



# FREEDOM IN THE 50 STATES

AN INDEX OF PERSONAL AND  
ECONOMIC FREEDOM

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## EXECUTIVE SUMMARY

THIS STUDY COMPREHENSIVELY RANKS the American states on their public policies that affect individual freedoms in the economic, social, and personal spheres. It updates, expands, and improves upon our inaugural 2009 *Freedom in the 50 States* study. For this new edition, we have added more policy variables (such as bans on trans fats and the audio recording of police, Massachusetts's individual health-insurance mandate, and mandated family leave), improved existing measures (such as those for fiscal policies, workers' compensation regulations, and asset-forfeiture rules), and developed specific policy prescriptions for each of the 50 states based on our data and a survey of state policy experts. With a consistent time series, we are also able to discover for the first time which states have improved and worsened in regard to freedom recently.

Our approach to measuring freedom in the states is unique in three respects: (1) it includes measures of social and personal freedoms such as peaceable citizens' rights to educate their own children, to own and carry firearms, and to be free from unreasonable search and seizure; (2) it incorporates more than 150 distinct public policies; and (3) it is particularly careful to measure fiscal policies in a way that reflects the true cost of government to the citizen.

We find that the overall freest states in the country are New Hampshire and South Dakota, which together achieve a virtual tie for first place, while New York is the least free by a considerable margin. On personal freedom alone, Oregon now comes first, with Vermont and Nevada not too far behind, and Maryland brings up the rear. On economic freedom alone, South Dakota easily takes first, and New York is a distant last. The most improved states since the last edition of our study are Oregon, Nevada, Maine, and Washington, while Wyoming, California, Arizona, and Massachusetts have fallen the furthest. Two of the most intriguing findings of our statistical analysis are that Americans are voting with their feet and moving to states with more economic and personal freedom and that economic freedom correlates with income growth.

The data used to create the rankings are available online at <http://mercatus.org/freedom-50-states-2011>, and we invite others to see how the overall state freedom rankings might change given their own weightings of the various public policies.



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## PURPOSE OF THE INDEX

THIS PROJECT DEVELOPS an index of economic and personal freedom in the American states. Specifically, it examines state and local government intervention across a wide range of public policies, from income taxation to gun control, from home-schooling regulation to drug policy.

This report can be put to a variety of uses:

- (1) 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 others and to determine where real improvements can be made. While recognizing that policy makers are better situated to make such determinations, we offer some pro-freedom policy recommendations tailored for each state. These are contained in the state profiles located at the end of the study.
- (2) Scholars can use the indices to model politics and policy outcomes in areas such as economic growth and migration.
- (3) Businesses considering new investment or relocation can use the data to analyze state tax and regulatory regimes and the relative openness and tolerance that attract highly productive employees.
- (4) Individuals can use the data to plan a move or retirement.

We score all 50 states on overall respect for individual freedom and on specific components of freedom: fiscal policy, regulatory policy, and paternalism. The data are valid as of January 1, 2009 (fiscal data through fiscal year 2008), the latest year available consistently across our variables. Our approach in this study is to weight policies according to the number of people affected, the intensity of preferences on the issue, and the importance of state policy variation. However, we happily concede that different people value aspects of freedom differently. Hence, we provide the raw data and weightings on our website so interested readers may construct their own personal freedom rankings; the spreadsheet is available at <http://mercatus.org/freedom-50-states-2011>.

## MEASURING FREEDOM AND GOVERNMENT INTERVENTION

WE EXPLICITLY GROUND our conception of freedom on an individual-rights framework. In our view, individuals should be allowed to dispose of their lives, liberties, and properties as they see fit, as long as they do not infringe on the rights of others.<sup>1</sup> This understanding of freedom follows from the 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.<sup>2</sup> In the context of the modern state, this philosophy engenders a set of normative policy prescriptions that political theorist Norman Barry characterizes as follows:

[A] belief in the efficiency and morality of unhampered markets, the system of private property, and individual rights—

1. 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.

2. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); Immanuel Kant, *Foundations of the Metaphysics of Morals* (Lewis White Beck (tr.), Upper Saddle River, NJ: Prentice Hall, 1995); John Locke, *The Second Treatise of Government* (reprinted in David Wootton (ed.), *Political Writings of John Locke*, New York: Penguin, 1983); Herbert Spencer, *Social Statics: Or, The Conditions Essential to Happiness Specified, and the First of Them Developed* (London: John Chapman, 1851).

and a deep distrust of taxation, egalitarianism, compulsory welfare, and the power of the state.<sup>3</sup>

In essence, what this study attempts to measure is the extent to which state and local public policies conform to this ideal regime of maximum, equal individual freedom.<sup>4</sup> For us, the fundamental problem with state intervention in consensual acts is that it violates persons' rights. To paraphrase Nozick, in a free society government permits and protects both capitalist and noncapitalist acts between consenting adults.<sup>5</sup> Should individuals desire to "tie their own hands" and require themselves to participate in social insurance, redistributive programs, or paternalist projects, they should form communities by contract for these purposes.

