Population

37,691,912

Share of total US population

12.1%

Population ranking

1st

Net migration rate

-4.5% ▼



State and local tax burden

10.8%

Government consumption and subsidies

11.0%

State and local debt burden

25.8%

POLITICS

	2009	2011	2013
Governor	Schwarzenegger	Brown	Brown
Senate			
Assembly			



LEGISLATIVE SESSION DATES:
Odd years = up to September 12;
even years = up to August 31

ANALYSIS

California not only taxes and regulates its economy more than most other states, but also aggressively interferes in the personal lives of its citizens.

Government consumption (at 11.0 percent of personal income) and employment (at 12.8 percent of private-sector employment) are about average, but debt is high (at 25.8 percent of income). The budgetary categories on which California spends significantly more than the rest of the country include general administration, housing and community development, utilities, and employee retirement. Individual and business income taxes are well above average. The total tax burden comes to 10.8 percent of income, a standard deviation above the national average.

Government interference in the land market is rife, as California’s zoning laws are among the toughest in the country, and the state is one of just four to authorize rent control, while eminent domain abuse has seen only token reform. Labor laws impose many costs on employers, from the minimum wage and a universal workers’ compensation mandate to short-term disability insurance and paid family leave. Health insurance mandates add about 49.5 percent to the cost of a premium of a policy without any of the mandated benefits. However, there is no community rating, guaranteed issue, or prior approval of rates in the nongroup health insurance market. Occupational licensing is rampant, and the nursing professions are tightly regulated. The state’s liability system is one of the poorest in the nation and has gradually worsened over time. The life and property/casualty insurance markets are among the most regulated in the nation. On the plus side, there is no certificate-of-need (CON) law for hospital construction.

Despite a reputation for social liberalism, California scores badly on personal freedoms. It has the strictest gun control laws in the country, prohibiting open carry and making concealed carry almost impossible, banning several types of weapons, imposing waiting periods on all firearms purchases, and onerously regulating dealers and ammunition. After Alaska, it has the most relaxed marijuana laws, but it nevertheless has a high incarceration rate, and its drug enforcement rate is only average. It shares the maximum possible score on marriage freedom with several other states, because it allows civil unions equivalent to marriage. California was the first state to enact a smoking ban in restaurants and bars, but the ban is slightly less strict than those since adopted in other states. Travel freedom is low due to a primary seat belt law, motorcycle and bicycle helmet laws, a statewide primary-enforcement cell phone driving ban, an open-container law, and sobriety checkpoints. Little gambling is allowed.

POLICY RECOMMENDATIONS

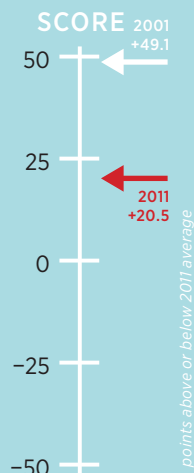
- Cut state spending in the categories called out above and enact tight ex post balanced-budget requirements to reduce future debt levels.
- Enact tort reforms to make the state more attractive for business investment. Current property regulations, occupational licensing, and labor laws also deter economic activity investment.
- Expand legal gambling. California’s political culture is unlikely to have many qualms about gaming, but legalizing non-tribal casinos would require a constitutional amendment.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	YES	NO	YES

COLORADO

2011 RANK
19th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	7	6	10	21
REGULATORY	19	17	22	22
PERSONAL	15	17	14	6
OVERALL	5	4	7	19



Personal income per capita

\$44,088

Share of total US GDP

1.76%

State GDP ranking
19th



Population

5,116,796

Share of total US population

1.6%

Population ranking
22nd

Net migration rate

5.1%



State and local tax burden

9.2%

Government consumption and subsidies

10.3%

State and local debt burden

23.6%

POLITICS

	2009	2011	2013
Governor	Ritter	Hickenlooper	Hickenlooper
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
120 CD (typically January through May)

ANALYSIS

Colorado used to be a moderately conservative state, but it has moved left over the last 12 years. Its freedom score is one of the “most worsened” in the country over the 2001 to 2011 period.

Still, Colorado scores better than average for its fiscal policies and is the second most fiscally decentralized state in the country, with localities raising 50.7 percent of all state and local revenues. However, its state and local debt burden is high, at 23.6 percent of personal income, an increase of 3.6 percent in four years. From FY 2006 to FY 2010, Colorado’s measured tax burden increased from 8.3 percent to 9.2 percent.

Colorado’s local zoning laws are strict, there are no state-level limitations on regulatory takings, and even eminent domain reform has been halfhearted. Colorado’s labor laws are subpar, with a minimum wage and no right-to-work law. Colorado now has some of the most expensive health insurance benefit mandates in the country, adding 55.9 percent to the cost of a policy with no mandated coverages, a dramatic increase from year-end 2008. In other respects, too, Colorado scores poorly on health insurance freedom, especially because of community rating and “prior approval” price controls in the nongroup and small-group markets. Cable franchising and telecom regulation are unreformed. Colorado is the top state in the nation for occupational freedom—it especially stands out on health professionals’ scope of practice. The court system is better than average, and there is no certificate-of-need (CON) law.

The state has resisted somewhat the temptation of “sin taxes,” with moderate levies on

beer, wine, spirits, and cigarettes. Colorado has decriminalized low-level marijuana possession (after the closing date of this study, a ballot initiative went further and legalized recreational marijuana cultivation, possession, and sale, within regulatory limits). Arrests for drug offenses, relative to state usage, are a standard deviation better (lower) than the national average, but the crime rate–adjusted incarceration rate is nearly three-quarters of a standard deviation worse (higher) than the national average. On private school regulation, the state has a light touch but falls short with its fairly detailed curriculum requirements. Its home school laws are only about average, with recordkeeping requirements particularly onerous.

POLICY RECOMMENDATIONS

- Reduce government spending on parks (a category that excludes conservation lands), where the state spends more than twice the national average. Allow TABOR (the Taxpayer’s Bill of Rights), as amended, to take full effect once more.
- Allow full competition in telecom and cable services, and enact statewide video franchising.
- Reform the sentencing of nonviolent offenders to reduce the incarceration rate to what would be expected given the state’s crime rate. It is possible that marijuana legalization will accomplish this on its own.

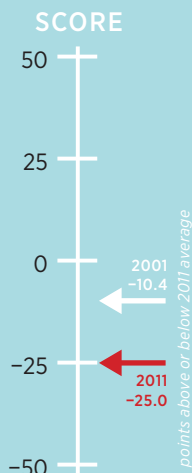
	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	NO

CONNECTICUT

2011 RANK

40th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	44	38	44	41
REGULATORY	23	25	35	33
PERSONAL	36	28	31	32
OVERALL	39	37	44	40



Personal income per capita

\$56,889



Population

3,580,709



State and local tax burden

10.3%

Share of total US GDP

1.54%

Share of total US population

1.1%

Government consumption and subsidies

8.8%

State GDP ranking

24th

Population ranking

29th

State and local debt burden

20.6%

Net migration rate

-2.9% ▼

POLITICS

	2009	2011	2013
Governor	Reil	Malloy	Malloy
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = Wednesday after first Monday in June; even years = Wednesday after first Monday in May

ANALYSIS

Connecticut is a high-income, urbanized, left-of-center state with a remnant streak of Yankee fiscal conservatism. It has not gone as far as states like New York, California, New Jersey, and Hawaii in restricting the freedoms of its citizens.

Connecticut scores about average on most fiscal policies, except that its tax burden of 10.3 percent is above the national average of 9.5 percent, even as government consumption plus subsidies makes up just 8.8 percent of personal income, nearly a standard deviation and a half lower than the national average. As a wealthy state, its state and local governments receive less than most from the federal government. Property and individual income taxes are especially high.

Land-use freedom is low, with eminent domain abuse nearly unchecked and exclusionary local zoning laws in rich areas.⁵ Connecticut’s labor laws score poorly, with no right-to-work law, a high minimum wage, strict workers’ compensation regulations, and a law banning employers from charging smokers more for their health insurance. Health insurance freedom is quite low, with one of the highest benefit mandate costs in the entire nation (at 57.1 percent of a basic premium). Occupational licensing is extensive, covering about a standard deviation larger share of the workforce than the national average.

Unsurprisingly, the state scores poorly on gun rights, tobacco freedom, and political speech. The effective cost of an initial concealed-carry permit is \$194, and while the statutes and state constitution guarantee a right to bear arms, a complicated two-tier permitting system effectively allows local

governments to deny the right to carry a handgun altogether. A separate permit (with a safety course) is required to purchase a handgun. At \$3 a pack (since raised to \$3.40), tobacco taxes are among the very highest in the country, and smoking bans are extensive. On the positive side, Connecticut is one of the few states to have enacted civil unions legislatively (they were later judicially overturned in favor of same-sex marriage), and it has low victimless crimes arrest rates (though a high incarceration rate) and takes a liberal approach toward tribal gaming.

POLICY RECOMMENDATIONS

- Trim taxes, particularly on motor vehicles, real property, tobacco, and individual income.
- Enact statewide restrictions on eminent domain and the ability of local communities to impose building limits, minimum lot sizes, and other mechanisms of racial and income exclusion.
- Repeal archaic and useless laws and regulations, such as alcohol blue laws, bicycle helmet mandates, and the ban on audiorecording public officials, as well as strict limits on what individuals and grassroots political action committees may contribute to parties and candidates. In a world in which independent campaign expenditures are unregulated, contribution limits to candidates and parties have perverse consequences by any standard.

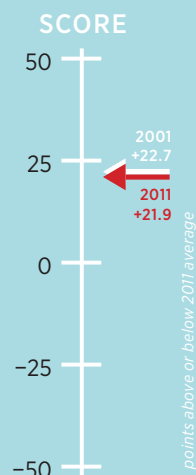
5. Jason Reece et al., *People, Place, and Opportunity: Mapping Communities of Opportunity in Connecticut* (Kirwan Institute for the Study of Race and Ethnicity, 2009), <http://kirwaninstitute.osu.edu/connecticut-op-mapping-temporary>.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

DELAWARE

2011 RANK
17th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	41	37	32	31
REGULATORY	1	4	9	2
PERSONAL	30	38	35	30
OVERALL	22	28	26	17



Personal income per capita

\$41,635

Share of total US GDP

0.44%

State GDP ranking

40th



Population

907,135

Share of total US population

0.3%

Population ranking

45th

Net migration rate

6.0%



State and local tax burden

9.4%

Government consumption and subsidies

13.6%

State and local debt burden

22.0%

POLITICS

	2009	2011	2013
Governor	Markell	Markell	Markell
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Up to June 30 (typically January through June)

ANALYSIS

Delaware scores well in the freedom index almost exclusively because of its regulatory policy score, as its fiscal policy and personal freedom scores are almost precisely average.

Its score is average on fiscal policy overall, but state and local debt has been mounting significantly, rising from 18.3 percent to 22.0 percent of personal income between FY 2006 and FY 2010. Government consumption and subsidies rose from 11.3 percent of income in 2000 to 13.6 percent in 2010. Even for its size, Delaware is fiscally centralized, and local governments are heavily dependent on grants. The tax burden is 9.4 percent of personal income.

On regulatory policy, Delaware stands out for a relatively light hand on health insurance, including one of the most parsimonious health insurance mandates regimes (adding just 23.7 percent to the cost of a no-mandate policy). Delaware has long had the best court system in the country. While the state lacks a right-to-work law, the other labor laws score average or better. Eminent domain has been reformed, and economic assessments are required for regulatory takings of real property rights. The regulatory policies the state could stand most to improve are local zoning, the extent of occupational licensing, cable and telecom regulation, life and property/casualty insurance regulations, and its hospital certificate-of-need (CON) law.

For a left-leaning, highly urban state, Delaware surprisingly scores about average on gun control, and with the legalization of medical marijuana, improved in that category between 2009 and 2011. Incarceration and victimless crimes arrest rates are generally

slightly below average. Delaware is one of five states with a statewide ban on all personal fireworks, it bans raw milk completely, and it has adopted one of the very strictest smoking bans in the United States. Its asset forfeiture laws rank among the worst in the country, allowing police to seize property based on mere probable cause; placing the burden of proving innocence on the owner, not the government; and giving all forfeiture proceeds to law enforcement, providing obvious incentives for abuse. In 2011, same-sex civil unions were legalized, after the closing date on our study.

POLICY RECOMMENDATIONS

- Reduce government spending and debt, particularly by cutting aid to local schools (and education spending more generally, which is well above the national average), general administration costs, and public welfare.
- Comprehensively reform insurance by abolishing rate filing requirements for personal auto and homeowners' insurance, and join the Interstate Insurance Product Regulation Compact. These reforms would have easily vaulted Delaware into first place on regulatory freedom.
- Reform asset forfeiture comprehensively to place the burden of proof on the government, redirect forfeiture proceeds to the general fund, and prohibit equitable sharing with the Department of Justice (which facilitates an end-run around state law).

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	YES

FLORIDA

2011 RANK
23rd

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	6	10	15	11
REGULATORY	35	32	36	32
PERSONAL	28	22	24	36
OVERALL	13	20	28	23



Personal income per capita

\$39,563

Share of total US GDP

5.03%

State GDP ranking

4th



Population

19,057,542

Share of total US population

6.1%

Population ranking

4th

Net migration rate

7.4%



State and local tax burden

8.5%

Government consumption and subsidies

9.9%

State and local debt burden

21.3%

POLITICS

	2009	2011	2013
Governor	Crist	Scott	Scott
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
60 CD (typically March through the end of April/beginning of May)

ANALYSIS

Florida is a moderately fiscally conservative state that has gone a long way to attract business, but has not done nearly as much as its neighbor Georgia. In addition, it lacks respect for many civil liberties.

Florida ranks well above average on most fiscal policies; however, while the index shows its tax burden declining slightly between FY 2008 and FY 2010, it also shows its debt burden rising to 21.3 percent of personal income. Property and general sales taxes are higher than average, although there is no individual income tax.

Due to a history of in-migration, real property rights and land-use regulation have been hot-button issues. On the one hand, local zoning laws are fairly restrictive, but on the other, compensation is required for certain regulatory takings, and the state has adopted the nation’s furthest-reaching reform of eminent domain. Labor law is generally pro-market, apart from a minimum wage, but independent occupations face a thicket of licensure requirements. Non-physician medical professions are treated more harshly here than almost anywhere else: nurse practitioners are not allowed to practice independently, the state is not a member of the Nurse Licensure Compact, and physician assistants are not allowed to prescribe medication. In 2011, after the closing date for this edition of the freedom index, Florida did liberalize restrictions on dental hygienists. Data from the Council on Affordable Health Insurance show a big decline in health insurance mandate cost between 2009 and 2011. The state has deregulated cable and telecom markets. Florida created a state-run homeowners’ insurance corporation in 2002 (rather than

deregulating premiums), which subsidizes costly coastal homes at the expense of inland taxpayers and has destroyed the private property insurance market in several areas. Governor Charlie Crist vetoed a reform bill in 2010.⁶

In general, Florida does not score very well on civil liberties. Florida’s gun control laws are about average nationally but below average for the South. Marijuana laws are generally quite restrictive, and there is a *Salvia* ban. Police may take DNA from anyone arrested for a felony. Incarceration and drug arrest rates are high. As in many other states with the ballot initiative, tobacco freedoms have been sharply curbed. Florida generally does well on educational freedom, in part because of its tax-credit scholarships.

POLICY RECOMMENDATIONS

- Clamp down on state and local debt and property taxes by reducing spending in the following areas, which are above the national average: police and fire protection, airports, public parks, and sanitation and sewerage.
- Abolish the Citizens Property Insurance Corporation and remove all price controls on private property insurance.
- End all mandatory minimum sentences for victimless crimes and reform sentencing with an eye to reducing incarceration rates to national norms. This reform would have raised Florida from 34th to 26th on personal freedom.

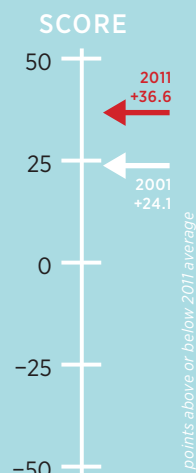
6. Eli Lehrer, “2011 Property and Casualty Insurance Report Card: A State-by-State Analysis of Regulatory Burden” (Heartland Institute, 2011), http://heartland.org/sites/all/modules/custom/heartland_migration/files/pdfs/30283.pdf.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	NO	YES

GEORGIA

2011 RANK
9th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	28	20	18	14
REGULATORY	12	18	16	16
PERSONAL	29	35	16	12
OVERALL	19	24	20	9



Personal income per capita

\$36,104

Share of total US GDP

2.80%

State GDP ranking
11th



Population

9,815,210

Share of total US population

3.2%

Population ranking
9th

Net migration rate

6.9% ▲



State and local tax burden

8.6%

Government consumption and subsidies

10.9%

State and local debt burden

15.6%

POLITICS

	2009	2011	2013
Governor	Perdue	Deal	Deal
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
40 LD (typically January through April)

ANALYSIS

Georgia is an urbanizing Deep South state, which makes for a decidedly mixed personal freedom situation, but the state’s rapid economic growth reflects a strong economic freedom environment.

The state and local debt ratio is one of the lowest in the country, at 15.6 percent of income. Its overall tax burden, at 8.6 percent of personal income, is as low as Florida’s, and the state is relatively fiscally decentralized. However, government employment, at 13.0 percent of private employment, ranks only about average.

Georgia’s labor laws are quite free, with no minimum wage, a right-to-work law, a highly liberalized workers’ compensation system, and none of the other labor regulations tracked by the freedom index—but after this edition’s closing date the state unfortunately passed an E-Verify mandate, though this is not enough on its own to dent Georgia’s fairly good regulatory freedom ranking. Telecom and cable have been deregulated. Georgia also enjoys one of the best court systems in the South, though it only ranks about average nationally. Non-physician medical professions are tightly restricted, and the state has a certificate-of-need (CON) law for hospital construction. While the state has reformed eminent domain abuse, local zoning laws score only about average, putting the state well behind neighbors Alabama, South Carolina, and Tennessee. Health insurance freedom ranks slightly better than average, with mandated benefits worse than average but price controls and community rating in small group and nongroup markets largely absent.

Georgia has less-restrictive gun control regulations than all its neighboring states except Tennessee. Unsurprisingly, the state scores poorly on marijuana, gambling, asset forfeiture, victimless crimes, and same-sex partnerships. Georgia has fairly restrictive laws on road users, with primary seat belt enforcement, motorcycle and bicycle helmet laws, an open container law, and sobriety checkpoints. Georgia barely regulates private schools at all, but its home school regulations are quite strict, including teacher qualification requirements. It is one of the best states in the nation for the freedom to purchase and enjoy tobacco on private property.

POLICY RECOMMENDATIONS

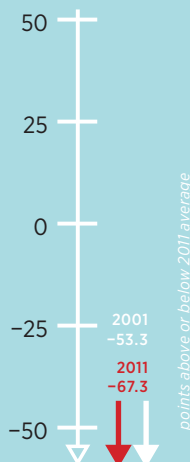
- Reduce government employment to Florida’s rate, from 13 percent to 11 percent of the private workforce: this would have been sufficient to raise Georgia one place on overall freedom, even if taxes were not cut as a result.
- Require benefit-cost analysis (or even better, compensation) for new regulatory takings and enact statewide constraints on the ability of local governments to practice exclusionary zoning.
- Permit some form of for-profit gaming enterprises and legalize social gambling. In FY 2010, Georgia was one of the few states in the country not to derive any revenues from private gaming.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

HAWAII

2011 RANK
47th

SCORE



	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	48	48	49	49
REGULATORY	41	48	45	41
PERSONAL	40	45	44	45
OVERALL	48	49	47	47



Personal income per capita

\$43,053

Share of total US GDP

0.45%

State GDP ranking

38th



Population

1,374,810

Share of total US population

0.4%

Population ranking

40th

Net migration rate

-2.8% ▼



State and local tax burden

11.3%

Government consumption and subsidies

10.7%

State and local debt burden

22.6%

POLITICS

	2009	2011	2013
Governor	Lingle	Abercrombie	Abercrombie
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
60 LD (typically January till April/
May)

ANALYSIS

Hawaii has much room to improve. It scores poorly on all three dimensions of freedom.