We would also argue that freedom, properly understood, can be threatened as much by the weakness of the state as by overbearing state intervention. Individuals are less free the more they have reason to fear private assaults and depredations, and a useful government punishes private aggression vigorously. However, we focus on threats to individual liberty originating in the state. Therefore, we do not code the effectiveness of state governments in punishing rights violations. For instance, we do not include measures of the efficacy of state police and courts or measures of violent- and property-crime rates.<sup>6</sup> Thus, our freedom index does not capture all aspects of freedom.

Our definition of freedom presents specific challenges on some high-profile issues. Abortion is a critical example. By one account, the fetus is a rights-bearing

person, and abortion is therefore an aggressive violation of individual rights that ought to be punished by government. By another account, the fetus does not have rights, and abortion is a permissible exercise of an individual liberty, in which case government regulation of abortion would be an unjust violation of a woman's rights. Rather than take a stand on one side or the other (or anywhere in between), we have coded the data on state abortion restrictions but have not included the policy in our overall index.

Another example is the death penalty. Some would argue that a murderer forfeits her 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 mistakenly executing them. State sentencing policies short of the death penalty could also be debated. We do not include the death penalty or incarceration rates in the freedom index, although we have coded the data and made them available online at <http://www.statepolicyindex.com>.

## FISCAL POLICY

WE DIVIDE FISCAL policy equally into spending and taxation subcategories.<sup>7</sup> These subcategories are highly interdependent; we include them both as redundant measures of the size of government. Redundancy in variables reduces error in measuring the underlying concept.

3. Norman Barry, "The Concept of 'Nature' in Liberal Political Thought," *Journal of Libertarian Studies* 8, no. 1 (1986): 16, n. 2.

4. 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's essay, "Two Concepts of Liberty," in Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969).

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

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

7. Fiscal variables are measured for fiscal year 2008. Thus, they omit the effects of the federal stimulus, but in this edition we derive some rough estimates of the stimulus's projected long-term effect on state taxes and spending.



We rate lowest the narrow, technical variable, local government budget constraints (local own-source revenues as a percentage of local spending). Local government budget constraints, a measure of how much local governments depend on their own resources rather than on grants from state and federal governments, are a prudent fiscal measure aimed at ensuring that local governments spend within their means.<sup>8</sup> Fiscal decentralization (local own-source revenues as a percentage of total state and local spending, adjusted for state population—higher is better) is considered to be four times as important, and state and local government employment as a percentage of total employment (lower is better) is considered to be three times as important. The remainder of the spending subcategory (one-half of the total) is devoted to aggregate measures of state and local spending.

Taxation is a simple subcategory. We include debt burden here because it represents future taxation. State and local tax revenues as a percentage of personal income (lower is better) account for three-fourths of the total taxation weight—fully 9.4 percent of the total freedom score—while state and local outstanding debt as a percentage of personal income (lower is better) accounts for one-fourth of the total taxation weight.

Table 1 gives the ranking and scores of the states on fiscal policy in 2009.

## REGULATORY POLICY

IN THIS STUDY, regulatory policy includes labor regulation, health-insurance coverage mandates, occupational licensing, eminent domain, the tort system, land-use regulation, and utilities. Regulations that

seem to have a mainly paternalistic justification, such as home- and private-school regulations, are placed in the paternalism category.

Labor and health-insurance regulation are equally weighted and comprise the two most important issue subcategories for this category. Both sets of policies fundamentally affect the state economy. Labor regulations such as the minimum wage, right-to-work laws, and workers' compensation can significantly raise the cost of doing business (and correlate strongly with unionization rates by state). Health insurance is one of the most important political issues in the United States today, but most voters seem not to realize that state governments dramatically influence the cost and availability of private health insurance. State health-insurance regulations can increase the cost of health insurance by 50 percent or more.<sup>9</sup> Together, these subcategories comprise just over one-half of the total regulatory index.

The lion's share of labor regulation has to do with right-to-work laws, which strongly influence unionization rates, and with the minimum wage, which is adjusted for median private wages. Right-to-work laws are somewhat controversial among libertarians. On the one hand, 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, some argue that right-to-work laws are justified as a means of employer and employee self-defense against the mechanisms of the Wagner Act (the National Labor Relations Act [NLRA]), which essentially allows a "union shop" or "agency shop" to form if a majority of workers votes in favor. From the libertarian point of view, the Wagner Act fundamentally violates freedom of association and basic property rights, and right-to-work laws somewhat restore that freedom. (In an ideal world, both the NLRA and

8. Jonathan Rodden, "Reviving Leviathan: Fiscal Federalism and the Growth of Government," *International Organization* 57 (2003): 695–729.

9. Victoria Craig Bunce, J. P. Wieske, and Vlasta Prikazsky, *Health Insurance Mandates in the States 2007* (Council for Affordable Health Insurance, 2007), [http://www.cahi.org/cahi\\_contents/resources/pdf/MandatesInTheStates2007.pdf](http://www.cahi.org/cahi_contents/resources/pdf/MandatesInTheStates2007.pdf).

right-to-work laws would be repealed.) At much lower weights, we consider disability insurance, mandated family leave, workers' compensation requirements and funding regulations, mandated employer verification of legal residency, prevailing-wage laws, state occupational safety and health agencies, and smoker-protection laws, in descending order.

For health-insurance coverage mandates, we have tried to weight policies according to their impact on private health-insurance cost and availability. Our index of health-insurance coverage mandates, which is internally weighted by estimated effect on expense (see appendix), is the highest-weighted variable. Second in importance is Massachusetts's individual health-insurance mandate (which requires individuals to maintain health insurance or pay a fine), followed by community rating on both individual and small-group plans—effectively a form of price control that redistributes wealth from the healthy to the unhealthy. Below these is an assortment of minor regulations that we expect to add to the cost of health insurance.

In the second tier, we have placed occupational licensing and the quality of the legal-liability system. We measure each of these straightforwardly. Occupational licensing examines the number of licensed occupations, including only those occupations for which there is some variance across states. It captures guild-style rent-seeking aimed at fleecing the consumer by artificially limiting the supply of services. The liability-system variable is a rating of state tort systems based on a survey of business owners and managers. It captures an important element of business costs that are passed on to the consumer. Together these variables constitute 28 percent of the overall regulatory index.

Next is eminent-domain reform. Public takings of private property infringe on private-property rights, and the violation is more obvious when it is done without a clear, indisputable public-goods rationale, such as obtaining a right-of-way for public infrastructure. While very few people will ever have their homes threatened for use as a parking lot for one of Donald Trump's casinos or actually taken for economic development as in the infamous *Kelo* case,<sup>10</sup> this kind of governmental overreach is so problematic that we have to rate this subcategory highly, as 10.7 percent of the regulatory index.<sup>11</sup> While most states that have reformed eminent domain have kept open a wide "blight loophole" that could still allow public takings for private interests, we have coded this index to take into account blight reform as well as the incorporation of eminent-domain restrictions into the state constitution (coding details are available in appendix).<sup>12</sup>

Land-use regulations make up just 5.4 percent of the regulation score. We would argue that property owners can solve most land-use externalities with various contractual arrangements, such as homeowners' associations. Of course, some land-use planning could be seen as a second-best response to distorted incentives created by road subsidies. However, the land-use variables we include relate mostly to the centralization of the planning process, rather than to zoning per se. The more centralized land-use planning is at the state level, the less likely it is to meet the needs of local people. Nearly half of this subcategory's total weight comes from a variable for "vertical consistency" in land-use planning, which reflects the state's determination to make local laws consistent with those of higher levels of government. In descending order of weight, the other variables in this subcategory are the existence of guidelines for a state development plan, regulatory takings prohibitions,

10. See *Kelo v. City of New London*, 545 U.S. 469 (2005) and *Casino Reinvestment Development Authority v. Banin*, 727 A.2d 102 (NJ Superior Court, 1998).

11. It is not just our sense of justice that suggests a relatively high rating given the strong and quick public and legislative reactions to *Kelo*.

12. See Ilya Somin, "The Limits of Backlash: Assessing the Political Response to *Kelo*," *Minnesota Law Review* 93 (June 2009): 2100–78.