On the spending side, the state is highly fiscally centralized due to its unique statewide school system. The tax burden is one of the highest in the country, at 11.3 percent of income. Sales, utilities, individual income, and motor vehicle license taxes are especially high.

In the regulatory policy dimension, the state government is interventionist, with strict workers’ compensation requirements, mandatory short-term disability insurance, and no right-to-work law. Land use is a politicized issue in Hawaii, and the state has the strictest zoning regulations in the country, while eminent domain abuse remains totally unchecked. The state is surprisingly laissez-faire about health insurance, with no community rating, even in small group markets; limited use of “prior approval” for premiums; and fewer mandates than average. Property/casualty insurance markets, on the other hand, are tightly regulated. Occupational freedom is restricted, with abnormally onerous education/experience, examination, and fees requirements. The court system is somewhat worse than average.

Gun control laws are among the most restrictive in the country—carrying a handgun is banned for everyone but police and security guards, and purchasing either a long gun or a handgun requires a permit and 14-day waiting period—but marijuana laws are relatively liberal. Hawaii has the ninth strictest gambling laws in the country: the only type of gaming permitted is social. Smoking bans apply to restaurants, bars, and workplaces

without any exceptions. The cigarette tax, at \$3.20 per pack, is one of the highest in the nation after being raised \$1.20 in 2009–10. On the other side of the ledger, limited same-sex domestic partnerships are recognized (they have been upgraded to civil unions after the closing date for this study), and the crime-adjusted incarceration rate and drug arrest rate are much lower than average.

POLICY RECOMMENDATIONS

- Cut the taxes mentioned in the fiscal policy paragraph above, offsetting the change by reducing spending, particularly on personnel, in areas that are abnormally high, such as airports, public buildings, hospitals, sanitation and sewerage, and miscellaneous commercial activities.
- Reform the tort system to discourage frivolous lawsuits and decrease the cost of the process. Even an average court system would have raised Hawaii five places on regulatory policy.
- Legalize some form of gambling. Hawaii’s political culture seems to be opposed to large-scale, casino-style gaming, but there are alternative models that promote smaller-scale, competitive markets. One example is excluding games with an element of skill, such as poker and blackjack, from the gambling statute.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	NO	NO

IDAHO

2011 RANK
6th

SCORE
50
25
0
-25
-50

2011
+43.2

2001
+20.7

points above or below 2011 average

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	31	17	14	8
REGULATORY	6	5	8	8
PERSONAL	41	39	41	39
OVERALL	23	14	17	6



Personal income per capita

\$33,326

Share of total US GDP

0.39%

State GDP ranking

42nd



Population

1,584,985

Share of total US population

0.5%

Population ranking

39th

Net migration rate

8.6%



State and local tax burden

8.2%

Government consumption and subsidies

11.7%

State and local debt burden

12.3%

POLITICS

	2009	2011	2013
Governor	Otter	Otter	Otter
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
No set limits (typically January through March/April)

ANALYSIS

As an extremely conservative state, Idaho scores very well on economic freedom but poorly on personal freedom. Idaho wins the title for “most improved state” between the years 2009 and 2011. All that improvement came from enhanced economic freedom, especially regarding fiscal policy.

After Wyoming, Idaho has the lowest government debt ratio in the United States. Its tax burden of 8.2 percent is also among the lowest, and it has fallen from 9.6 percent since 2001. However, state government is overly dependent on federal grants, and as a result government consumption plus subsidies and government employment are both above average (11.7 percent of personal income and 14.1 percent of private employment, respectively).

Real property rights are protected in Idaho, except that eminent domain reform has left giant loopholes. Idaho is a right-to-work state with no minimum wage—though workers’ compensation rules are strict—and health insurance mandates add only 15.3 percent to the cost of premiums (but there are rating bands and guaranteed issue in both small group and nongroup markets). Idaho is also ranked among the best states for occupational freedom, although it has declined slightly in recent years. Telecom has been deregulated. Idaho’s tort system is above average, and it is tied with Illinois, Utah, and Wisconsin for second-least-regulated personal auto and homeowners’ insurance markets, after Wyoming.

Idaho does very well on gun and educational freedoms, but scores poorly on victimless crimes (crime-adjusted incarceration

rates are more than one and a half standard deviations worse than the national average), marijuana, alcohol (it has state beer, wine, and spirits wholesale and retail monopolies with a high markup on spirits especially), gambling, and same-sex partnerships. The state has few restrictions on motorists other than secondary seat belt enforcement and an open container law. It deserves credit for being one of the few states to refuse to authorize privacy-invading sobriety checkpoints. Its score is mediocre on tobacco freedom due to smoking bans in restaurants and private workplaces.

POLICY RECOMMENDATIONS

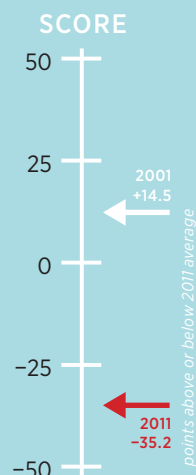
- Cut government spending and employment, especially on general administration, public buildings, and sanitation and sewerage, where the state is above the national average. Use savings to cut the general sales tax.
- Give eminent domain reform some real teeth by prohibiting *all* private-to-private transfers, making blight standards building-specific, and placing limits in the constitution.
- Privatize the state alcohol monopolies and adopt a license system. This reform alone would have raised Idaho eight places on personal freedom.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	NO	NO

ILLINOIS

2011 RANK
45th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	19	26	24	27
REGULATORY	25	41	40	42
PERSONAL	32	50	50	50
OVERALL	29	41	43	45



Personal income per capita

\$44,140

Share of total US GDP

4.48%

State GDP ranking
5th



Population

12,869,257

Share of total US population

4.1%

Population ranking
5th

Net migration rate

-5.2% ▼



State and local tax burden

9.5%

Government consumption and subsidies

9.8%

State and local debt burden

25.1%

POLITICS

	2009	2011	2013
Governor	Quinn	Quinn	Quinn
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
No set limits (typically meets throughout the year)

ANALYSIS

Illinois is one of the least free states to live in from the perspective of regulatory policy and personal freedom, but on fiscal policy it ranks in the middle of the pack. However, there are still some fiscal issues in dire need of improvement.

Illinois’s tax burden is dead-center average, while government spending and employment are below average. Government spending has been increasing over time, however, and certain categories, such as employee retirement, are way out of line with national norms. The main fiscal problem is debt: state and local debt make up 25.1 percent of personal income.

As for real property rights protection, Illinois’s score is mediocre. Zoning laws rank about average, the state has failed to reform eminent domain significantly, and there are no state-level restrictions on regulatory takings, but the state at least manages to avoid rent control. As for labor law, Illinois possesses the third-highest minimum wage in the nation, adjusted for private wages. As for occupational freedom, the state is below average, and the quality of its court system is well below average—and dropping. In life and property/casualty insurance markets it is one of the least regulated states.

In the personal freedom dimension, Illinois has the sixth harshest gun control laws in the country, though these were improved by the *McDonald v. Chicago* decision striking down local gun bans. The state’s victimless crimes arrest rates are very high. In 2010, arrests for victimless crimes (excluding minors) made up over 1.5 percent of the state’s population; the vast majority of these were for drugs.⁷

However, that figure is actually an improvement on 2008. Illinois’s marijuana laws are more restrictive than Georgia’s, which is surprising for a left-leaning state. Its asset forfeiture laws are also among the worst in the nation. On the plus side, Illinois’s home school regulations were effectively as minimal as Idaho’s—a case of benign neglect, it seems. The state’s marriage freedom score will improve in the next version of the index since civil unions were legalized in 2011.

POLICY RECOMMENDATIONS

- Tighten the rules for new debt by state and local governments, and find ways to reduce future liabilities for employee retirement, where the state already spends more than any other state except Alaska, New York, and Ohio.
- End partisan elections for the state supreme court in order to improve the court system.
- Decriminalize marijuana, legalize medical marijuana, and repeal the *Salvia* ban.⁸

7. Since a person can be arrested multiple times in a year, it is likely that less than 1.5 percent of Illinois’s population was arrested for victimless crimes in 2010.

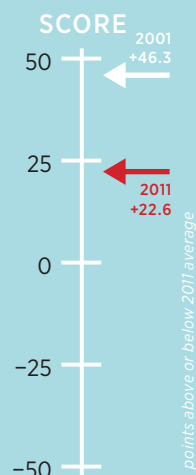
8. Dramatically liberalizing gun control laws might make a bigger difference, but Illinois’s political culture is unlikely to tolerate such a move.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	YES	NO	NO

INDIANA

2011 RANK
16th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	18	42	33	38
REGULATORY	9	8	2	1
PERSONAL	6	10	7	7
OVERALL	8	25	11	16



Personal income per capita

\$35,550

Share of total US GDP

1.86%

State GDP ranking
17th



Population

6,516,922

Share of total US population

2.1%

Population ranking
15th

Net migration rate

-0.4% ▼



State and local tax burden

10.0%

Government consumption and subsidies

10.4%

State and local debt burden

23.2%

POLITICS

	2009	2011	2013
Governor	Daniels	Daniels	Pence
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = up to April 29; even years = up to March 14 (typically starts in January)

ANALYSIS

Indiana is one of the rare outposts of freedom among the Great Lakes states. Nevertheless, it could do more to improve, especially in the fiscal policy dimension.

Fiscal policy has deteriorated in Indiana, and the state is now ranked well below average. While between 2006 and 2008 local governments were responsible for most of the rise in debt, between 2008 and 2010 the state government was the main culprit. Virtually all the increase in state government debt came in the form of “long-term public debt for private purposes,” which increased from \$9.8 billion to \$13.2 billion in FY 2010. On the other hand, the slight rise in tax burden is entirely attributable to local governments. The total state tax take fell from \$15.1 billion (FY 2008) to \$13.9 billion (FY 2010), while the local take rose over the same years from \$8.5 billion to \$9.5 billion, even as personal income fell.

While fiscal policy tells a dire story, Indiana is number one in the nation on regulatory policy. The state has also improved noticeably since 2007, when it was eighth. Indiana has comprehensively deregulated telecom and cable. Local zoning is among the least strict in the nation, but the state needs to go further to clamp down on the potential for eminent domain abuse. Indiana passed a right-to-work law in 2012—that change alone would have been enough to boost Indiana three spots on overall freedom in this edition. Indiana licenses the third-fewest occupations in the country as a percentage of its workforce, but it heavily regulates the health professions. Its court system is among the best.

Gun control has not gotten far in Indiana. The state has good education laws, with

very light regulation of home and private schools, but it has recently expanded the mandatory years of schooling from nine to eleven. Blue laws restrict alcohol freedom. The Republican legislature recently enacted the state’s first comprehensive smoking ban in workplaces, including restaurants. Gambling laws are odd but make sense in a public-choice, “bootleggers and Baptists”⁹ fashion: the state depends heavily on revenues from casinos, but it also bans social gaming, makes unauthorized gambling a felony, and has enacted a ban on Internet gaming. Asset forfeiture laws are good, but to make them effective the state must ban equitable sharing with the Department of Justice. Incarceration rates are high, but drug arrests are low.

POLICY RECOMMENDATIONS

- Reduce debt and sales and income taxes by cutting spending on public welfare, libraries, housing and community development, and education, areas where Indiana spends more than average.
- Legalize independent practice by nurse practitioners and dental hygienists, join the Nurse Licensure Compact, and allow physician assistants and nurse practitioners full prescription authority.
- Repeal blue laws, which prevent Indiana from being one of the top states for alcohol freedom.

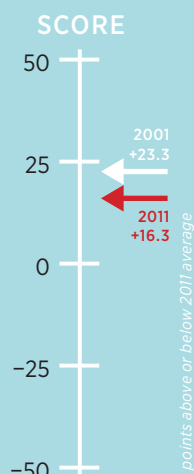
9. Bruce Yandle, “Bootleggers and Baptists—the Education of a Regulatory Economist,” *Regulation* (May/June 1983): 12–16.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	NO

IOWA

2011 RANK
25th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	30	28	22	36
REGULATORY	7	2	3	3
PERSONAL	39	25	40	29
OVERALL	20	16	19	25



Personal income per capita

\$40,470



Population

3,062,309



State and local tax burden

9.7%

Share of total US GDP

0.99%

Share of total US population

1.0%

Government consumption and subsidies

12.3%

State GDP ranking

30th

Population ranking

30th

State and local debt burden

12.9%

Net migration rate

-1.8% ▼

POLITICS

	2009	2011	2013
Governor	Culver	Branstad	Branstad
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = 110 CD; even years = 100 CD

ANALYSIS

Despite frequently electing federal politicians who do not seem very interested in preserving freedom, Iowa’s policies are fairly freedom-friendly. The state particularly stands out on economic regulation.

On fiscal policy, the state’s rank is mediocre. Taxes (at 9.7 percent of income), government consumption plus subsidies (at 12.3 percent of income), and public employment (at 14.0 percent of private employment) are all slightly higher than average, and on this dimension there has been little change over the last decade. Property, sales, income, and motor vehicle license taxes all fall at least slightly above the national average. Iowa is much better than average, however, on government debt, which is at just 12.9 percent of income—over a standard deviation lower than the national average.

Iowa has a light touch on land-use planning but needs to go further to prohibit private-to-private eminent domain transfers and to place limits on future regulatory takings. Labor regulations are market-friendly, with a right-to-work law, no minimum wage, and a decent workers’ compensation regime. Health insurance mandates are low, but the state loses ground with “prior approval” price controls and rating bands in the non-group and small group markets. Cable and telecom have been deregulated. The court system is very good. Iowa does poorly on the extent of occupational licensing, but generally does well on the other variables in the occupational freedom dimension (for instance, nurse practitioners may practice independently). Life and property/casualty insurance markets are moderately regulated,

but the state does have a certificate-of-need (CON) law for new hospital construction.

On personal freedoms, the picture is mixed. A single marijuana offense can carry up to 50 years in prison in Iowa. State alcohol laws are subpar, with a heavy state role in distribution and high effective taxes on spirits. Licensure requirements for private school teachers heavily drag down Iowa’s educational freedom score, along with unusually strict home school standardized-testing and notification requirements. Asset forfeiture needs reform. A comprehensive smoking ban was enacted in the 2007–8 term. On the other hand, most forms of gaming are permitted. The state has not overturned a court decision legalizing same-sex marriage. Incarceration and drug arrest rates are about average.

POLICY RECOMMENDATIONS

- Trim spending on areas where the state spends more than the national average—education, hospitals, highways, and public welfare—and use the savings to trim the aforementioned taxes.
- Repeal CON requirement for new hospital construction.
- End private school teacher licensing and relax private school curriculum control. Reduce standardized testing and notification requirements for home-schoolers. These reforms would have allowed Iowa to jump seven places in the personal freedom ranking.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	NO

KANSAS

2011 RANK
26th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	26	31	34	37
REGULATORY	2	7	5	10
PERSONAL	12	9	6	13
OVERALL	7	19	14	26



Personal income per capita

\$40,481



Population

2,871,238



State and local tax burden

9.7%

Share of total US GDP

0.87%

Share of total US population

0.9%

Government consumption and subsidies

11.9%

State GDP ranking

31st

Population ranking

33rd

State and local debt burden

26.2%

Net migration rate

-2.6% ▼

POLITICS

	2009	2011	2013
Governor	Parkinson	Brownback	Brownback
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = no set limits; even
years = 90 CD (typically January
through May/June)

ANALYSIS

Kansas saw remarkable deterioration in regulatory and especially personal freedom during the 2009–10 legislative session, even as its fiscal policy ranking remained below average. As a result, the state’s ranking is now decidedly mediocre on economic and personal freedom.

Fiscal policy is the dimension in which Kansas does worst. Its public payroll is extremely large, at 15.8 percent of the private workforce. Taxes are about average, but the debt burden is very high: 26.2 percent of income. The areas of spending that could most stand to be cut are education, hospitals, and highways, while the taxes that should have priority for cutting are individual and business income, sales, and property taxes. In fact, since the closing date for this study, Kansas has cut income taxes and the overall tax burden significantly.

An agricultural exemption was added to the workers’ compensation mandate, but more health insurance benefit mandates and an elimination rider ban were enacted. However, the state continues to score well in many areas. Local zoning is the least officious in the nation, labor laws are light (there is a right-to-work law, no minimum wage, and reasonable workers’ compensation laws), cable franchising is in place, occupational licensing is low (but nurse practitioners are not allowed to practice independently), there is no certificate-of-need (CON) law, property/casualty insurance regulations are moderate, and the court system is much better than average. The state is only about average on health insurance freedom, with “prior approval” price controls in nongroup and small group markets and hefty benefit

mandates to go along with an absence of community rating and guaranteed issue in the nongroup market.

While an explicit, individual right to keep and bear arms was added to the state constitution in 2010, the legislature passed a comprehensive smoking ban in restaurants, bars, and private workplaces, with no exceptions, and a primary-enforcement seat belt law, and incarceration and victimless crimes arrest rates increased (although remaining below average). Gun control is slight, marijuana sentencing laws are relatively humane (for a very conservative state), and homeschooling is virtually unregulated. Alcohol freedom is a shade better than average, with no state role in distribution and moderate taxes, but Kansas does ban “happy hours,” restrict some Sunday sales, and require keg registration. Gaming freedom is a bit worse than average.

POLICY RECOMMENDATIONS

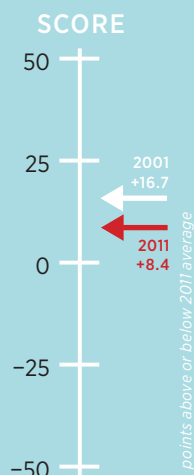
- Trim government spending, employment, debt, and taxes in the areas noted above.
- Repeal harmful and unnecessary occupational licenses, such as those for pharmacy technicians, psychiatric technicians, occupational therapy assistants, lead paint removers, dietitians, title examiners, court reporters, geoscientists, mortgage lenders, funeral directors, and property managers.
- Enact a generous tax credit for private school tuition or home school expenses, in order to promote school choice and beneficial competition.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	YES	NO

KENTUCKY

2011 RANK
27th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	32	32	23	20
REGULATORY	29	27	24	34
PERSONAL	8	29	26	15
OVERALL	27	35	27	27



Personal income per capita

\$33,667

Share of total US GDP

1.10%

State GDP ranking
28th



Population

4,369,356

Share of total US population

1.4%

Population ranking
26th

Net migration rate

2.1%



State and local tax burden

8.8%

Government consumption and subsidies

11.8%

State and local debt burden

29.2%

POLITICS

	2009	2011	2013
Governor	Beshear	Beshear	Beshear
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = 30 LD or through March 30; even years = 60 LD or through April 15

ANALYSIS

Kentucky scores well on fiscal policy, about average on personal freedom, and least well on regulatory policy.

Kentucky’s tax burden is low, at 8.8 percent of personal income, but that seems unsustainable. The big fiscal problems are debt, government spending, and government employment. The debt burden is one of the highest in the country, at 29.2 percent of income, having risen 6 percentage points since FY 2000. Kentucky is also highly fiscally centralized. Government consumption plus subsidies sits at 11.8 percent of income, and public employment is 14.5 percent of private employment.

Telecom has been deregulated. Land-use planning is almost nonexistent, but only token eminent domain reforms have been enacted, and there are no state-level restrictions on regulatory takings. Labor laws are subpar, since the state lacks a right-to-work law and restricts workers’ compensation insurance options. Health insurance freedom is a tad worse than average, though much improved since the state’s failed experiment with community rating in the 1990s. Benefit mandates are a bit higher than average, and the state has “prior approval” requirements for premium changes. Occupational licensure ranks better than the national average, but the state needs to do more to relax health profession scope-of-practice restrictions. The court system is below average.

Kentucky’s gun control laws are among the lightest in the country. It is easy to carry openly (without a permit) or concealed (using shall-issue permits), and there are

no significant regulations on purchasers or dealers. Beer and wine taxes are among the highest in the country. Marijuana, marriage, and gambling laws are unsurprisingly ranked below the national average. Raw milk is banned. Home and private school laws are fairly liberal, but school choice needs to be expanded. The incarceration and drug arrest rates are extremely high, even as arrest rates for other victimless crimes are extremely low. Kentucky has the second freest environment for tobacco in the country. Campaign contribution limits are notably strict.

POLICY RECOMMENDATIONS

- In order to reduce debt, tighten the rules for municipal bond issuance and cut spending, particularly on grants to local school districts, employee compensation (repeal the prevailing wage law), and retirement.
- Legalize independent practice by nurse practitioners and dental hygienists, and allow nurse practitioners and physician assistants full prescription authority.
- Reform sentencing for nonviolent offenders with a goal of reducing incarceration rates to national norms. This reform alone would have boosted Kentucky 10 places in the personal freedom ranking.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	NO	YES

LOUISIANA

2011 RANK

37th

SCORE



	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	33	34	31	17
REGULATORY	45	45	44	46
PERSONAL	34	48	42	40
OVERALL	43	46	45	37



Personal income per capita

\$38,578

Share of total US GDP

1.65%

State GDP ranking

23rd



Population

4,574,836

Share of total US population

1.5%

Population ranking

25th

Net migration rate

-7.0% ▼



State and local tax burden

8.7%

Government consumption and subsidies

11.6%

State and local debt burden

20.8%

POLITICS

	2009	2011	2013
Governor	Jindal	Jindal	Jindal
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = 45 LD in 60 CD; even years = 60 LD in 85 CD (typically March/April through June)

ANALYSIS

Louisiana remains one of the least free states in the South, but it improved dramatically in the years 2007 to 2010—almost wholly due to changes in fiscal policies.

Between FY 2008 and FY 2010, fiscal policy improved overall with a significant decline in tax burden, from 9.6 percent to 8.7 percent of personal income, and an increase in fiscal decentralization, even as government consumption plus subsidies increased from 10.7 percent to 11.6 percent of income. Government employment is quite high, at 15.5 percent of the private workforce.

Local zoning is relaxed, there are some regulatory takings protections, and eminent domain has been thoroughly reformed. Louisiana is a right-to-work state with no minimum wage; unfortunately, it is one of a few states with a ban on insurance discrimination against smokers. Health insurance mandates add 46.5 percent to the cost of private plans, down from 48.1 percent two years prior, but still substantially higher than the national average. Occupational licensing remains notoriously strict despite tiny improvements. Health professionals’ scope of practice is also almost totally unreformed. The liability system is perhaps the second-worst in the country; only sampling error prevents a definitive judgment here.

Gun control laws and alcohol laws are liberal (except for a “happy hour” ban, keg registration, and mandatory server training), but the marijuana sentencing regime is strict: the maximum sentence for a single offense is 80 years, and even low-level cultivation is a felony. While the state allows many forms of gambling, it has enacted a prohibition on Internet gambling, and unauthorized

gaming is a felony. (Special-interest politics clearly drive this combination of policies.) There are many petty regulations, such as a primary seat belt law, motorcycle and bicycle helmet laws, sobriety checkpoints, a total raw milk ban, and a law authorizing police to take DNA from all felony arrestees. Private schools are heavily regulated, requiring teacher licensing and mandatory registration. However, the homeschooling laws are much better, and there is a school tuition and expense tax deduction. Louisiana has one of the country’s most draconian victimless crimes regimes, with crime-adjusted incarceration rates two standard deviations above the national average and drug arrests as a percentage of drug users one standard deviation above the national average.

POLICY RECOMMENDATIONS

- Cut spending in areas well above national norms: employee retirement, miscellaneous commercial activities, water transportation (where Louisiana spends three times as much as Texas, another state with large ports), public parks, natural resources, housing and community development, hospitals, general administration, and prisons (sentencing reform will help with this one). Use proceeds to retire debt and reduce the sales tax.
- End partisan judicial elections and enact tort reforms in order to improve the court system. A merely average court system would have raised Louisiana a whopping 28 places on regulatory policy.
- Eliminate mandatory registration of private schools and teacher licensing.

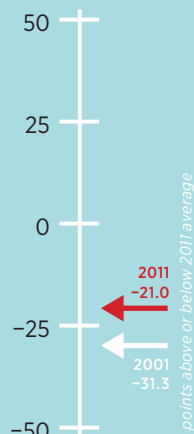
	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	YES

MAINE

2011 RANK
39th

SCORE

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	49	49	47	46
REGULATORY	33	28	23	25
PERSONAL	5	4	5	3
OVERALL	45	45	39	39



Personal income per capita

\$37,973

Share of total US GDP

0.34%

State GDP ranking
43rd



Population

1,328,188

Share of total US population

0.4%

Population ranking
41st

Net migration rate

2.3%



State and local tax burden

11.2%

Government consumption and subsidies

10.4%

State and local debt burden

18.3%

POLITICS

	2009	2011	2013
Governor	Baldacci	LePage	LePage
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = January until third Wednesday in June; even years = January until third Wednesday in April

ANALYSIS

Maine is one of the 10 most-improved states over the decade from January 1, 2001, to January 1, 2011, although its rank remains low overall. In 2009 and 2010 the state improved slightly on fiscal policy and personal freedom, but fell back slightly on regulatory policy.

Maine’s tax burden, at 11.2 percent of personal income, is comparable to that of New Jersey and Vermont, and is no longer an immense outlier like that of New York. The 2011–12 legislature cut taxes further. Maine’s public debt, consumption and subsidy spending, and employment are slightly better than average, while its fiscal decentralization is slightly worse than average.

Land-use regulation is strict in Maine, and eminent domain has not been sufficiently reformed. The state’s labor law is below average, with a minimum wage, no right-to-work law, restrictions on workers’ compensation funding, and a “smoker protection” law banning insurance discrimination. The state has adopted strict community rating for health insurance, banned elimination riders, and legislated many mandates—a bad combination, since price controls and heavy regulations are likely to drive profit margins close to zero and thus drive private insurers out of the state. However, Maine did repeal some mandates in the 2009–10 session. Maine is an excellent example of occupational freedom, but its examination requirements for licensure do require some reform. The state’s liability system is highly rated.

Maine’s rural character has preserved its relatively free firearms regime, but the 2009–10 legislature passed a bill requiring dealers

to retain sales records. The first offense of low-level marijuana possession carries only a fine, and low-level cultivation is a misdemeanor. Maine has one of the most permissive medical marijuana laws in the country, and the maximum sentence for a single marijuana offense is a moderate-by-comparison 10 years. Private and home schools are tightly regulated; Maine is therefore ranked as one of the worst states on educational freedom. Maine has reformed asset forfeiture but needs to ban equitable sharing for this reform to be effective. Its incarceration and drug arrest rates are low and falling, but arrests for other victimless crimes are only about average. Maine allows same-sex partnerships (and in the 2012 elections approved same-sex marriage). Cigarette taxes are high, and smoking bans are pervasive.

POLICY RECOMMENDATIONS

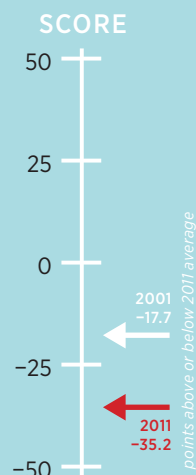
- Lower the budgets for housing and community development and public welfare, which are well above national norms. Use the proceeds to lower income taxes.
- Exclusionary local zoning laws require attention. Place statewide limits on what local governments can do to limit new residential construction.
- Loosen standardized testing and notification requirements for homeschoolers, and remove approval, curriculum, and teacher licensure requirements for private schools.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	YES	YES	NO

MARYLAND

2011 RANK
44th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	24	24	16	26
REGULATORY	43	44	47	44
PERSONAL	47	47	49	49
OVERALL	40	40	42	44



Personal income per capita

\$51,038

Share of total US GDP

2.01%

State GDP ranking
15th



Population

5,828,289

Share of total US population

1.9%

Population ranking
19th

Net migration rate

-1.8%



State and local tax burden

9.6%

Government consumption and subsidies

8.9%

State and local debt burden

15.1%

POLITICS

	2009	2011	2013
Governor	O'Malley	O'Malley	O'Malley
Senate			
House of Delegates			



LEGISLATIVE SESSION DATES:
90 CD (typically January through April)

ANALYSIS

Already ranked relatively low in our previous index, Maryland declined further in 2009–10, mostly due to a slight, across-the-board deterioration in fiscal policy (government debt, spending, taxes, and employment).

Overall, however, Maryland remains better than average on fiscal policy. Its tax burden is average, but debt, public consumption plus subsidies, fiscal decentralization, and public employment are all better than average—in the case of consumption plus subsidies, *far* better (at 8.9 percent of personal income).

On the regulatory policy side, land-use planning is very centralized, local rent controls exist, eminent domain abuse is basically unreformed, there is no right-to-work law, health insurance mandates add a whopping 57.1 percent to the cost of no-mandate policies (an increase of over 6 percent in 2009–10), premium changes in small group and nongroup health insurance markets require prior approval from the state, cable and telecom remain unreformed, and occupational licensing is much more pervasive than average (however, the 2009–10 legislature deserves credit for legalizing independent nurse practitioner practice). On the positive side, Maryland’s court system is rated above average.

Where Maryland fails is the personal freedom dimension, where it is the second-worst-ranked state. Maryland boasts the seventh-strictest gun control laws in the country: carry permits are expensive and rarely issued; “assault weapons,” cheap handguns, and large-capacity magazines are banned; sales are banned unless by licensed dealers; and so on. Its marijuana laws are fairly

harsh as well, except that the first offense of high-level possession is only a misdemeanor, and the state has an almost-useless medical marijuana exception. Maryland’s impositions on personal freedom also include extensive auto and road regulations, tight gambling laws, a ban on raw milk, a law allowing police to take DNA from certain felony arrestees, burdensome private and home school laws that require private school teachers to be licensed and effectively subject curricula to government approval, very high drug arrest rates (though incarceration and other victimless crimes arrest rates are low), lack of same-sex marriage or equivalent status (since enacted by the legislature and confirmed by popular vote), high tobacco taxes, and an airtight, statewide smoking ban. The only personal freedom on which Maryland is better than average is the freedom to consume alcohol: taxes on booze are low.

POLICY RECOMMENDATIONS

- Trim spending on housing and community development, parking lots, and corrections, where the state spends more than average. Lower income taxes, which are much higher than the national average.
- End rent control. This reform alone would have raised Maryland twelve places on regulatory policy.
- Strengthen the medical marijuana law by setting up a registry of patients who may legally possess the drug, decriminalize low-level possession, and reduce drug arrests. These policies will help reduce corrections spending as well.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

MASSACHUSETTS

2011 RANK

30th

SCORE

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	25	23	25	29
REGULATORY	42	42	41	36
PERSONAL	16	27	22	10
OVERALL	35	36	34	30



Personal income per capita

\$53,621

Share of total US GDP

2.62%

State GDP ranking

12th



Population

6,587,536

Share of total US population

2.1%

Population ranking

14th

Net migration rate

-4.4%



State and local tax burden

9.6%

Government consumption and subsidies

8.8%

State and local debt burden

29.0%

POLITICS

	2009	2011	2013
Governor	Patrick	Patrick	Patrick
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Informal sessions can occur throughout the year; formal sessions = up to third Wednesday in November in odd years and July 31 in even years

ANALYSIS

Massachusetts has a reputation as a liberal state *par excellence*, and therefore it might be surprising to discover that the state is ranked about average on freedom and does particularly well on fiscal policy.

Massachusetts's tax rates remain about average, and the government payroll is remarkably small at 10.4 percent of the private workforce, while government consumption plus subsidies is also extremely low at 8.8 percent of personal income. The biggest fiscal problem Massachusetts faces is debt, which is now 29 percent of income.

Massachusetts has one of the most tightly controlled and exclusionary land-use regimes in the country and completely fails to check eminent domain abuse. Labor laws are poor, with no right-to-work law, a minimum wage, and excessively strict workers' compensation coverage requirements. The state is notoriously regulated on health insurance, with an individual mandate, pure community rating, "prior approval" price controls, and so on. Massachusetts still has a politicized auto insurance regulatory bureaucracy, despite lifting the "fixed and established" rate regime a few years ago. The cable and telecom markets remain traditionally regulated. However, the court system is well above average, and occupational freedom (except for nurses) is slightly above average.

Meanwhile, on personal freedoms the state has highly restrictive gun control laws: it is almost impossible to get a permit to carry, many types of weapons are banned, and there are strict permit requirements for purchasing any type of gun, expensive dealer

regulations, and so on. It has fairly restrictive gambling laws, although after the closing date of this study, the legislature voted to authorize casino gambling. It also has a total fireworks ban, extremely strict home school requirements, the worst possible asset forfeiture rules, extremely strict campaign contribution limits, high cigarette taxes, and a total statewide smoking ban. On the positive side, marijuana laws are moderate, alcohol taxes are low (and there is no state role in distribution), same-sex marriage is allowed, and the crime-adjusted incarceration rate is by far the lowest in the country. With victimless crimes arrests also low, Massachusetts easily takes first in the freedom index's "freedom from victimless crimes" subindex.

POLICY RECOMMENDATIONS

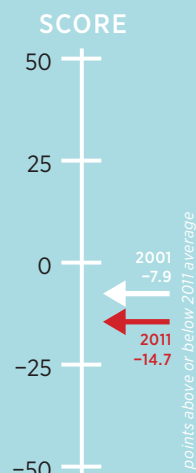
- Place tighter limitations on the state and local governments' ability to issue debt.
- Enact statewide limits on local communities' ability to keep out undesired newcomers with building permit ceilings, subdivision limits, and so on.
- Reform asset forfeiture laws to place the burden of proof on the government and redirect forfeiture funds to the general fund. Then ban equitable sharing so that the Department of Justice can no longer subvert state law.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	YES	NO	NO

MICHIGAN

2011 RANK
35th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	39	33	37	39
REGULATORY	17	19	25	19
PERSONAL	46	41	36	41
OVERALL	38	33	35	35



Personal income per capita

\$36,533

Share of total US GDP

2.57%

State GDP ranking
13th



Population

9,876,187

Share of total US population

3.2%

Population ranking
8th

Net migration rate

-5.6%



State and local tax burden

9.9%

Government consumption and subsidies

11.6%

State and local debt burden

22.8%

POLITICS

	2009	2011	2013
Governor	Granholm	Snyder	Snyder
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Year-round sessions

ANALYSIS

Each edition of this index has noted the disjuncture between Michigan’s fiscal and regulatory policy scores. The state has usually done reasonably well on regulatory policy but has always scored below average on fiscal policy. In 2009 and 2010, the state changed little on economic freedom, but its overall freedom score declined slightly because of new infringements on personal freedoms.

Michigan is a fairly centralized state, and local governments depend heavily on state grants, especially for schools. Spending, taxation, and debt are all a bit worse (higher) than average, while public employment is a bit better (lower) than average.

Michigan has a high minimum wage and until recently lacked a right-to-work law (if the new reform sticks, the state could rise four places on regulatory policy), but the state permits workers’ compensation self-insurance and exempts agricultural workers from the system altogether. Local zoning laws are ranked about average, regulatory takings require an economic assessment, and the state has thoroughly reformed eminent domain. Michigan has very little community rating for health insurance and has bucked the national trend by repealing many mandates. Telecom and cable have been deregulated. Occupational freedom, the tort system, and miscellaneous regulations all score about average. Nurses’ ability to practice medicine is particularly restricted, and a ban on territorial rating for auto insurance has a certain political logic but reduces insurance companies’ willingness to sell policies at all in Detroit.

On personal freedom, Michigan is average in most areas, but there have been some worrisome trends in 2009–10. The legislature

banned the essentially harmless psychedelic plant *Salvia divinorum*, the state liquor stores raised markups on spirits, the total mandated years of schooling were expanded from 10 to 12, and a comprehensive statewide smoking ban was enacted. There have been some small but favorable changes in victimless crimes arrest and incarceration rates. Michigan could likely improve its gun control laws, since most of the state is fairly rural. Currently the effective initial permit cost for concealed carry is \$255; however, one may openly carry without a permit. Dealers are licensed, a redundancy since they are already licensed by the federal government, and private sales must go through a dealer. Built-in locking devices must be sold with every handgun. Michigan does well on home school laws, but private schools are tightly regulated—they must get government approval, meet curriculum requirements, and employ licensed teachers (with exemptions).

POLICY RECOMMENDATIONS

- Trim spending on hospitals, libraries, parking facilities, sanitation/sewerage, and employee retirement, which are all above the national average. Property and sales taxes could most stand to be reduced.
- Eliminate the parties’ role in nominating judicial candidates, and enact tort reforms (such as reforming discovery and adopting loser-pays) to improve the tort system.
- Repeal some of the gun regulations mentioned above. If Michigan’s gun control laws were like Indiana’s, it would be 28th instead of 41st on personal freedom.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	YES	YES	YES

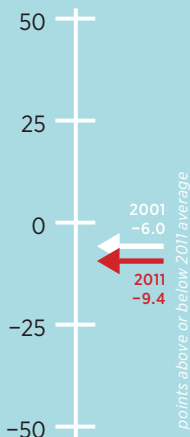
MINNESOTA

2011 RANK

34th

SCORE

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	46	39	39	40
REGULATORY	20	21	20	18
PERSONAL	9	8	19	25
OVERALL	37	29	32	34



Personal income per capita

\$44,672

Share of total US GDP

1.88%

State GDP ranking

16th



Population

5,344,861

Share of total US population

1.7%

Population ranking

21st

Net migration rate

-1.0%



State and local tax burden

10.2%

Government consumption and subsidies

10.4%

State and local debt burden

19.9%

POLITICS

	2009	2011	2013
Governor	Pawlenty	Dayton	Dayton
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
120 LD in two years or first Monday
after third Saturday in May each year

ANALYSIS

Minnesota is a moderately liberal state with high trust in government, leading to communitarian policies on both economic and personal freedoms. The state lost a little ground in its rankings for 2009 and 2010, due mostly to changes in policies affecting personal freedom.

The state’s taxes are higher than average, but otherwise the state’s fiscal policy does not deviate much from the norm. Minnesota spends more than average on parks and public welfare. Selective sales taxes (not including alcohol, tobacco, and utility taxes) and individual income taxes stand out as particularly high.

On most regulatory policies Minnesota fits comfortably into the middle range of the states, but the state does stand out in a favorable manner for the quality of its court system and for miscellaneous regulations—mostly due to lack of a certificate-of-need (CON) law. On the other hand, Minnesota scores poorly on health insurance and labor market freedoms. Mandated benefits add 53.7 percent to the cost of a policy without mandated coverages, and the state requires both rate bands and “prior approval” of new rates in both the small group and nongroup markets.

On both firearms and marijuana policies, Minnesota is quite a bit more regulated than the average state. The state is ripe for change in both areas. Gun-dealer licensing and gun-store safety regulations are excessive, as is a law imputing criminal liability on a gun owner deemed to have stored firearms unsafely. Sentencing for marijuana-related crimes is extreme—both the cultivation of any pot and the possession of a large amount of pot are felonies, and a single

cultivation conviction can lead to 35 years in prison—while the state has no provision protecting patients using marijuana for medical purposes from prosecution. On the other hand, Minnesota stands out positively on the “freedom from victimless crimes” category. The incarceration rate, adjusted for crime rate, is almost two standard deviations better (lower) than the national mean, and the drug arrest rate is almost a standard deviation better (lower) than the national mean. However, arrest rates for other victimless crimes (related to weapons, gambling, liquor, loitering, and prostitution) are far worse (higher) than the national average. Gun freedom, marijuana freedom, travel freedom, freedom from victimless crimes, and tobacco freedom all fell modestly in 2009–10, together bringing a noteworthy decline in personal freedom. The state bans Sunday sales of alcohol. Smoking bans are extreme. As a fairly liberal state, it is surprising that Minnesota does not recognize any same-sex partnerships.

POLICY RECOMMENDATIONS

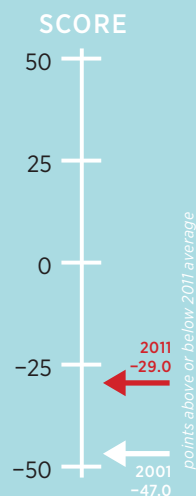
- Trim taxes and spending in the areas noted above.
- Roll back health insurance mandates (for example, mandates for speech and hearing specialists, osteopathy, dietitians, occupational therapy, reconstructive surgery, port wine stain removal, ovarian cancer screening, infertility services, and Lyme disease treatment). Even having average health insurance mandates would have raised Minnesota four places on regulatory policy.
- Enact legal recognition of same-sex partnerships.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

MISSISSIPPI

2011 RANK
41st

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	35	25	30	30
REGULATORY	50	43	42	45
PERSONAL	38	40	43	44
OVERALL	47	39	41	41



Personal income per capita

\$32,176



Population

2,978,512



State and local tax burden

9.0%

Share of total US GDP

0.65%

Share of total US population

1.0%

Government consumption and subsidies

13.8%

State GDP ranking

35th

Population ranking

31st

State and local debt burden

15.1%

Net migration rate

-1.3% ▼

POLITICS

	2009	2011	2013
Governor	Barbour	Barbour	Bryant
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
90 CD except 125 CD in year after gubernatorial election (typically January through April/May)

ANALYSIS

Perhaps the most conservative state in the Union, Mississippi has opportunities to improve its rankings in all three dimensions of freedom.

In fiscal policy the state is average despite scoring very poorly on two variables in this category. Mississippi can only maintain sky-high spending and government employment alongside lower-than-average taxes and debt by depending heavily on federal grants.

The state scores fairly well in some areas of regulatory policy, but terribly in others. Land-use freedom is high: in 2011, after this study’s closing date, a ballot initiative successfully enacted eminent domain reform after years of stonewalling by governor Haley Barbour. Mississippi is a right-to-work state with generally excellent labor laws, apart from an E-Verify mandate. Health insurance regulations are also better than average. However, occupational freedom and miscellaneous regulatory freedoms are mediocre at best, cable and telecom have not been deregulated, and the state’s liability system is infamously one of the worst in the country (although the state improved significantly between 2002 and 2007).

Mississippi’s marijuana laws are among the harshest in the country: despite “decriminalization” of the first offense of very low-level possession (the penalty is a fine), one can get life in prison for a single conviction of high-level cultivation or sale. Drug arrests are among the highest in the country, and incarceration rates are astronomical. Gambling is more tolerated than in most states, except that social gaming is illegal. Private and home school regulation is light. Same-sex marriage is banned, and even opposite-

sex marriages face archaic blood test and waiting period requirements. Campaign finance is unregulated, and the state is one of the best for tobacco freedom, although it slipped slightly in 2009-10.

POLICY RECOMMENDATIONS

- Clamp down on government employment and spending in areas such as health and hospitals, where Mississippi far outspends every other state as a percentage of its economy, and in other areas where the state spends more than average: education, public buildings, highways, public welfare, miscellaneous commercial activities, and employee retirement. Cut sales and business income taxes.
- Pass tort reform (e.g., shared discovery costs, loser pays) to improve the liability system; Mississippi also has nonpartisan judicial elections, and there is some evidence that these are bad for court quality, although not as bad as partisan elections.¹⁰
- Eliminate mandatory minimums for nonviolent offenders and reform sentencing so as to reduce the incarceration rate dramatically.

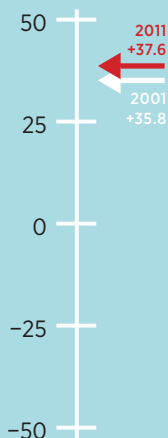
10. Helland and Tabarrok, “Effect of Electoral Institutions” (see n. 3).

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	YES

MISSOURI

2011 RANK
7th

SCORE



	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	9	9	9	9
REGULATORY	18	22	19	26
PERSONAL	33	15	9	8
OVERALL	12	5	6	7



Personal income per capita

\$38,248

Share of total US GDP

1.67%

State GDP ranking
22nd



Population

6,010,688

Share of total US population

1.9%

Population ranking
18th

Net migration rate

0.7%



State and local tax burden

8.3%

Government consumption and subsidies

10.4%

State and local debt burden

20.3%

POLITICS

	2009	2011	2013
Governor	Nixon	Nixon	Nixon
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Up to May 30 (typically starts in January)

ANALYSIS

Missouri has long been a relatively free state, and it has consistently moved in a direction of greater freedom, at least greater economic freedom, over the last decade. The freedom index registers a slight downturn in 2009–10, but this was driven almost entirely by a decline in the liability system score, which might be the result of sampling error rather than actual policy change.

Missouri has generally low taxes (at 8.3 percent of personal income), government spending (with consumption plus subsidies at 10.4 percent of income), and public employment (at 13.0 percent of private employment), and the state is somewhat decentralized. The only fiscal category in which Missouri fares poorly compared to the rest of the country is debt, which rose from 18.5 percent of income in FY 2008 to 20.3 percent of income in FY 2010.

Local zoning is limited, and an economic assessment is required before a regulatory taking, but the state has failed to reform eminent domain sufficiently. Missouri is not a right-to-work state, but the workers’ compensation mandate has exemptions for very small businesses and farm workers. Most aspects of health insurance are not very strictly regulated, but the state ranks quite a bit worse than average on benefit mandates, which add 45.3 percent to the cost of mandate-free premiums. Missouri is one of the top states for occupational freedom but could do more to liberate nurse practitioners, dental hygienists, and physician assistants from scope-of-practice limits. Cable and telecom have been deregulated.

Gun control is very light in Missouri, especially for a diverse, fairly urban, historically

centrist state. The alcohol regime is one of the least restrictive in the United States, with no blue laws and taxes well below average. Unfortunately, marijuana sentencing is extremely harsh: Missouri has among the harshest cannabis laws in the country, and it jumped on the *Salvia* “ban wagon” early. Not surprisingly, incarceration and drug arrest rates are fairly high, though not at Deep South levels. Several types of gambling are legal and regulated, but oddly there is no social gambling exception. Other than strict recordkeeping requirements, private and home schools are moderately regulated. Missouri ranks best in the nation on tobacco freedom.

POLICY RECOMMENDATIONS

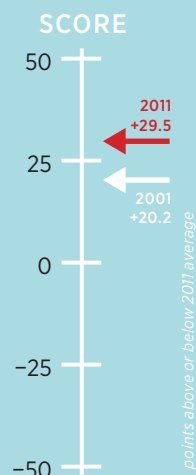
- Control state and local debt, especially by controlling spending on areas such as police and fire protection, health and hospitals, libraries, and parks, where the state spends more than the national average.
- Pass a right-to-work law, ideally with a clause applying the provision solely to workplaces certified by the National Labor Relations Board. (See the rationale for this recommendation in part 1.)
- Reform marijuana sentencing by making possession a misdemeanor and reducing the maximum possible sentence far below life in prison, which it is currently.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	YES

MONTANA

2011 RANK
12th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	13	4	6	7
REGULATORY	38	36	34	35
PERSONAL	17	33	29	23
OVERALL	24	15	10	12



Personal income per capita

\$36,573

Share of total US GDP

0.25%

State GDP ranking
48th



Population

998,199

Share of total US population

0.3%

Population ranking
44th

Net migration rate

4.5% ▲



State and local tax burden

7.7%

Government consumption and subsidies

12.2%

State and local debt burden

17.6%

POLITICS

	2009	2011	2013
Governor	Schweitzer	Schweitzer	Bullock
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Biennial session; 90 LD

ANALYSIS

Montana has a better reputation for freedom than it really deserves. In fact, the state earns a mediocre score on personal freedom and a low score on regulatory freedom, even as its overall freedom score remains above average due to low taxes.

Fiscal policy, and especially tax rates, are the most favorable parts of the state’s overall ranking. Excluding motor fuel, severance, alcohol, and tobacco taxes, Montana’s taxes are just 7.7 percent of personal income. With mineral resources and stretches of highway used by long-haul truckers, the state is able to export some taxes to the rest of the country. Government employment and spending are high, due in part to own-source revenues not captured by the freedom index and in part to generous federal grants. Debt, at 17.6 percent of income, is slightly better (lower) than average.

On the regulatory policy side, labor laws score poorly, with a minimum wage, no right-to-work law, and a no-exception workers’ compensation mandate. Zoning laws rank better than average for the country, but worse than average among relatively rural, northern states. Eminent domain has not been sufficiently reformed. Health insurance mandates fell a bit in 2009–10, and the lack of guaranteed issue, community rating, or prior approval of premiums in the non-group market lead to a fairly high score on health insurance freedom. Telecom has been deregulated. The court system is well below average, and non-health insurance markets are relatively tightly regulated.

Alcohol distribution is highly state controlled at both the wholesale and retail levels; mark-ups are low on beer but high on spirits. While

Montana has a good medical marijuana law, its sentencing regime for marijuana offenses is otherwise harsh (one can get life in prison for a single conviction). Raw milk is banned. Asset forfeiture is unreformed. Tobacco taxes are high, and smoking bans are strict. Incarceration rates are above average. On the positive side for personal freedom, Montana does not arrest many drug users. Physician-assisted suicide is legal. Montana’s gun control laws are 15th best in the country. The state has an open container law and sobriety checkpoints but is otherwise relatively friendly to motorists. Private schools are almost unregulated, and home schools only slightly less so.

POLICY RECOMMENDATIONS

- Reduce government spending and employment in areas such as police and fire protection, corrections, education, general administration, housing and community development, parking lots, and miscellaneous commercial activities.
- Enact tort reform to improve the quality of the tort system. Also, amend the constitution to provide for the appointment of judges. With an average-quality court system, Montana would have scored 21st rather than 35th on regulatory policy.
- Reform sentencing for nonviolent offenders with a goal of reducing incarceration rates to about the national average. Such a reform would have increased Montana’s personal freedom ranking by seven places.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	NO	NO

NEBRASKA

2011 RANK
22nd

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	29	41	29	34
REGULATORY	4	1	1	5
PERSONAL	27	16	25	22
OVERALL	15	21	15	22



Personal income per capita

\$41,584



Population

1,842,641



State and local tax burden

9.7%

Share of total US GDP

0.63%

Share of total US population

0.6%

Government consumption and subsidies

13.1%

State GDP ranking

36th

Population ranking

38th

State and local debt burden

19.0%

Net migration rate

-2.4% ▼

POLITICS

	2009	2011	2013
Governor	Heineman	Heineman	Heineman
Legislature*	nonpartisan	nonpartisan	nonpartisan
n/a	n/a	n/a	n/a



LEGISLATIVE SESSION DATES:
Odd years = 90 LD; even years = 60 LD

* Nebraska has a unicameral legislature.

ANALYSIS

Nebraska falls a little behind some other Great Plains states, particularly on fiscal policy. Indeed, the levels of taxation and spending are difficult to square with the state’s conservative ideology.

Government consumption plus subsidies in Nebraska is more than a standard deviation above average. Taxes remained at 9.7 percent of personal income throughout the period from FY 2008 to FY 2010, marginally worse than average. Debt and public employment are about average. However, the state fares well on fiscal decentralization, nearly three standard deviations more decentralized, for its population, than average.

The state scores well on regulatory policy. Rights in real property are generally respected, but the state’s eminent domain reform has essentially been symbolic only. Labor laws score well on right-to-work and other issues. Nebraska declined dramatically on health insurance freedom in 2009–10, due mostly to newly enacted mandates, which add up to 51.2 percent of the cost of a typical policy. There is no guaranteed issue or community rating in nongroup markets, although there is prior approval of nongroup premiums, and the small group market has basic rating bands common throughout the country. Nebraska has deregulated telecom. Occupational freedom is generally above average. The state’s liability system is one of the very best in the country. Like most states, Nebraska has retained a certificate-of-need (CON) law for new hospital construction, reducing competition and choice.

On personal freedom the state is basically average. The firearms regime is mediocre, considering that Nebraska is a fairly rural

state. The main reason for this score is the fact that Omaha is permitted to enact restrictions that do not apply statewide. Marijuana laws are harsh: low-level cultivation or sale carries a mandatory minimum of a year in prison, and a higher-level conviction can carry up to 50 years in prison. Educational freedom could be improved. Nebraska requires state approval and teacher licensure for private schools, but there are broad exemptions. The home school regime is liberal overall, but notification requirements are burdensome, and there is no statute explicitly authorizing home schools. Unlike many other conservative states, Nebraska has very low incarceration and victimless crimes arrest rates. Alcohol taxes are low, and the state has no role in distribution. Tobacco freedom is a bit below average.

POLICY RECOMMENDATIONS

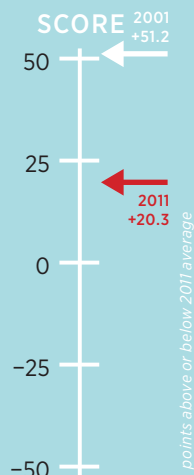
- Trim spending on education and utilities, where the state spends more than the national average. Property, utilities sales, and individual income taxes are all slightly higher than average. Even an average fiscal policy score would have lifted Nebraska to 18th on overall freedom.
- Repeal the CON law for new hospital construction. This single reform would have raised Nebraska one place on the regulatory policy, economic freedom, and overall freedom rankings.
- Eliminate regulations that affect private schools, including mandatory registration, approval, and licensure, and specific curricular requirements. Relax notification requirements for home-schoolers.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	YES	NO	NO

NEVADA

2011 RANK
20th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	8	14	17	33
REGULATORY	27	33	33	20
PERSONAL	4	3	3	2
OVERALL	4	13	13	20



Personal income per capita

\$38,173

Share of total US GDP

0.87%

State GDP ranking

31st



Population

2,723,322

Share of total US population

0.9%

Population ranking

35th

Net migration rate

18.4% ▲



State and local tax burden

9.7%

Government consumption and subsidies

10.7%

State and local debt burden

29.1%

POLITICS

	2009	2011	2013
Governor	Gibbons	Sandoval	Sandoval
Senate			
Assembly			



LEGISLATIVE SESSION DATES:
Biennial session; 120 CD

ANALYSIS

Nevada has a reputation as a libertarian state, mostly because of legal prostitution and gambling, but on economic freedom the state fares significantly worse than one would expect of a state with such a moniker.

On fiscal policy the state now ranks slightly worse than average after slipping significantly between FY 2008 and FY 2010 in every fiscal category, due in part to a severe decline in personal income during the recession. Debt is now two standard deviations higher than the national average (at 29.1 percent of income), while taxes are now slightly higher than average (at 9.7 percent of income). Government spending and employment and fiscal decentralization still rank better than average.

Land-use freedom ranks above average due to fairly relaxed zoning and eminent domain reform. Nevada is a right-to-work state, but its effective minimum wage is one of the highest in the country. The state scores a little better than average on health insurance freedom, but improved significantly on mandates during the 2009–10 session. Telecom and cable have been deregulated. Unfortunately, on occupational freedom Nevada ranks as one of the worst states in the country, both in the extent and the severity of restrictions—fees, education/experience, and examination requirements are all two standard deviations higher than the national average. The life and property/casualty insurance markets are heavily regulated.

On personal freedoms, Nevada scores highly on gambling and prostitution, unsurprisingly. The state licenses many casinos and allows counties to decide whether to prohibit prostitution. In 2009–10 the legislature

legalized same-sex civil unions with benefits equivalent to those of marriage, boosting Nevada from third place to second place in personal freedom. Gun control is limited, alcohol freedom is high, and marijuana laws are just average. Thus, it is not surprising that Nevada does very well on personal freedom. However, even here there is much room for improvement. Nevada’s private schools are the most regulated in the nation: they must conform to universal registration, state approval, teacher licensure, and detailed curriculum requirements. Measured victimless crimes arrests (for prostitution especially) are very high, but this might have something to do with the large tourist population. Nevada’s tobacco policy is moderately restrictive.

POLICY RECOMMENDATIONS

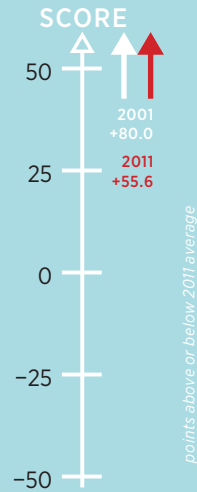
- Reduce spending in areas where the state spends over 50 percent more than the national average, as a percentage of the economy: air transportation, public buildings, libraries, parks, and unemployment insurance. Offer residents relief through lower sales taxes.
- Change licensing to certification (or no state role) for professionals such as the following: farm labor contractors, clinical laboratory directors, environmental health specialists, title plant owners, counselors, interior designers, sign language interpreters, audiologists, pharmacy technicians, opticians, veterinary technicians, massage therapists, security guards, landscaping contractors, makeup artists, and crane and tower operators.
- Deregulate private schools.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	YES

NEW HAMPSHIRE

2011 RANK
4th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	1	1	2	6
REGULATORY	30	23	32	27
PERSONAL	7	5	4	5
OVERALL	1	1	2	4



Personal income per capita

\$45,787

Share of total US GDP

0.42%

State GDP ranking

41st



Population

1,318,194

Share of total US population

0.4%

Population ranking

42nd

Net migration rate

2.8%



State and local tax burden

8.0%

Government consumption and subsidies

9.0%

State and local debt burden

18.8%

POLITICS

	2009	2011	2013
Governor	Lynch	Lynch	Hassan
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
45 LD or until July 1 (typically starts in January)

ANALYSIS

By the end of 2010, New Hampshire was no longer the freest state in the nation. The 2009–10 legislature hiked numerous taxes and fees and used one-time stimulus dollars and new debt to fund a significant increase in government spending.

In FY 2010, the state and local tax burden was 8.0 percent of personal income, seventh lowest in the country, compared to an FY 2000 figure of 7.5 percent, then lowest in the United States. State and local government consumption and subsidies stood at 9.0 percent of income in 2010, compared to 7.3 percent in 2000. Debt was at 18.8 percent of income, compared to 16.7 percent a decade earlier. While New Hampshire still scores sixth in the United States on fiscal policy, the famed “New Hampshire advantage” has dissipated. It is too early to tell whether the 2011–12 legislature, which enacted swinging spending cuts, has undone the damage.

On regulatory policy, New Hampshire’s ranking is mediocre, although it has slightly and gradually improved since 2001. Eminent domain reforms have gone far, but exclusionary local zoning laws have driven out affordable housing in the suburbs of southern New Hampshire. Labor-market freedom is subpar: the state lacks a right-to-work law and has a universal workers’ compensation mandate. Telecom and cable remain regulated. New Hampshire fares better than average on occupational freedom, and its liability system is one of the best.

New Hampshire remains one of the few states to score well on both economic and personal freedom. However, its personal freedom score has declined slightly since

2001. Gun control laws are among the most liberal in the country, but carrying a firearm in a car requires a concealed-carry permit. Effective retail tax rates on wine and spirits are zero. New Hampshire is the only state with no seat belt law for adults. Gambling laws are strict, however. The 2011–12 legislature repealed the ban on audiorecording public officials, after the closing date of this study. State approval is required to open a private school and home school laws are mediocre; the 2011–12 legislature has since liberalized them. That legislature also enacted a tax credit for private and home school expenses. These education reforms would have put New Hampshire in third place on personal freedom. Incarceration and drug arrests are low. Same-sex marriage was also legalized during this period.

POLICY RECOMMENDATIONS

- Enact tighter criteria for the issuance of state and local debt. Completely cutting off the \$40 million in annual business subsidies and reducing interest payments by about 10 percent would permit a 20 percent cut to the business profits tax, which is one of the highest in the nation.
- Enact a state law limiting what local governments can do to restrict new housing, such as building permit caps, minimum lot sizes, and so on.
- Expand legal gaming beyond charity games, enact a social gambling exception, and change the “aggravated gambling” offense from a felony to a misdemeanor.

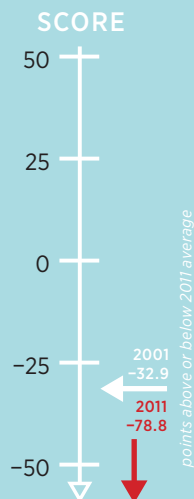
	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

NEW JERSEY

2011 RANK

48th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	34	46	48	48
REGULATORY	47	47	49	48
PERSONAL	48	43	45	42
OVERALL	46	47	48	48



Personal income per capita

\$53,181

Share of total US GDP

3.25%

State GDP ranking

7th



Population

8,821,155

Share of total US population

2.8%

Population ranking

11th

Net migration rate

-5.6%



State and local tax burden

11.2%

Government consumption and subsidies

10.4%

State and local debt burden

22.1%

POLITICS

	2009	2011	2013
Governor	Corzine	Christie	Christie
Senate			
General Assembly			



LEGISLATIVE SESSION DATES:
No set limits (sessions occur throughout the year)

ANALYSIS

New Jersey is a highly regulated state all-around, scoring near the bottom of the pack in both personal and economic freedom, but after significant deterioration in 2007–8 the state bounced back somewhat in 2009–10.

Taxes are very high in New Jersey, at 11.2 percent of income, but government consumption plus subsidies is below average at 10.4 percent of income. Debt is also high, at 22.1 percent of income.

On economic regulation, New Jersey’s most significant flaw is real property rights. Indeed, New Jersey’s abysmal score on real property rights protection contributes twice as much to its negative overall freedom score as its entire personal freedom score. Local zoning laws are extremely strict, rent control is authorized, eminent domain has scarcely been reformed, and private malls and homeowners’ associations must allow political speech on their property. Labor laws are predictably costly, with a strict workers’ compensation mandate, short-term disability and paid family leave programs, a “smoker protection” law in employment, and of course no right-to-work law. Occupational licensing is ranked worse than average, and there is extensive community rating for private health insurance. The state also scores poorly on the regulation of other insurance, although rate classification prohibitions were apparently removed during 2009–10.

New Jersey’s gun control laws are among the most restrictive in the country, not surprisingly given the state’s ideology. Its marijuana laws are not as liberal as one might expect from a left-leaning state, although a fairly restrictive medical marijuana law was enacted in 2010. New Jersey is ranked as the

very worst state for travel freedom, with primary seat belt enforcement, motorcycle and bicycle helmet laws, a cell phone driving ban with primary enforcement, a federally compliant open container law, sobriety checkpoints, and mandatory underinsured motorist coverage for drivers. Fireworks and raw milk are prohibited. Cigarette taxes are high, and smoking bans are as draconian as any in the country. On the positive side, home and private schools are hardly regulated at all. Same-sex partnerships are also recognized. Alcohol is not very regulated, although there is a “happy hour” ban. The state’s crime-adjusted incarceration rate is fairly low.

POLICY RECOMMENDATIONS

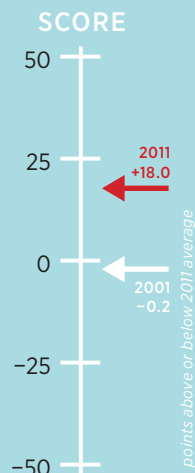
- Trim spending on libraries, parking lots, sanitation and sewerage, miscellaneous commercial activities, employee retirement, and unemployment insurance, all of which are above national averages. Slash property taxes, which are among the highest in the country.
- End rent control. This move would have raised New Jersey six places on regulatory policy.
- Liberalize the aforementioned travel regulations. An average score on travel freedom would raise New Jersey two spots on personal freedom.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	YES	YES	NO

NEW MEXICO

2011 RANK
21st

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	45	40	36	18
REGULATORY	36	39	37	39
PERSONAL	1	1	2	4
OVERALL	34	30	30	21



Personal income per capita

\$34,575



Population

2,082,224



State and local tax burden

8.2%

Share of total US GDP

0.53%

Share of total US population

0.7%

Government consumption and subsidies

14.8%

State GDP ranking

37th

Population ranking

36th

State and local debt burden

24.8%

Net migration rate

1.4%



POLITICS

	2009	2011	2013
Governor	Richardson	Martinez	Martinez
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = 60 CD; even years = 30 CD

ANALYSIS

New Mexico has a mediocre rank on economic freedom but does very well on personal freedom, a combination that seems to fit with the state’s relaxed, slightly left-leaning political culture.

New Mexico scores well on fiscal policy solely because of its low tax burden (at 8.2 percent of personal income), but it is able to maintain such a low tax burden only because of extremely generous federal grants. Government spending, debt, and employment are all extremely high (spending and employment are nearly three standard deviations above the mean), and fiscal decentralization is extremely low.

New Mexico scores poorly on regulatory policy. While land-use regulation is a bit lighter than average, labor regulation is fairly tight, with a minimum wage, no right-to-work law, and a “smoker protection” law in employment. Health insurance freedom is low because of rating bands in small group and nongroup markets, mandated direct access to specialists, “prior approval” rate review, and an abnormally high number of mandated benefits, adding 52.5 percent to the cost of a typical, no-mandated-benefit policy. Cable and telecom have not been deregulated. Occupational licensing is extremely severe in both its extent and its requirements—education/experience and examinations—but the state does very well on health professionals’ scope of practice. The liability system is below average. New Mexico improved significantly on insurance regulation by joining the Interstate Insurance Product Regulation Compact and by moving from “prior approval” to “file and use” standards for auto and homeowners’ insurance

rates. The state also lacks a certificate-of-need (CON) law for new hospitals.

The state fares well on personal freedoms because gun control is light, marijuana laws are comparatively liberal, and incarceration and victimless crimes arrest rates are quite low. In addition, several kinds of gambling are allowed, private school regulation is light (but home school regulation is tougher by national standards), asset forfeiture has been partly reformed, and alcohol taxes are relatively moderate. However, tobacco freedom has declined over time and is now significantly worse than average. No same-sex partnerships are legally recognized.

POLICY RECOMMENDATIONS

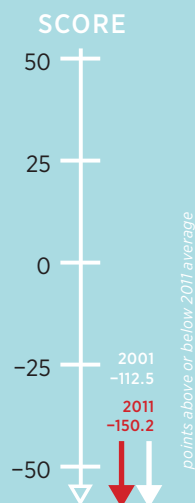
- Spending on police and fire protection, corrections, education, general administration, public buildings, health and hospitals, parks and recreation, public welfare, miscellaneous commercial activities, and employee retirement is above national averages; these areas should be targeted for reduction, with the savings applied toward cutting the gross receipts tax.
- Roll back occupational licenses, such as those for teacher assistants, ambulance drivers, mobile home installers, pipe layers, boilermakers, bartenders, and dental assistants.
- Legalize same-sex civil unions.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	NO

NEW YORK

2011 RANK
50th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	50	50	50	50
REGULATORY	46	46	48	47
PERSONAL	49	49	48	48
OVERALL	50	50	50	50



Personal income per capita

\$50,545



Population

19,465,197



State and local tax burden

14.0%

Share of total US GDP

7.73%

Share of total US population

6.2%

Government consumption and subsidies

11.5%

State GDP ranking

3rd

Population ranking

3rd

State and local debt burden

33.2%

Net migration rate

-9.0% ▼

POLITICS

	2009	2011	2013
Governor	Paterson	Cuomo	Cuomo
Senate			
Assembly			



LEGISLATIVE SESSION DATES:
No set limits (sessions occur throughout the year)

ANALYSIS

New York is by far the least free state in the Union. It is therefore no surprise that New York residents have been heading for the exits: 9.0 percent of the state’s 2000 population, *on net*, left the state for another state between 2000 and 2011, the highest such figure in the nation.¹¹

New York has, by a wide margin, the highest taxes in the country: 14.0 percent of income, three and a half standard deviations above the national mean. New York is also the most indebted state, setting its own record high in FY 2010 at 33.2 percent of income. By comparison, government consumption plus subsidies and employment are only ranked slightly higher than average, implying that the state could benefit by shifting revenue sources from taxation and license fees to user fees.

New York fares poorly on economic regulation. New York City has rent control, which is estimated to cost residents about \$300 million in deadweight loss alone.¹² Eminent domain abuse is rampant. Labor law is poor, with no right-to-work law, restrictions on workers’ compensation funding options, and a required short-term disability program. New York has the strictest health insurance community rating regulations in the United States, which have wiped out the nongroup market. There has also been a dramatic increase in mandated coverages in 2009–10, rising to 54.9 percent of the cost of a no-mandated-benefit policy. On the positive side, the court system is slightly better than average. While insurance regulation remains strict, there has been a slight liberalization of personal auto insurance in 2009–10.

On personal freedoms, gun control laws are extremely restrictive, but marijuana laws are ranked better than average. Tobacco laws are extremely strict, and cigarette taxes are the highest in the country, encouraging the growth of a dangerous black market.¹³ Motorists are highly regulated, and home school regulations are excessive, but alcohol taxes are low, and so are non-drug victimless crimes arrests and the crime-adjusted incarceration rate. Same-sex marriage was legalized in 2011, which should raise the state about three places on personal freedom.

POLICY RECOMMENDATIONS

- Cut spending on police and fire protection, hospitals, housing and community development, libraries, public welfare, sanitation and sewerage, miscellaneous commercial activities, public transit, and employee retirement. Reduce all taxes, and pay down debt.
- Abolish rent control. This one move would have raised New York eight places on regulatory freedom.
- Slash tobacco taxes. Even adopting Pennsylvania’s still-restrictive tobacco regime would boost New York three places on personal freedom.

11. New York’s slight population increase over this period came solely from foreign immigration and natural increase.

12. The figure, which is converted into 2010 dollars, is derived from Edward L. Glaeser and Erzo F. P. Luttmer, “The Misallocation of Housing under Rent Control” (National Bureau of Economic Research Working Paper No. 6220, 1997), <http://www.nber.org/papers/w6220>.

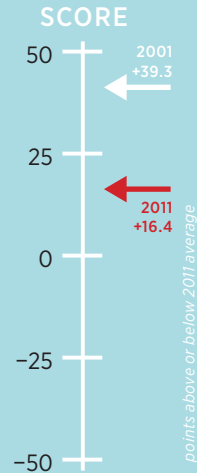
13. Carrie Johnson, “Trade in Black-Market Cigarettes: Hot, Dangerous,” *National Public Radio*, September 19, 2010, <http://www.npr.org/templates/story/story.php?storyId=129934561>.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	NO	NO

NORTH CAROLINA

2011 RANK
24th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	16	22	28	25
REGULATORY	13	12	17	14
PERSONAL	14	7	13	14
OVERALL	11	12	24	24



Personal income per capita

\$36,164

Share of total US GDP

2.94%

State GDP ranking

9th



Population

9,656,401

Share of total US population

3.1%

Population ranking

10th

Net migration rate

8.5%



State and local tax burden

9.2%

Government consumption and subsidies

12.2%

State and local debt burden

15.6%

POLITICS

	2009	2011	2013
Governor	Perdue	Perdue	McCrory
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
No limits or rules regarding meeting dates

ANALYSIS

While North Carolina’s ranking is only mediocre on fiscal policy, on personal freedom it ranks as the best of the socially conservative southern states, most of which score poorly on that dimension. North Carolina is also above average on regulatory policy.

North Carolina’s taxes have been consistently close to the national average over the past decade (at 9.2 percent of income in FY 2010), while its government consumption plus subsidies and employment scores are slightly worse (higher) than average, and its debt is significantly better (lower) than average.

On regulatory policy, North Carolina’s labor laws are excellent—it has a right-to-work law and no minimum wage—but occupational licensing needs to be rolled back, especially for acupuncturists, landscape contractors, cat and dog dealers, and athletic trainers. Real property rights are largely protected, although local zoning laws are a bit stricter than in the rest of the South, and eminent domain requires further reform. Health insurance freedom declined significantly with the addition of many new mandates in the 2009–10 legislative session; it is now below average, especially since the state’s regulators enjoy the right of “prior approval” over small group and nongroup premiums. The state liability system is solid. However, insurance regulation is excessive, especially for personal automobiles.

Personal freedom in North Carolina goes beyond just tobacco and guns. Unsurprisingly, given its history, cigarette taxes and smoking regulations are indeed minimal. But gun control laws are ranked only about average nationally, not unlike

several other southern states: North Carolina makes open and concealed carry fairly easy, but it licenses dealers, requires permits with background checks even for private sales of handguns, specifies a duty to retreat from aggressors outside the home, and requires sellers to maintain sales records. North Carolina does not have civil asset forfeiture at all; only convicted criminals must forfeit property. Educational freedom ranks favorably, with few regulations on private schools. Most surprisingly, North Carolina has lower crime-adjusted incarceration and victimless crimes arrest rates than the nation as a whole. There has been, however, a slight deterioration in criminal justice quality between 2008 and 2010. The areas of personal freedom in which North Carolina ranks distinctly worse than average are alcohol (there is a state spirits monopoly with a high markup), marijuana (there is no depenalization of any marijuana offenses, no medical use of marijuana allowed, and “high-level” possession—even on the first offense—and “low-level” cultivation are both felonies), gaming, and marriage.

POLICY RECOMMENDATIONS

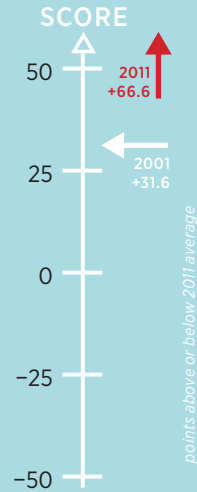
- Cut spending on hospitals, possibly through privatization; it is currently very high. Cut general sales, individual income, and business income taxes, which are also high.
- Eliminate all rate classification prohibitions and rate review requirements for health, homeowners’, and personal automobile insurance.
- Eliminate the state monopoly on distilled spirits.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	YES	NO

NORTH DAKOTA

2011 RANK
1st

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	21	11	8	4
REGULATORY	11	10	10	4
PERSONAL	20	24	21	20
OVERALL	16	10	5	1



Personal income per capita

\$45,747



Population

683,932



State and local tax burden

7.5%

Share of total US GDP

0.27%

Share of total US population

0.2%

Government consumption and subsidies

11.5%

State GDP ranking

46th

Population ranking

48th

State and local debt burden

16.2%

Net migration rate

-3.0% ▼

POLITICS

	2009	2011	2013
Governor	Hoeven	Dalrymple	Dalrymple
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
No regular sessions; biennial sessions; 80 LD (starts in January)

ANALYSIS

North Dakota, according to the freedom index, is the freest state in the United States. It scores exceptionally well on regulatory and fiscal policy. Moreover, North Dakota scores slightly above average on personal freedom. It is also the state that improved the most over the last decade.

Like its neighbor to the south, North Dakota's score is exceptional on fiscal policy. It has very low taxes and government debt. However, its spending is uncharacteristically high. Like Oklahoma, the government has a bloated payroll that represents 15 percent of the private workforce.

A big part of North Dakota's high ranking on regulatory policy is due to the state's excellent liability system. North Dakota also scores well on land-use freedoms, with better-than-average residential land-use regulations and significant eminent domain reform. North Dakota possesses a strange workers' compensation funding policy: all private and self-insurance is banned, and employers are required to contribute to a state fund. However, it is a right-to-work state. Occupational licensing is excessive but the fees and education/experience requirements are relatively low. Nurse practitioners and physician assistants have greater scope of practice than they do in many other states. Health insurance coverage mandates are a bit worse than average, but the state only has rate bands. Cable regulation has not been reformed.

North Dakota scores well in a few personal freedom areas but has much room for improvement. Gun control laws are fairly relaxed. Alcohol regulations are light, while tax rates on beer and wine are average and

spirits taxes are fairly low. Cigarette taxes are low but smoking bans exist, with exemptions for bars and restaurants. Motorists also operate with relative freedom, except for sobriety checkpoints and (most notably) the personal injury coverage mandate. On the downside, marijuana laws are poor. The state's asset forfeiture rules score a standard deviation worse than the mean. In particular, the state should change who has the burden of proof and what is the standard of proof required for forfeiture. Unfortunately, North Dakota has a very high level of non-drug victimless crimes arrests. However, its drug enforcement rate is actually ranked below average and its overall incarceration rate approaches a standard deviation better than the mean. North Dakota has some of the worst school regulations in the country. Private schools are heavily regulated, with state approval, teacher licensing, and detailed curriculum oversight required. Homeschoolers are similarly tightly regulated.

POLICY RECOMMENDATIONS

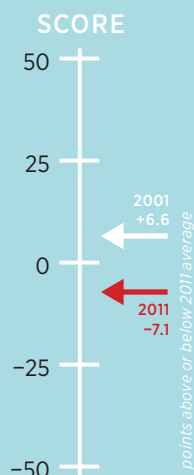
- Reduce the size of the government sector to make it consistent with national norms. Spending cuts would be especially warranted in the areas of miscellaneous commercial activities and parks and recreation.
- Eliminate occupational licensing requirements for massage therapists, makeup artists, bill and account collectors, occupational therapist assistants, and athletic trainers.
- Prioritize crimes against persons and property so as to lower the non-drug victimless crimes arrest rate and focus law enforcement resources on preventing and punishing more serious crimes.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

OHIO

2011 RANK
33rd

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	36	35	40	35
REGULATORY	26	14	26	21
PERSONAL	19	37	34	34
OVERALL	33	34	37	33



Personal income per capita

\$37,791

Share of total US GDP

3.23%

State GDP ranking

8th



Population

11,544,951

Share of total US population

3.7%

Population ranking

7th

Net migration rate

-3.3% ▼



State and local tax burden

9.8%

Government consumption and subsidies

10.7%

State and local debt burden

18.0%

POLITICS

	2009	2011	2013
Governor	Strickland	Kasich	Kasich
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Year-round sessions

ANALYSIS

Ohio scores well below average in terms of overall freedom and both economic and personal freedom. However, the state has improved since 2009.

Taxation in the Buckeye State is higher than average. On the plus side, government debt and spending are below average. However, public safety, administration, social service, and government employee retirement benefits spending are especially high as a percentage of personal income. Ohio is fiscally centralized.

Ohio performs better in the regulatory realm. The state’s liability system is roughly average. It does fairly well on land-use freedom, with better-than-average residential land-use regulation and some reform of eminent domain (though more work is necessary in this area). Ohio, like a few other states, does not allow private workers’ compensation insurers. However, unlike North Dakota and Wyoming, Ohio does allow employer self-insurance for workers’ compensation. The state’s occupational licensing regime and level of health insurance coverage mandates are decent. Ohio, as one might expect, is not a right-to-work state. Telecom and cable have been deregulated.

Ohio’s asset forfeiture laws are ranked below average and could use improvement. Gun control laws are above average and not nearly as bad as those of other large-population states like Illinois or California. In fact, Ohio allows open carry without a permit. The state authorizes sobriety checkpoints but does not mandate motorcycle helmets. Marijuana laws are liberal overall, but cultivation and sale sentencing could be reformed. Most gambling is illegal but social gambling

is allowed. Homeschooling regulations are strict: teachers must meet qualifications and home school curricula are subject to disapproval. However, private school regulations are lighter. Draconian smoking bans are in place but cigarette taxes are now below the national average. Beer and wine taxes are reasonably good but the spirits tax is fairly high. The crime-rate-adjusted incarceration rate is well above average, but the drug enforcement rate is decent.

POLICY RECOMMENDATIONS

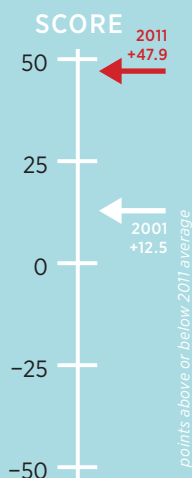
- Reduce taxes and reduce spending on public safety, administration, social services, and government employee retirement benefits to levels more consistent with national norms.
- Look at Indiana as a model “Rust Belt” state in terms of regulatory policy and reform Ohio’s regulatory system according to that model (which ranks first in the country). For instance, consider changing the workers’ compensation system and rolling back occupational licensing. Adopt a right-to-work law in line with Indiana and Michigan.
- Reform the state’s asset forfeiture laws by reducing the percentage of proceeds that go to law enforcement and putting the burden of proof on the government rather than owners, and ban equitable sharing with the Department of Justice to make these reforms effective.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	NO

OKLAHOMA

2011 RANK
5th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	12	7	3	3
REGULATORY	34	20	12	17
PERSONAL	43	32	28	28
OVERALL	31	9	4	5



Personal income per capita

\$37,277



Population

3,791,508



State and local tax burden

7.4%

Share of total US GDP

1.03%

Share of total US population

1.2%

Government consumption and subsidies

13.0%

State GDP ranking

29th

Population ranking

28th

State and local debt burden

14.0%

Net migration rate

1.2%



POLITICS

	2009	2011	2013
Governor	Henry	Fallin	Fallin
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Up to last Friday in May

ANALYSIS

Oklahoma is the fifth freest state in the country. It does especially well on fiscal policy (ranking fourth) but slips, like many southern states, on personal freedom (ranking 31st). The Sooner State also improved more than any other state except for North Dakota over the last decade.

In terms of fiscal policy, Oklahoma enjoys particularly low taxes and debt (7.4 percent and 14.0 percent of personal income, respectively). However, it does not equal this superior performance on spending, where it is a full standard deviation worse than average (at 13.0 percent of personal income). One of the reasons for this is that the Oklahoma state and local governments have bloated payrolls amounting to 16.5 percent of the private workforce. Oklahoma is also fairly fiscally centralized.

In the regulatory realm, the state performs quite well on land-use freedom, though eminent domain reform has been quite limited. Oklahoma is mediocre on tort abuse, health insurance freedom, occupational freedom, and utility deregulation. However, its number of health insurance coverage mandates is better (lower) than average. It has been a right-to-work state since 2001. Unfortunately, Oklahoma requires too many occupational licenses; occupational fees and education/experience requirements are, however, lower than average. Campaign finance regulations are quite strict.

In terms of personal freedom, gun control is fairly limited and alcohol taxes and restrictions are modest (although the state does have blue laws and a “happy hour” ban). The state’s marijuana sentencing is unreformed. Indeed, Oklahoma’s maximum possible

sentence for a single marijuana offense—lifetime in prison—is draconian. Asset forfeiture rules are in need of reform. Several types of gambling are legal (not including casino gambling), though social gambling is technically prohibited and aggravated gambling is a felony. Private and home schools are virtually unregulated—though kindergarten attendance is required by law. The state has limited smoking bans with a number of exceptions. Arrests for victimless crimes are well above the national average, significantly dragging down the state’s personal freedom score. Reforming this rate to the national mean would have raised Oklahoma’s personal freedom ranking from 31st to 13th. Surprisingly, the drug arrest rate is better (lower) than average.

POLICY RECOMMENDATIONS

- Cut spending and the size of the government workforce until they are in line with national averages. Areas that could use the biggest cuts include public welfare and highway spending.
- Protect individual property rights better by reforming eminent domain and asset forfeiture laws.
- Reform sentencing for nonviolent crimes with an eye to reducing the crime-adjusted incarceration rate to the national average.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	YES

OREGON

2011 RANK
28th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	14	19	11	23
REGULATORY	22	35	27	30
PERSONAL	13	23	18	19
OVERALL	14	26	12	28



Personal income per capita

\$37,909

Share of total US GDP

1.30%

State GDP ranking
25th



Population

3,871,859

Share of total US population

1.2%

Population ranking
27th

Net migration rate

5.2%



State and local tax burden

9.0%

Government consumption and subsidies

13.0%

State and local debt burden

24.7%

POLITICS

	2009	2011	2013
Governor	Kulongoski	Kitzhaber	Kitzhaber
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = 160 CD; even years =
35 CD (in 2010 there was no regular session)

ANALYSIS

Oregon remains the second-freest Pacific state, but it earned the dubious distinction of having the greatest loss of freedom in the country over the last two years. The state saw increases to its debt level, spending, taxes, and health insurance mandates.

Despite the changes in the state’s fiscal policy, Oregon remains above average in that dimension. Yet this says as much about the state of the country as it does about Oregon. State and local government spending remains high (nearly a standard deviation above the mean), which in conjunction with low taxes makes for high (and rising) state debt. Government employment is about average, but there is fat to trim.

In the regulatory realm, Oregon ranks below average. Its liability system and real property rights protection are mediocre. Eminent domain reform could go further. Residential land-use regulation is fairly onerous. Oregon does require compensation for some regulatory takings. The state’s minimum wage is the highest in the country when adjusted for average wages. Labor laws generally rank poorly, with workers’ compensation approaching two standard deviations worse than the mean. Occupational licensing is excessive while licensing fees and educational requirements are extremely high. However, nurse practitioners are allowed to practice independently of medical doctors. Health insurance coverage mandates have shifted above the national average, and the state has adjusted community rating for individuals and small group health insurance.

Oregon performs about average on personal freedom. Arrests for victimless crimes are surprisingly high. Gun control laws are a bit

better than average. The state’s cigarette taxes are now lower than average, but its smoking bans are tight. Oregon’s spirits tax is the second highest in the country, although its beer and wine taxes are better than average. Oregon is ranked fifth on marijuana freedom, but failed to legalize marijuana use, cultivation, and sale at the ballot box in 2012—the latter two are felonies. Marijuana possession is decriminalized below a certain level, and medical marijuana is legal. Oregon is one of the few states that refuses to authorize sobriety checkpoints. However, it has a ban on handheld cell phone usage for drivers, with primary enforcement, and requires motorcyclists and young bicyclists to wear helmets. Social gambling is authorized, but otherwise the state does poorly on gaming freedom. Oregon is the only state besides Washington and Montana to permit physician-assisted suicide. The state also allows the sale of raw milk and has a domestic partnership law. Private and home school regulations are reasonable. Oregon also does quite well on asset forfeiture.

POLICY RECOMMENDATIONS

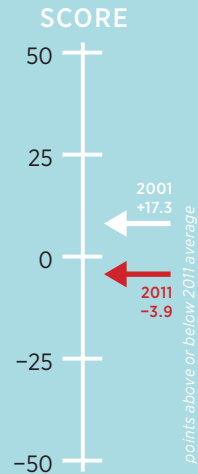
- Cut spending in order to reduce public debt. Reducing outlays on public safety, government employees’ retirement benefits, health and hospitals, and public welfare would bring these areas down to national averages.
- Eliminate occupational licensing for massage therapists, funeral attendants, pest control workers, agricultural product graders and sorters, and other occupations.
- Legalize “low-level” possession, cultivation, and sale of marijuana.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	YES

PENNSYLVANIA

2011 RANK
31st

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	27	27	26	28
REGULATORY	24	24	31	31
PERSONAL	22	21	33	35
OVERALL	26	27	33	31



Personal income per capita

\$42,478

Share of total US GDP

3.86%

State GDP ranking

6th



Population

12,742,886

Share of total US population

4.1%

Population ranking

6th

Net migration rate

-0.3% ▼



State and local tax burden

9.6%

Government consumption and subsidies

8.8%

State and local debt burden

23.8%

POLITICS

	2009	2011	2013
Governor	Rendell	Corbett	Corbett
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Year-round sessions

ANALYSIS

Pennsylvania is freer than all its neighboring states except for Delaware. However, that is not saying much given that the state borders some of the country’s worst performers, such as New York, New Jersey, and Maryland.

The state’s ranking remains mediocre on fiscal policy. It has higher-than-average taxes but performs much better than most states on government spending and employment. However, it has high government debt and is not as fiscally decentralized as most states.

Pennsylvania scores below average in the regulatory realm. It does not do well on tort abuse and performs even worse on residential land-use regulations. The state even mandates free speech on some private property! It has, however, partially reformed its eminent domain laws. Pennsylvania also fares relatively poorly on labor market freedom. It is not a right-to-work state and has below-average workers’ compensation regulations. Pennsylvania does do well on health insurance freedom and occupational freedom, where it ranks fifth. It is one of only three states to have no form of community rating in small group and individual health insurance (Hawaii and Virginia are the other two). However, mandates are rather high and have been rising in recent years. Occupational licensing scores quite low, nearly two standard deviations better than average. Licensing fees and educational requirements are also low. The state still needs to deregulate cable.

Pennsylvania’s gun control laws are roughly average for the entire country. The state does badly on alcohol policy, ranking 47th. Distribution is highly controlled and implicit taxes on wine, in particular, are excessive

(over three standard deviations higher than the mean). Its ranks are mediocre on tobacco freedom and marijuana freedom. Smoking bans have recently been put into place, but there is a “ventilated area” exception for restaurants, and bars are simply required to have nonsmoking sections. Cigarette taxes are a bit above average. The state’s low ranking in personal freedom is heavily affected by its poor performance on victimless crimes enforcement (though it is roughly average in terms of drug arrests). An average level in this area alone would have raised it three places on personal freedom. The state has dramatically liberalized gambling, adding quite a bit to its treasury and placing Pennsylvania among the best states for gaming freedom in the country. Pennsylvania’s home school laws are perhaps the worst in the country, and its private school regulations are not much better.

POLICY RECOMMENDATIONS

- Reduce spending (especially on public welfare and state retirement benefits) and numerous minor taxes that are relatively high by national standards.
- Protect property rights better by loosening land-use restrictions and eliminating mandated free speech at private shopping malls.
- End the state liquor monopoly and reduce the effective tax rate on wine.

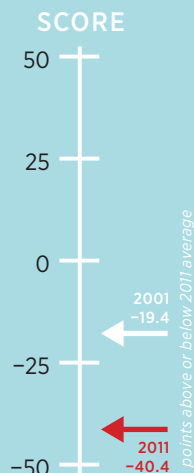
	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	YES	YES	NO

RHODE ISLAND

2011 RANK

46th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	42	45	41	42
REGULATORY	39	37	43	43
PERSONAL	23	34	38	33
OVERALL	41	43	46	46



Personal income per capita

\$43,992



Population

1,051,302



State and local tax burden

10.3%

Share of total US GDP

0.33%

Share of total US population

0.3%

Government consumption and subsidies

10.7%

State GDP ranking

45th

Population ranking

43rd

State and local debt burden

27.6%

Net migration rate

-4.4% ▼

POLITICS

	2009	2011	2013
Governor	Carcieri	Chafee (I)	Chafee (I)
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
No set limits (typically January through June/July)

ANALYSIS

Rhode Island is one of the least free states in the country and performs poorly in all three dimensions of freedom. It has been a relatively less free state for some time, but has still declined in both its ranking and in overall freedom over the last decade.

Rhode Island performs fairly well on spending, government employment, and fiscal decentralization. It is actually better than average in all three areas. The rest of its fiscal policy scores badly. Taxes and debt are very high.

Rhode Island also fares poorly in the regulatory realm. The state is more than two standard deviations worse than the mean on residential land-use regulation. Eminent domain reform is practically nonexistent. At least it does not have rent control! Its liability system is below average. Rhode Island has one of the worst records on labor market freedom and health insurance regulations. It is one of the few states to require employers to provide short-term disability insurance. On health insurance, Rhode Island has a large number of coverage mandates and has adjusted community rating for small group health insurance. On the plus side, it ranks in the top 10 for occupational freedom. The state has deregulated telecom and cable.

Rhode Island scores better on personal freedom but is still below average. It performs extremely well on freedom from victimless crimes, ranking second in the country. If Rhode Island had scored only average on incarceration, its personal freedom ranking would have plummeted to 44th; thus, the state should keep up the good work here. Rhode Island is more than a standard deviation better than average on its drug arrest

rate. The state has enacted civil unions since the data cutoff date for this edition of the freedom index. Gun control is quite strict. Alcohol regulations are strict, but taxes are generally low. Rhode Island scores poorly on tobacco and gaming freedom; it has the second highest cigarette taxes in the country and extensive smoking bans. Travel freedoms are broad compared to other northeastern states; Rhode Island does not authorize sobriety checkpoints and does not have a motorcycle helmet law (though it does mandate bicycle helmets). Private school and home school restrictions are among the worst in the country. Private schools must obtain government approval to open and their teachers must be licensed. There is detailed state curriculum control for private and home schools. Asset forfeiture restrictions are nearly a full standard deviation worse than average. Prostitution was again outlawed in 2009.

POLICY RECOMMENDATIONS

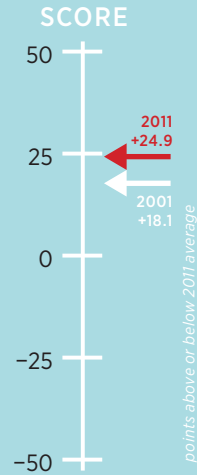
- Cut spending locally on police and fire departments and at the state level on employee retirement and unemployment compensation and public welfare. All are far above average. Property taxes are especially high and could stand trimming.
- Reform eminent domain laws and other land-use regulations.
- Liberalize private school and home-schooling laws.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	YES	NO

SOUTH CAROLINA

2011 RANK
15th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	20	16	13	15
REGULATORY	28	26	29	23
PERSONAL	21	14	12	18
OVERALL	25	18	18	15



Personal income per capita

\$33,673



Population

4,679,230



State and local tax burden

8.3%

Share of total US GDP

1.11%

Share of total US population

1.5%

Government consumption and subsidies

13.8%

State GDP ranking

27th

Population ranking

24th

State and local debt burden

25.3%

Net migration rate

7.8%



POLITICS

	2009	2011	2013
Governor	Sanford	Haley	Haley
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Up to first Thursday in June
(typically start in January)

ANALYSIS

South Carolina comes in at 15th in overall freedom, one of the best rankings for its region.

In terms of fiscal policy, the tax burden is low but government spending and therefore debt are high. Government employment is pretty high and could use cutting. Education spending is also high and social service spending (especially direct expenditures on health and hospitals) could be more efficient.

In the regulatory realm, South Carolina scores only slightly better than average. Residential land-use regulations are relatively light and eminent domain reform has been quite respectable. South Carolina is a right-to-work state and other labor regulations are decent. For example, it does not require short-term disability insurance. Health insurance regulations are generally good, including a low number of coverage mandates. Telecom and cable have been deregulated. Unfortunately, the state ranks below average on occupational freedom despite being roughly average on the number of occupations licensed. Most significantly, it performs quite poorly on tort abuse, coming in 39th.

South Carolina fares relatively well in terms of personal freedom, coming in 18th. Cigarette taxes were raised significantly in 2010 but still remain among the lowest in the country (they had previously been lowest). Some restrictions on smoking on private property have been enacted, but the state still performs near the top in this category. Gun control laws are a bit better than average, but are the most restrictive in the South. For instance, open carry is completely banned, the state licenses gun dealers, and design safety standards for handguns have

been imposed. However, South Carolina is only mediocre on victimless crimes freedom, alcohol freedom, travel freedom, and education. It is roughly average on incarceration rates but fares poorly when it comes to drug enforcement. Moreover, South Carolina's marijuana laws are unreformed. Beer taxes are quite high but wine and spirits taxes are better than average. The state authorizes sobriety checkpoints but does not require motorcyclists and bicyclists to wear helmets. Kindergarten attendance is mandatory in South Carolina. For homeschoolers, the state has teacher qualifications and burdensome standardized testing, recordkeeping, and notification requirements. On the other hand, it has light requirements for private schools. The state's asset forfeiture laws are nearly a full standard deviation worse than average.

POLICY RECOMMENDATIONS

- Prune state employment and cut spending on health and hospitals, which is far above national norms.
- Reform the liability system. South Carolina would have moved to 12th in overall freedom if it had simply been average on tort abuse.
- Revise the state's asset forfeiture laws to make it more difficult for the government to seize assets, and reduce the government's incentive to do so by lowering the percentage of proceeds that go to law enforcement. Ban equitable sharing with the Department of Justice so that the federal government does not ignore state law.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	NO	NO	NO

SOUTH DAKOTA

2011 RANK
2nd



	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	4	2	1	1
REGULATORY	5	6	6	6
PERSONAL	45	42	39	46
OVERALL	3	3	1	2



Personal income per capita

\$41,590



Population

824,082



State and local tax burden

7.3%

Share of total US GDP

0.27%

Share of total US population

0.3%

Government consumption and subsidies

10.7%

State GDP ranking

46th

Population ranking

46th

State and local debt burden

17.0%

Net migration rate

1.0%



POLITICS

	2009	2011	2013
Governor	Rounds	Daugaard	Daugaard
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
40 LD (typically January through late March)

ANALYSIS

South Dakota ranks as the second freest state in the nation, although it does better on economic than personal freedom. In that sense it is the polar opposite of rural, left-liberal states like Maine, New Mexico, and Vermont, which do well on personal freedom but poorly on economic freedom. It conforms to the frequently misleading stereotype that so-called “red states” are economically free but socially conservative. Its overall level of freedom has slipped slightly since the last ranking and it lost the top spot to its northern neighbor.

South Dakota ranks best among the states in terms of fiscal policy owing to its extremely low levels of taxation (which are nearly two standard deviations better than the mean). The state is also prudent in terms of its spending and debt levels. It is a fiscally decentralized state for its size.

The state also scores well on regulatory policy. Labor and health insurance laws are generally very good, with a below-average number of health mandates. South Dakota also performs well on occupational licensing. The state’s liability system is among the best. Residential land-use regulations are a full standard deviation better than average, and planning is largely local. Eminent domain has been reformed extensively but could go further. The state has still not deregulated cable.

South Dakota’s personal freedom score does not match its stellar performance in the economic realm. The state scores well on gun control and alcohol freedom, but relatively poorly in many other areas. Marijuana laws are mediocre, and asset forfeiture is a standard deviation worse than average. The state authorizes sobriety checkpoints

but does not mandate helmet use or ban cell phone use while driving. Cigarette taxes are slightly above average, though the state has not increased them while other states around the country have done so. Smoking is banned in private workspaces. The state allows several kinds of gambling but has prohibited Internet gambling and social gambling. Unfortunately, its incarceration rates and victimless crimes arrest rates are extremely high (but falling). Additionally, it is slightly above the national average drug enforcement rate (and its rate has risen since 2007). The police are authorized to take DNA from certain felony arrestees. Home school requirements, particularly on standardized testing and notification procedures, could also be relaxed.

POLICY RECOMMENDATIONS

- Reduce government employment and end sales taxes on food.
- Require compensation or an economic assessment before regulatory takings.
- Reduce the relatively high arrest rate for victimless crimes. Lowering this rate to the mean would have raised South Dakota’s personal freedom ranking by eight spots.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	YES	YES

TENNESSEE

2011 RANK
3rd

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	2	3	4	2
REGULATORY	15	15	13	12
PERSONAL	11	6	17	24
OVERALL	2	2	3	3



Personal income per capita

\$36,533



Population

6,403,353



State and local tax burden

7.5%

Share of total US GDP

1.78%

Share of total US population

2.1%

Government consumption and subsidies

11.1%

State GDP ranking

18th

Population ranking

17th

State and local debt burden

17.2%

Net migration rate

4.7% ▲

POLITICS

	2009	2011	2013
Governor	Bredesen	Haslam	Haslam
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
90 LD (typically January through May/June)

ANALYSIS

Tennessee is one of the freest states in the country, placing just behind the Dakotas at the top of the rankings. Like the Dakotas, it fares better on economic freedom than personal freedom. However, the disparity between its economic and personal freedom scores is not as extreme as in South Dakota. The state's level of freedom and relative ranking have slipped slightly since 2001, when it was second in overall freedom.

Tennessee does particularly well in fiscal policy. The state has the fourth lowest tax collections in the country (at 7.5 percent of personal income). It also has a relatively low government debt ratio and about average spending (though outlays for utilities are high). Government employment is relatively low and the state is among the most fiscally decentralized.

Tennessee fares only a bit worse in the regulatory sphere. It is strong on labor market freedoms and is a right-to-work state. Its liability system, health insurance regime, and property rights protection are in the top 20. Tennessee has a below-average number of mandated health insurance coverages. It has deregulated cable and telecom. Tennessee ranks quite poorly on occupational freedom, with an excessive number of jobs requiring a license. Eminent domain has not really been reformed.

Unfortunately, the Volunteer State is not all that committed to voluntarism in the personal sphere. It is mediocre on victimless crimes arrests, tobacco freedom, and asset forfeiture. Cigarette taxes remain low. However, it has banned smoking in restaurants and added restrictions on smoking in bars and private workplaces. Tennessee is less prone

to arrest people for victimless crimes, excluding drugs, than other states. However, its drug enforcement regime and marijuana laws are on the harsh side. Taxes on wine and spirits are a bit below average, but the beer tax is the highest in the country. Tennessee has some of the most restrictive gaming laws. It does allow charitable gaming. Travel freedom is limited. Tennessee requires helmets for all cyclists and authorizes sobriety checkpoints. It has not banned the use of handheld cell phones while driving. Tennessee also falls somewhat short on education, although homeschooling is expressly permitted by statute. It has mandatory kindergarten attendance, burdensome notification requirements for homeschoolers, and other constraints. Along with West Virginia and Kentucky, Tennessee has the best gun control laws in the South.

POLICY RECOMMENDATIONS

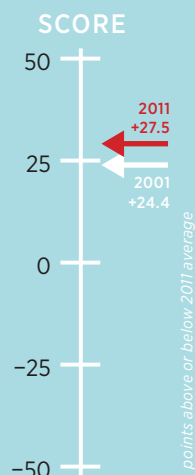
- Reduce government spending, especially on utilities. Tennessee is one of the few states where electric and gas utilities are mostly municipalized. These could be privatized and restructured to promote consumer choice and competition.
- Reduce the number of occupations that require state licensure.
- Relax the state's drug enforcement regime. Even if Tennessee had only reformed to the level of national averages, it would have leapfrogged five states in terms of personal freedom and moved into the second overall spot. Also, reduce the beer tax to make it consistent with regional and national norms.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	YES	NO	NO

TEXAS

2011 RANK
14th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	3	8	5	10
REGULATORY	40	30	28	24
PERSONAL	42	36	30	31
OVERALL	18	17	8	14



Personal income per capita

\$39,593

Share of total US GDP

8.73%

State GDP ranking
2nd



Population

25,674,681

Share of total US population

8.2%

Population ranking
2nd

Net migration rate

4.2% ▲



State and local tax burden

8.2%

Government consumption and subsidies

10.8%

State and local debt burden

25.9%

POLITICS

	2009	2011	2013
Governor	Perry	Perry	Perry
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Biennial session; 140 CD

ANALYSIS

Texas prides itself on being a freedom-loving state, and at 14th in rank its citizens have something to be proud of. However, its policies are sometimes not as consistent with individual liberty as the rhetoric of its officials and citizens would suggest. Like many southern states, Texas performs better on economic freedom than personal freedom. Yet despite its reputation as a low-regulation state, it is only average for regulatory policy—while it is above average for fiscal policy.

Texas enjoys one of the lowest tax burdens in the country. It also does better than average on state spending, fiscal decentralization, and government employment relative to the private sector. However, state and local debt is high (with most of the problem arising at the local level).

Texas is first in the country in terms of labor market freedom. It is a right-to-work state and remains the only state not to require employers to contribute to workers' compensation coverage. Indeed, it has excellent workers' compensation laws overall. While Texas has only light community rating and no individual rate review, it has imposed mandated coverages on health insurance that add significantly to the cost of insurance premiums (it is two standard deviations above the mean on them). Texas led on telecom and cable deregulation. It has also passed eminent domain reform and performs well on land-use regulation. The state's liability system is below average, however.

Texas's personal freedom rank is mediocre. The state's asset forfeiture and gaming laws are about average. Alcohol is less regulated than in most other states, and beer, wine, and liquor taxes are low. Gun control is better

than average, though the state falls short on open-carry laws. Private and home schools are almost completely unregulated. Texas has average cigarette taxes but slightly less restrictive smoking bans than many other states. Texas also has relatively light restrictions on motorist freedoms; it does not authorize sobriety checkpoints or have helmet laws. However, the Lone Star State fares quite poorly on a number of policies in the personal freedom dimension that drag down its rating. Texas's marijuana laws are quite harsh—nearly a standard deviation worse than average. One bright spot is that low-level marijuana cultivation is only a misdemeanor. It is also one of the worst states in terms of freedom from victimless crimes, including drug arrests. Just bringing the crime-rate-adjusted incarceration rate to the national mean would have put Texas at 11th overall, but this is unlikely to happen anytime soon.

POLICY RECOMMENDATIONS

- Tighten standards for local government debt issuance. In particular, increase transparency concerning local debt burdens until it is consistent with the recommendations of the Texas Comptroller of Public Accounts and ban local governments from using capital appreciation bonds.¹⁴
- Improve the liability system by switching from elected to appointed judges.
- Mimic liberal states like Vermont and Washington and allow open carry of handguns without a permit.

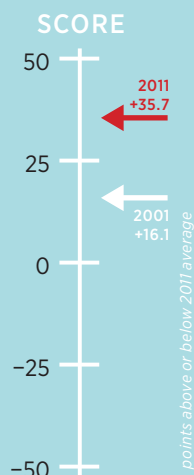
14. Chuck DeVore, "CAB Rides Can Be Extremely Costly," *Austin American-Statesman*, September 11, 2012, <http://www.statesman.com/news/news/opinion/devore-cab-rides-can-be-extremely-costly/nSLLC/>.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

UTAH

2011 RANK
10th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	37	30	27	16
REGULATORY	8	11	4	7
PERSONAL	24	26	20	27
OVERALL	28	23	16	10



Personal income per capita

\$33,790



Population

2,817,222



State and local tax burden

8.7%

Share of total US GDP

0.83%

Share of total US population

0.9%

Government consumption and subsidies

12.2%

State GDP ranking

33rd

Population ranking

34th

State and local debt burden

20.6%

Net migration rate

2.4% ▲

POLITICS

	2009	2011	2013
Governor	Herbert	Herbert	Herbert
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
45 CD (typically January through March)

ANALYSIS

Utah joins the top 10 freest states for the first time, having moved up in each year coded for this book—from 28th in 2001 to 23rd in 2007 to 17th in 2009 to 10th in 2011. As one might expect, the state performs better in the fiscal and regulatory policy dimensions than on personal freedom, and certainly has some idiosyncrasies that affect its performance.

Utah performs particularly well in the economic realm, ranking eighth out of all the states. In terms of fiscal policy, Utah remains a low-tax state with better-than-average fiscal decentralization and government employment. However, the state could do a lot better on spending and debt.

Utah’s regulatory scores are quite high, largely due to its excellent liability system, which is more than a standard deviation better than the mean. Health insurance mandates are much less numerous than the national average (Utah is again a standard deviation better), and it is a right-to-work state. However, Utah has a lot of room for improvement. The state scores quite poorly on certain occupational freedoms, due to extensive licensing as well as high fees and educational requirements. It is only average on residential land-use restrictions. More extensive eminent domain reform is needed.

The Beehive State performs poorly in many categories under personal freedom, though it is roughly middle of the pack overall in this dimension. Utah has by far the tightest alcohol regulations in the country. It is one of only three states with total state control over alcohol distribution, the only state to ban all beer kegs, and the only state other than Tennessee to do all of the following: require

server training, allow local communities to enact blue laws, and ban “happy hour” promotions. Effective tax rates on alcohol are also high. Utah is the only state to proscribe all forms of gambling, including social gambling (though it does not expressly prohibit Internet gambling). Tobacco laws are also fairly strict, with complete smoking bans outside the home. However, cigarette taxes are still only marginally higher than average, despite being raised substantially since 2009. Otherwise, it is similar to many of its neighbors in the Rocky Mountain states, with light gun control, few restrictions on motorists, and basic regulation of private and home schools. Victimless crimes arrest rates are worse (higher) than average. The drug arrest rate, however, is better (lower) than average. Utah’s asset forfeiture laws are considerably better than those of many of the surrounding states.

POLICY RECOMMENDATIONS

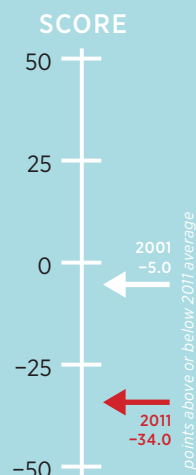
- Reduce government debt by cutting spending, especially on general administration and public buildings.
- Eliminate occupational licensing for taxi drivers and chauffeurs, funeral attendants, occupational therapist assistants, recreational therapists, interpreters and translators, and other occupations.
- Resist the urge to raise cigarette taxes beyond recent increases.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

VERMONT

2011 RANK
43rd

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	43	47	45	47
REGULATORY	32	31	18	29
PERSONAL	10	11	11	11
OVERALL	36	44	40	43



Personal income per capita

\$41,832

Share of total US GDP

0.17%

State GDP ranking

50th



Population

626,431

Share of total US population

0.2%

Population ranking

49th

Net migration rate

-0.2% ▼



State and local tax burden

11.1%

Government consumption and subsidies

11.0%

State and local debt burden

18.8%

POLITICS

	2009	2011	2013
Governor	Douglas	Shumlin	Shumlin
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
No set limits (typically January through May)

ANALYSIS

Like Maine and New Mexico, Vermont conforms to the generally mistaken but still common view that so-called “blue states” intervene extensively in the economic realm but are more relaxed when it comes to personal freedom. Vermont’s economic freedom score is quite poor, but it is nearly a top-10 state for personal freedom.

Vermont’s fiscal policy ranks among the worst in the country. It has the fifth highest level of taxes in the country (at 11.1 percent of personal income). Property taxes are high, and selective sales taxes, largely aimed at tourists, bring in more as a percentage of the economy than in any other state except Nevada. Vermont is also one of the most fiscally centralized states. However, its debt levels are better than average.

Vermont scores slightly below average on regulatory policy and is mediocre in many specific areas such as tort abuse and labor market freedom (its minimum wage is higher than the federal one even when adjusted for personal income). It scores very poorly on health insurance freedom. Vermont has adjusted community rating for health insurance and imposes numerous coverage mandates. The state also has below-average respect for property rights. Eminent domain reform is inadequate and residential land-use regulations are onerous. Vermont does well on occupational freedom and utility deregulation. Occupational licensing is not as extensive as it is in most states, and licensing fees and requirements are lower than average.

Vermont ranks 11th in personal freedom largely due to its respect for the individual right to bear arms, its embrace of same-sex civil partnerships, and its above-average

score on freedom from victimless crimes.¹⁵ Vermont allows open carry and concealed carry of firearms without a permit. The state’s incarceration rate is higher than might be expected, but its drug enforcement rate is quite low. Vermont also scores well on asset forfeiture rules. Yet there is still much room for improvement. Gaming laws are well below average, and it does poorly on some travel freedom policies such as helmetless motorcycling and sobriety checkpoints. Vermont also authorizes DNA samples to be taken from all felony arrestees. Like Utah, Vermont has full state control of alcohol distribution. However, its effective alcohol tax rates are lower than average. Its marijuana laws are above average; the state has a medical marijuana exception and low-level cultivation is a misdemeanor. Campaign finance limits remain quite strict. It ranks among the worst states for tobacco freedom. Smoking bans are extensive, and cigarette taxes are high.

POLICY RECOMMENDATIONS

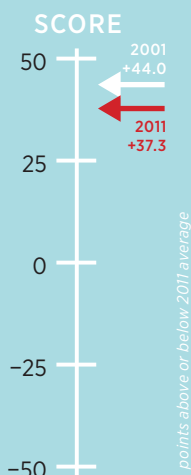
- Drastically reduce state aid to schools (repeal or amend Acts 60 and 68) to decentralize taxation and make schools more accountable.
- Better protect property rights by enacting further eminent domain reform, loosening land-use restrictions, and lowering property taxes.
- Decriminalize marijuana possession.

15. Vermont had same-sex civil unions from 2000 until 2009. It now has same-sex marriage, which was approved legislatively and took effect on September 1, 2009.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

VIRGINIA

2011 RANK
8th



	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	15	13	12	12
REGULATORY	3	3	7	9
PERSONAL	35	31	37	38
OVERALL	9	6	9	8



Personal income per capita

\$45,920

Share of total US GDP

2.86%

State GDP ranking
10th



Population

8,096,604

Share of total US population

2.6%

Population ranking
12th

Net migration rate

2.5%



State and local tax burden

8.4%

Government consumption and subsidies

9.9%

State and local debt burden

17.4%

POLITICS

	2009	2011	2013
Governor	Kaine	McDonnell	McDonnell
Senate			
House of Delegates			



LEGISLATIVE SESSION DATES:
Odd years = 30 CD; even years = 60 CD

ANALYSIS

Virginia is one of the freest states in the country, ranking eighth overall. However, it fits the red state stereotype in that it fares better in terms of economic freedom (6th) than personal freedom (38th).

Virginia’s tax burden, government spending, and debt are all well below national averages. It is also fiscally decentralized compared to other states. However, state and local government employment is roughly at the national average.

Virginia performs solidly on regulatory policy as well. Its tort system is one of the best in the country, more than a standard deviation better than average. Labor laws score well, based on Virginia’s status as a right-to-work state. However, Virginia does not fare as well on occupational freedoms. It scores above average on licensing but poorly on education/experience requirements for licensed occupations. Residential use regulations are slightly better than average, and Virginia has improved on eminent domain since 2007. The state has deregulated cable for the consumer but still needs to reform telecom. Like Hawaii and Pennsylvania, Virginia has no form of community rating for health insurance. However, coverage mandates are extensive, adding significantly to the cost of insurance.

Virginians suffer from too little personal freedom compared to citizens of other states. The state scores especially poorly on victimless crimes and drug enforcement (although it does better than many of its southern peers, with the notable exception of North Carolina). Gun control laws score better than average, but with much room for improvement. Open carry is allowed, but dealers

must be licensed, and there are unnecessary restrictions on multiple purchases. Marijuana laws are largely unreformed, and even *Salvia* has been banned. Virginia requires 13 years of mandatory schooling, including kindergarten attendance, and imposes significant standardized testing and notification requirements on homeschoolers, but otherwise leaves both private and home schools alone. Virginia’s asset forfeiture laws could be improved. As one might expect given its history with tobacco, Virginia’s cigarette tax is the lowest in the country, and smoking is not banned in private workplaces. However, it does have some smoking restrictions. Unfortunately for liquor drinkers, its spirits tax rate is the third highest in the country. Beer and wine purchasers face rates a bit better than the national norm. Virginia underperforms the nation on gaming freedom, but does allow social gambling.

POLICY RECOMMENDATIONS

- Reduce the number of state and local government employees to levels consistent with Virginia’s low levels of spending and taxation.
- Reduce health insurance mandates to the national average: this change would have raised the state three spots on regulatory policy and one spot on overall freedom.
- Reform the victimless crimes regime to make it consistent with national norms. Doing this would have raised Virginia’s personal freedom ranking from 38th to 22nd, and its overall freedom ranking from 8th to 6th.

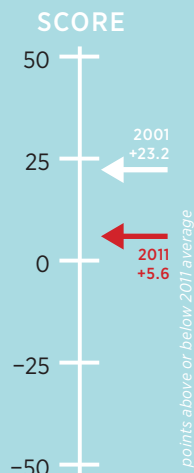
	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

WASHINGTON

2011 RANK

29th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	23	21	20	19
REGULATORY	21	38	39	37
PERSONAL	18	19	10	16
OVERALL	21	31	29	29



Personal income per capita

\$44,294

Share of total US GDP

2.37%

State GDP ranking

14th



Population

6,830,038

Share of total US population

2.2%

Population ranking

13th

Net migration rate

4.1%



State and local tax burden

8.8%

Government consumption and subsidies

12.5%

State and local debt burden

24.9%

POLITICS

	2009	2011	2013
Governor	Gregoire	Gregoire	Inslee
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = 105 CD; even years = 60 CD

ANALYSIS

Washington ranks in the middle of the freedom index. However, its freedom score has been improving since 2007.

Like Oregon, state spending is quite high (nearly a standard deviation higher than average) while taxes are fairly low—a recipe for government debt, which Washington has in abundance. Government employment also is much too high.

Residential land-use regulations are extensive and more than a standard deviation worse than average. Minimal eminent domain legislation has been enacted, but further reform is needed. Labor market freedom is scored among the worst in the country; the state has the second highest effective minimum wage, adjusted for average wages, in the country. Washington’s score is third worst in terms of health insurance freedom. It has adjusted community rating for health insurance and extensive coverage mandates. Nurse practitioners, though, can practice independently of medical doctors. The state liability system is a bit above average. Washington has failed to deregulate telecom and cable.

Washington performs well above average in terms of personal freedom. It ranks 16th, and should improve in the next edition of this book due to the legalization of marijuana and gay marriage in 2012. For a liberal state, Washington’s gun control laws remain quite modest. Washington is a top-five state in terms of freedom from victimless crimes. Marijuana laws were already better than average even before the 2012 changes. The state is one of only three that allow physician-assisted suicide. Washington does not perform so well in other areas of personal

freedom. Only one state is worse on alcohol freedom: Washington imposes tight controls on alcohol and its taxes on spirits are the highest in the country by far (but state liquor stores were privatized after this study’s closing date). Beer taxes are also high. Washington is also one of the worst-ranked states for tobacco freedoms—only three states have higher cigarette taxes. Smoking bans are also extensive. Gambling is restricted, but social gaming is allowed. Educational regulation is intrusive: private schools need state approval and under certain conditions licensed teachers, and homeschoolers need to meet teacher qualifications, participate in annual standardized testing, and follow extensive recordkeeping rules, along with other requirements. Washington’s asset forfeiture laws are among the worst in the country, at a full standard deviation worse than average.

POLICY RECOMMENDATIONS

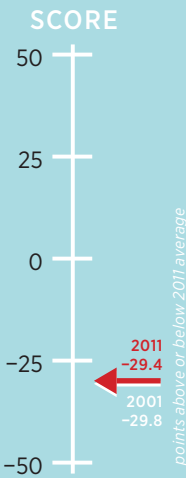
- Reduce spending until it is consistent with Washington’s relatively decent tax burden levels, starting by reducing government employment and spending on unemployment and workers’ compensation, which are all above national norms.
- Better protect property rights by enacting further-reaching eminent domain reform and reducing centralized land-use planning by repealing or amending the Growth Management Act and the Shoreline Management Act.
- Liberalize the alcohol and tobacco regimes, including reducing spirits and beer taxes until they are consistent with national averages.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	YES

WEST VIRGINIA

2011 RANK
42nd

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	40	36	35	32
REGULATORY	48	49	46	49
PERSONAL	3	12	8	9
OVERALL	44	42	38	42



Personal income per capita

\$33,513



Population

1,855,364



State and local tax burden

9.2%

Share of total US GDP

0.45%

Share of total US population

0.6%

Government consumption and subsidies

14.2%

State GDP ranking

38th

Population ranking

37th

State and local debt burden

18.3%

Net migration rate

1.0%



POLITICS

	2009	2011	2013
Governor	Manchin	Tomblin	Tomblin
Senate			
House of Delegates			



D



R

LEGISLATIVE SESSION DATES:
60 CD (typically January through March)

ANALYSIS

West Virginia is within the bottom 10 states in overall freedom, at 42nd. It has a long way to go, especially on the economic side. It may surprise readers that West Virginia—not often thought of as one of the more socially progressive states—ranks ninth on personal freedom.

The state’s fiscal policy rank is mediocre, but could be worse. Spending is high, especially education spending. However, West Virginia’s overall tax burden is better than average. Unlike Washington and Oregon, West Virginia has not acquired a huge debt burden from its mix of aggressive spending and relatively low taxes. However, selective sales, fuel, and utility taxes are among the highest in the country. Furthermore, West Virginia had very high corporate net income tax rates, which were reduced after the data cutoff date for this study and are scheduled to fall further in the future, assuming rainy-day fund requirements are met.¹⁶ The state is quite fiscally centralized, and government employment is more than a standard deviation higher than the national average.

West Virginia suffers from an abundance of regulation. It is ranked second-worst in this dimension (only California is worse). The state does well on residential land-use regulations. However, eminent domain could be more thoroughly reformed. The state’s liability system is the worst in the country, at more than three standard deviations below average. Its labor laws are slightly below average. West Virginia is not a right-to-work state. The state is mediocre on health insurance freedom. Health insurance coverage mandates are slightly greater than average. Utility deregulation is nonexistent.

West Virginia has a slightly above-average level of victimless crimes arrests, but its drug enforcement rate is low. Its asset forfeiture laws need reform. Gun control laws are quite liberal, though the state could broaden its no-duty-to-retreat rule. Marijuana laws are fairly moderate. Beer, wine, and spirits taxes are fairly low. Cigarette taxes are quite low, though local smoking bans exist. West Virginia has a helmet law and authorizes sobriety checkpoints, but there is no cell phone ban. Some gambling, including slot machines, is allowed, but social gambling is technically prohibited. West Virginia imposes teacher qualifications on homeschoolers, as well as annual standardized testing and extensive notification requirements. There is also a kindergarten attendance requirement.

POLICY RECOMMENDATIONS

- Cut state employment, which is well above the national average. Also work to reduce spending in areas above the national averages (such as education, administration, highways, and welfare). Continuing to reduce the corporate income tax will make the state more competitive for investment.
- Reform the state’s liability and asset forfeiture laws.
- Increase educational freedom by loosening regulations on homeschoolers and joining the other 48 states that do not mandate full-day kindergarten attendance.

16. West Virginia State Tax Department home page, last modified January 4, 2013, <http://www.wva.state.wv.us/wvtax/default.aspx>.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	YES	YES	NO

WISCONSIN

2011 RANK

38th

SCORE



	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	47	43	43	43
REGULATORY	14	16	21	15
PERSONAL	37	30	27	37
OVERALL	42	38	36	38



Personal income per capita

\$40,073

Share of total US GDP

1.70%

State GDP ranking

21st



Population

5,711,767

Share of total US population

1.8%

Population ranking

20th

Net migration rate

-0.2% ▼



State and local tax burden

10.5%

Government consumption and subsidies

10.5%

State and local debt burden

19.9%

POLITICS

	2009	2011	2013
Governor	Doyle	Walker	Walker
Senate			
Assembly			



LEGISLATIVE SESSION DATES:
Year-round sessions

ANALYSIS

Wisconsin has slipped slightly since the last edition of the index and is now just outside the bottom 10. However, this is one state that may already be improving due to legislative changes since the data cutoff for this study. For example, Governor Scott Walker and the state legislature have agreed to budget cuts in education and other areas, while passing Act 10—which aims to limit the bargaining power of public employee unions (though it is unclear whether this law will survive legal challenges). A study by the Wisconsin-based MacIver Institute for Public Policy argues that Act 10 has already saved taxpayers \$2 billion.¹⁷ Therefore, Wisconsin’s rank is likely to improve in the next edition of *Freedom in the 50 States*.

Wisconsin ranks near the bottom in economic freedom, due primarily to its poor fiscal policy. Wisconsin’s overall tax burden is very high, as are individual income and property taxes. State spending and debt are roughly average. However, its benefit payments are quite high, as is its level of transportation spending. Moreover, Wisconsin government employment is quite large relative to the private workforce.

Wisconsin fares a lot better in regulatory policy, ranking 15th. It is slightly worse than average in terms of land-use regulation but has passed some eminent domain reforms. Wisconsin’s labor market freedom, occupational freedom, health insurance freedom, and liability system are mediocre. It is not (yet) a right-to-work state, but has avoided mandating a minimum wage above the federal average or requiring employers to buy short-term disability insurance. Wisconsin does not have community rating (though there are small-group rate bands) or rate

reviews. Wisconsin has also deregulated cable and telecom. It does quite well in terms of insurance rate filing requirements. However, it is almost a standard deviation worse than the mean on occupational licensing.

Wisconsin performs below average in a number of personal freedom categories. The state has high victimless crimes arrest rates, though its drug enforcement rate is below average. It has the worst gaming laws in the country (social gambling is not allowed) and almost the strictest campaign finance laws. The state also performs below average on gun freedom and travel freedom. Home schools are regulated with some onerous notification requirements. Wisconsin has some of the best alcohol laws in the country, with taxes fairly low across the board. However, its cigarette taxes are very high and smoking bans are extensive. Wisconsin recently enacted a domestic partnership law. Its asset forfeiture laws score well (over one standard deviation better than average).

POLICY RECOMMENDATIONS

- Reduce the income tax burden while continuing to cut back spending through cuts in government employment and public employee benefits.
- Pass a right-to-work law, whenever political conditions so allow.
- Reform tobacco and marijuana regulations, using the state’s alcohol-friendly beer, wine, and spirits regulations as a model.

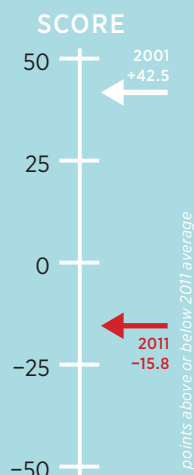
17. MacIver Institute, “Act 10 Taxpayer Savings Now Exceed \$2 Billion,” *MacIver News Service*, October 29, 2012, <http://www.maciverinstitute.com/2012/10/-you-can-see-our>.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	NO	YES	NO	NO

WYOMING

2011 RANK
36th

	2001 ranking	2007 ranking	2009 ranking	2011 ranking
FISCAL	10	12	42	45
REGULATORY	10	9	11	11
PERSONAL	31	20	23	21
OVERALL	10	7	31	36



Personal income per capita

\$47,301

Share of total US GDP

0.25%

State GDP ranking

48th



Population

568,158

Share of total US population

0.2%

Population ranking

50th

Net migration rate

4.5%



State and local tax burden

10.6%

Government consumption and subsidies

15.0%

State and local debt burden

9.7%

POLITICS

	2009	2011	2013
Governor	Freudenthal	Mead	Mead
Senate			
House of Representatives			



LEGISLATIVE SESSION DATES:
Odd years = 40 LD; even years = 20 LD

ANALYSIS

Wyoming saw the biggest decline in overall freedom over the last decade. In terms of its relative freedom ranking, the Equality State ranks 36th, down from 31st just two years ago. Wyoming’s steep decline is largely due to falling personal income since the 2007 recession, which has a particularly negative impact on the state’s fiscal policy score. This may be, to a considerable extent, an artifact of Wyoming’s unusual, energy-dependent economy.

Nonetheless, in economic matters, Wyoming would be wise to emulate its neighbors South Dakota, Idaho, and Utah. It has the highest taxes as a percentage of personal income in the region. Wyoming also spends too much. Its spending is nearly 2.5 standard deviations above the mean! Government payrolls are much too large, closing in on three standard deviations above the national average. At least Wyoming is fiscally decentralized and has not allowed its spending to elevate debt levels. The state is blessed with the lowest government debt ratio in the United States (at more than two standard deviations from the mean). Its citizens are fortunate that severance taxes provide a large part of the state’s revenue.

Wyoming performs better on regulatory policy than fiscal policy. It is in the top five states in terms of health insurance freedom and occupational freedom. Health insurance regulations are among the least intrusive in the country; health coverage mandates are nearly a standard deviation below average. Wyoming also performs well on occupational freedom. Labor laws are generally market-friendly—and Wyoming is a right-to-work state—though Wyoming requires employers to contribute to a state monopoly

fund for workers’ compensation. Its liability system and land-use regulations are better than average, and some eminent domain reform has occurred. Telecom and cable require deregulation.

Wyoming is close to the median state for personal freedom. However, it ranks as one of the worst in the country in terms of victimless crimes arrests and crime rate–adjusted incarceration rates. Just bringing these rates to the national mean level would have made Wyoming one of the freest states in terms of personal freedom and improved its overall ranking by three. On the plus side, Wyoming has very little gun control and ranks among the best states in this category. It is mediocre on alcohol freedom, with restrictive keg laws and state control of wholesale distribution of some wine and spirits. However, beer taxes remain the lowest in the country, while spirits taxes are also very low. Motorist freedoms are broad and drivers do not face sobriety checkpoints. Cigarette taxes are low, and smoking bans have exceptions. However, Wyoming’s drug enforcement rate is average. Private schools are somewhat regulated while home schools are not, except for strict notification requirements. Wyoming has the worst type of asset forfeiture regime in the country.

POLICY RECOMMENDATIONS

- Reduce the number of state employees to levels more consistent with national norms.
- Deregulate telecom and cable.
- Reform the victimless crimes regime until it is consistent with national norms.

	Separate spending and tax committees?	Item reduction veto?	Strict balanced budget requirements?	Supermajority for tax increases?
	YES	NO	NO	NO

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All remaining errors are our own.

APPENDIX A

CODING PROCEDURES

We started by collecting data on state and local public policies affecting individual freedom as defined above. All the statutory policies are coded as of December 31, 2010 (date of enactment), the fiscal data are coded for the fiscal year 2009–10, and the law enforcement data cover the entire year of 2010. The data are also back-coded consistently to December 31, 2000, December 31, 2006, and December 31, 2008.

The spreadsheet with all the variables included in our freedom index is available in Microsoft Excel 97–2003 format at www.freedominthe50states.org. This workbook has two separate worksheets, one for 2000–10 data and one for 2006–10 data. To find the sources and formulas for constructed variables, interested readers can also download separate spreadsheets for each policy area.

A few variables are not available for some of these years. Where necessary, we carry data forward and backward to maintain a consistent index of freedom over time. These instances are noted in the freedom index spreadsheet with comments; however, in the individual policy category spreadsheets, data are reported only for those years for which they were actually collected. For instance, the Wharton Residential Land Use Regulation Index was collected

in 2005 and 2006 by University of Pennsylvania researchers.¹ It is coded for 2006 only in the land-use regulation spreadsheet (*f_land_11.xls*), but in the spreadsheet in which we calculate the freedom index, we use the 2006 scores for 2000, 2008, and 2010 as well. This is the most extreme case of a variable that cannot change over time. Of 107 top-level variables, 23 needed some form of carry-forward or carry-back for at least one state and at least one year (the figure is 12 for the 2006–10 data alone).

In many cases, we directly code statutes with dichotomous or simple ordinal variables. In some cases, we code continuous statistical variables that capture both the relevant statutory framework and the manner in which legislated policies are administered (e.g., expenditure and revenue levels, incarceration rates adjusted for crime rates, etc.). Although we went directly to the statutes and legislative session data for many of our variables, we also collected fiscal data from the Census Bureau and the Bureau of Economic Analysis (BEA), law enforcement data from the FBI, health insurance policies data from the Henry J. Kaiser Family Foundation, labor market regulations data from the Department of Labor and the National Academy of Social

1. Joseph Gyourko, Albert Saiz, and Anita Summers, "A New Measure of the Local Regulatory Environment for Housing Markets: The Wharton Residential Land-Use Regulatory Index," *Urban Studies* 45, no. 3 (2008): 693–729.

Insurance, and so on. For detailed source data, consult the “Metadata” worksheet in each of the individual policy category spreadsheets.

In some cases, more complex ordinal scales (“top-level variables”) are created from the simpler variables, and the details of their construction are also available in the individual policy category spreadsheets. For instance, we create an index of eminent domain reform by taking into account four dimensions of reform: whether any reform has been enacted (binary yes/no variable); standards for private takings (simple ordinal variable, coded 1 if all takings for private use are prohibited, 0.5 if only certain private-to-private transfers are prohibited, and 0 if there are no effective restrictions on this type of eminent domain use); blight definitions (simple ordinal variable, coded 1 if a stricter definition of blight has been implemented either implicitly or explicitly, 0.5 if a vague definition of blight has been retained but the standard of proof for proving blight has been raised, and 0 otherwise); and whether the state constitution enshrines additional restrictions on eminent domain (simple ordinal variable, coded 1 if all additional restrictions have been thus enshrined, 0.5 if only some have, and 0 if none have).

Another example is our creation of an index of difficulty of asset forfeiture from three variables: standard of proof for showing property subject to forfeiture, innocent owner burden, and percentage of proceeds going to law enforcement. We employ these ordinal variables to capture unified policy concepts

whose individual elements are dependent on each other and thus should not be treated independently.

We do not wish to claim that our database is fully comprehensive in terms of policy coverage. In a few cases we found that coding state law directly would have been an exceedingly complex endeavor resulting in abstruse measures unlikely to illuminate the issue. Tort reform is one important example. States have implemented a wide variety of measures to counteract abuse of the tort system, and many of these highly technical and frequently idiosyncratic reforms are not strictly comparable across states. The relative importance of these features was also unclear to us, making the construction of a summary index of tort reform virtually impossible.

Furthermore, a fundamental problem with this approach to coding tort reform would be the fact that the states with the most flawed tort systems, from a business perspective, have implemented the most reforms. We have instead chosen to present a single variable capturing the quality of states’ tort systems: the US Chamber of Commerce survey ranking each state’s lawsuit climate (see <http://www.instituteforlegalreform.com/states>). This continuous variable seems to capture the concept we want quite well.

Finally, the database does not include any policies for which there was no state variation. For example, because all states license medical doctors, licensing of medical doctors was not included in measures of occupational and professional licensing.

CHANGES FROM THE PREVIOUS EDITION

The two most significant changes in this edition have already been described at length: the “victim cost” weighting scheme and the back-coding of the data to 2001. This section describes the new variables and changes to measurement.

In fiscal policy, we measure government spending and taxation somewhat differently from the last edition. Instead of total state and local government spending, we include just state and local government consumption and subsidies, from the BEA. The logic behind this change, which excludes transfers and government investment, is that transfers and investment victimize people only in that they require taxes. Their crowding-out effects are not the same as those of other kinds of government spending and are in general much smaller. The major beneficiary of this methodological change is Alaska. The other, less significant change is that we now exclude alcohol and tobacco taxes from the tax burden category. These variables are excluded from the fiscal policy dimension because they are included in the personal freedom dimension.

In regulatory policy, we have made immense strides since the last edition. In land-use policies, we now use the Wharton Residential Land-Use Regulation Index rather than the land-use planning variables we had included in previous editions. This index passes basic validity checks (like correlation with cost of living) and covers a wider range of policies

than our old variables. We have also added variables for local rent control and court decisions requiring that certain private landowners (such as universities and malls) permit political speech on their property.

We added rate review variables to our health insurance category. “Rate review” is essentially a form of price control on health insurance. Due to the Patient Protection and Affordable Care Act, the federal government now requires that states conduct at least some level of rate review. We have also added a variable for state laws permitting the sale of “mandate-light” or “mandate-free” health insurance policies. Due to restrictions and competition with public programs, take-up of these policies has been extremely low, however.

We continue to improve our indicators for occupational licensing, a particularly difficult and opaque area of state policy. Using the Institute for Justice’s recent occupational licensing study, we added new occupations to our measure of the extent of licensing by state governments. We also use that study’s variables for fees and for educational and exam requirements. Finally, we have also added variables tracking turf battles between regulated occupations, where states score better the wider the scope of practice for less strictly regulated professions: nurse practitioner independent practice, nurse licensing compact, dental hygienist independent practice, and physician assistants’ prescription authority.

The final improvement to our regulatory policy measures is an entirely new section for miscellaneous regula-

tions. The variables included here are interstate insurance product regulation compact membership, certificate of need requirements for hospitals, and state rate filing and classification regulations for personal automobile and homeowners' insurance.

In the personal freedom dimension, most of our improvements were incremental. In gun policy, we refined our open- and concealed-carry indices. We have improved our measurement of the licensing of handgun owners and purchasers. Finally, we include new variables for bans on so-called "Saturday Night Specials" and on Class III weapons and accessories.

In marijuana policy, we have created a new index of medical marijuana legalization, taking into account the extent to which marijuana is legally available to patients. We then find that we are able to use principal components analysis to aggregate five variables into a single index of overall "marijuana friendliness": log of maximum possible penalty for single offense, medical-marijuana index, mandatory minimums, misdemeanor status for all possession charges, and depenalization ("decriminalization").

In travel freedoms, we have removed a variable for personal injury protection coverage requirements, because this requirement is usually associated with "no-fault" states, and we wish to avoid taking a stand on whether "fault" or "no-fault" systems for automobile legal claims are superior.

In gaming policies, we have removed dummy variables for the particular types of gambling authorized, since the gaming revenues variable is

a much more sophisticated and accurate indicator of the extent of state limitation of gambling, and we want to avoid double-counting.

In miscellaneous civil liberties, we have slightly revised the fireworks laws index so that it more accurately reflects the stringency of each state's approach.

The most important change in our method for measuring personal freedom is the addition of adjusted incarceration rates, which are described in part 1.

Finally, we now aggregate tobacco policies into a single variable using principal components analysis.

APPENDIX B

DIMENSION, CATEGORY, AND VARIABLE WEIGHTS

Key:

DIMENSION

Category

Policy Variable

FISCAL POLICY: 35.3%

- Tax Burden: 28.6%
- Government Employment: 2.8%
- Government Spending: 1.9%
- Government Debt Burden: 1.2%
- Fiscal Decentralization: 0.9%

REGULATORY POLICY: 32.0%

- Liability System: 11.5%

- Real Property Rights: 7.6%
 - Local rent control: 4.2%
 - Wharton Residential Land Use Regulation Index: 3.0%
 - Regulatory taking restrictions: 0.3%
 - Eminent domain index: 0.1%
 - Mandated free speech on private property: <0.01%

- Health Insurance: 5.4%
 - Community rating, small groups: 1.8%
 - Health insurance mandates index: 1.7%
 - Individual health insurance mandate: 0.5%
 - Small group rate review: 0.5%
 - Community rating, individuals: 0.3%
 - Direct access to specialists mandated: 0.3%
 - Individual guaranteed issue: 0.3%
 - Individual rate review: 0.05%
 - Mandated external grievance review: 0.03%
 - Individual policies, elimination riders banned: 0.02%
 - Financial incentives to providers banned: 0.01%
 - Standing referrals mandated: 0.01%
 - COBRA continuation, small firms: <0.01%
 - Group conversion coverage, small firms: <0.01%
 - Group conversion rating limits: <0.01%
 - "Mandate-light" or "mandate-free" policies: <0.01%

Labor Market: 3.8%

Right-to-work: 2.0%

Short-term disability insurance: 0.7%

Workers' compensation funding regulations: 0.4%

Minimum wage: 0.3%

Workers' compensation coverage regulations: 0.3%

Employer verification of legal status: 0.1%

Paid family leave: <0.01%

Smoker protection laws: <0.01%

Occupational Freedom: 1.7%

Employment-weighted licensure (extent): 0.5%

Summed education and experience requirements: 0.5%

Nurse practitioner independent practice: 0.4%

Summed exam requirements: 0.2%

Dental hygienist independent practice: 0.1%

Summed fees for licensed occupations: 0.05%

Physician assistant prescribing authority: 0.04%

Nurse licensure compact membership: 0.02%

Miscellaneous Regulations: 1.3%

Certificate of need for hospitals: 0.6%

Rate filing requirements: personal auto insurance: 0.4%

Rate filing requirements: homeowners' insurance: 0.2%

Interstate insurance product regulation compact: 0.1%

Rate classification prohibitions: 0.1%

Cable and Telecom: 0.8%

Telecom deregulation: 0.5%

Statewide cable franchising: 0.3%

PERSONAL FREEDOM: 32.7%

Victimless Crimes: 9.8%

Crime rate—adjusted incarceration rate: 5.5%

Drug enforcement rate: 2.6%

Arrests for non-drug victimless crimes, % of all arrests: 0.9%

Arrests for non-drug victimless crimes, % of population: 0.9%

Gun Control: 6.6%

Tobacco: 4.1%

Alcohol: 2.8%

Alcohol distribution index: 1.2%

Beer taxes: 0.4%

Spirits taxes: 0.4%

Wine taxes: 0.4%

Blue laws: 0.3%

Keg regulations: 0.03%

Happy hour laws: 0.02%

Mandatory server training: <0.01%

Marriage: 2.1%

Same-sex partnerships recognized: 1.9%

Blood test requirement: 0.1%

Total waiting period: 0.1%

Marijuana: 2.1%

Marijuana index: 2.0%

Salvia ban: 0.1%

Gambling: 2.0%

Gaming revenues: 2.0%

Gambling felony: 0.03%

Social gaming exception: 0.03%

Internet gaming prohibition: <0.01%

Education: 1.9%

Private school teacher licensure: 1.0%

Compulsory schooling years: 0.3%

Private school curriculum control: 0.2%

Tax credit/deduction: 0.2%

Private school approval requirements: 0.1%

Homeschooling curriculum control: 0.1%

Homeschooling standardized testing: 0.1%

Homeschooling recordkeeping requirements: 0.04%

Homeschooling notification requirements: 0.02%

Homeschooling teacher qualifications: 0.02%

Mandatory kindergarten: 0.01%

Homeschooling law: <0.01%

Private school registration: <0.01%

Mala Prohibita and Civil Liberties: 0.6%

Prostitution legal: 0.3%

Raw milk sales legal: 0.1%

Trans-fat bans: 0.1%

Physician-assisted suicide legal: 0.04%

Two-party consent for recording: 0.04%

Fireworks laws: 0.03%

DNA taken from arrestees: 0.02%

Religious Freedom Restoration Act: <0.01%

Travel: 0.5%

Seat belt enforcement: 0.2%

Bicycle helmet laws: 0.1%

Motorcycle helmet laws: 0.1%

Un/underinsured motorist insurance required: 0.1%

Cell phone driving ban: 0.04%

Open container law: 0.02%

Sobriety checkpoints authorized: 0.01%

Asset Forfeiture: 0.1%

Campaign Finance: 0.02%

Individual contributions to candidates: 0.01%

Grassroots PAC contributions to candidates: <0.01%

Grassroots PAC contributions to parties: <0.01%

Individual contributions to parties: <0.01%

Public financing: <0.01%

Note: Percentages listed do not sum to exactly 100.0% due to rounding.

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