**TABLE 1: FISCAL POLICY RANKING**

STATE	FISCAL FREEDOM
1. South Dakota	0.355
2. New Hampshire	0.299
3. Oklahoma	0.186
4. Tennessee	0.183
5. Colorado	0.176
6. North Dakota	0.170
7. Idaho	0.168
8. Missouri	0.168
9. Nevada	0.154
10. Montana	0.138
11. Maryland	0.124
12. Texas	0.124
13. Virginia	0.124
14. Alabama	0.115
15. Florida	0.104
16. Georgia	0.097
17. Iowa	0.081
18. Oregon	0.070
19. North Carolina	0.038
20. Arkansas	0.029
21. South Carolina	0.015
22. Wyoming	0.014
23. Mississippi	0.013
24. Indiana	0.011
25. Arizona	0.005
26. Illinois	-0.002
27. Kansas	-0.010
28. Massachusetts	-0.023
29. Nebraska	-0.026
30. West Virginia	-0.026
31. Louisiana	-0.031
32. Washington	-0.035
33. Utah	-0.037
34. Pennsylvania	-0.038
35. Connecticut	-0.039
36. Minnesota	-0.058
37. Ohio	-0.063
38. Rhode Island	-0.067
39. Maine	-0.078
40. Kentucky	-0.088
41. Michigan	-0.088
42. Wisconsin	-0.093
43. Delaware	-0.121
44. New Jersey	-0.129
45. New Mexico	-0.164
46. Vermont	-0.189
47. California	-0.198
48. Hawaii	-0.205
49. Alaska	-0.434
50. New York	-0.471

Source: Authors' calculations.

**TABLE 2: REGULATORY POLICY RANKING**

STATE	REGULATORY FREEDOM
1. Indiana	0.165
2. Iowa	0.154
3. Utah	0.135
4. Virginia	0.124
5. North Dakota	0.118
6. Nebraska	0.115
7. South Dakota	0.114
8. Georgia	0.113
9. Kansas	0.111
10. Alabama	0.105
11. Michigan	0.097
12. South Carolina	0.093
13. Idaho	0.087
14. Arizona	0.084
15. Wisconsin	0.079
16. Wyoming	0.071
17. North Carolina	0.066
18. New Hampshire	0.058
19. Tennessee	0.055
20. Delaware	0.054
21. Florida	0.053
22. Oklahoma	0.050
23. Pennsylvania	0.044
24. Missouri	0.043
25. Colorado	0.039
26. Texas	0.019
27. Illinois	-0.005
28. Kentucky	-0.005
29. Alaska	-0.006
30. Mississippi	-0.022
31. Nevada	-0.035
32. Oregon	-0.036
33. Ohio	-0.046
34. Arkansas	-0.063
35. Vermont	-0.063
36. Maine	-0.073
37. Louisiana	-0.078
38. Minnesota	-0.080
39. Connecticut	-0.083
40. New York	-0.090
41. New Mexico	-0.099
42. Montana	-0.101
43. Hawaii	-0.117
44. Maryland	-0.119
45. West Virginia	-0.126
46. Rhode Island	-0.173
47. California	-0.184
48. Washington	-0.187
49. Massachusetts	-0.222
50. New Jersey	-0.239

Source: Authors' calculations.

**TABLE 3: ECONOMIC FREEDOM RANKING**

STATE	ECONOMIC FREEDOM
1. South Dakota	0.469
2. New Hampshire	0.357
3. North Dakota	0.288
4. Idaho	0.256
5. Virginia	0.248
6. Tennessee	0.238
7. Oklahoma	0.236
8. Iowa	0.234
9. Alabama	0.219
10. Colorado	0.215
11. Missouri	0.211
12. Georgia	0.209
13. Indiana	0.176
14. Florida	0.157
15. Texas	0.143
16. Nevada	0.118
17. South Carolina	0.107
18. North Carolina	0.104
19. Kansas	0.102
20. Utah	0.098
21. Nebraska	0.090
22. Arizona	0.089
23. Wyoming	0.085
24. Montana	0.037
25. Oregon	0.035
26. Michigan	0.009
27. Pennsylvania	0.006
28. Maryland	0.005
29. Illinois	-0.007
30. Mississippi	-0.009
31. Wisconsin	-0.014
32. Arkansas	-0.033
33. Delaware	-0.067
34. Kentucky	-0.093
35. Louisiana	-0.109
36. Ohio	-0.109
37. Connecticut	-0.121
38. Minnesota	-0.138
39. Maine	-0.151
40. West Virginia	-0.152
41. Washington	-0.222
42. Rhode Island	-0.240
43. Massachusetts	-0.246
44. Vermont	-0.253
45. New Mexico	-0.263
46. Hawaii	-0.322
47. New Jersey	-0.368
48. California	-0.382
49. Alaska	-0.440
50. New York	-0.561

Source: Authors' calculations.

**TABLE 4: PERSONAL FREEDOM RANKING**

STATE	PERSONAL FREEDOM
1. Oregon	0.250
2. Vermont	0.205
3. Nevada	0.196
4. Indiana	0.169
5. Alaska	0.140
6. Missouri	0.104
7. Maine	0.091
8. Colorado	0.088
9. Idaho	0.088
10. New Mexico	0.085
11. New Hampshire	0.084
12. Mississippi	0.070
13. Texas	0.068
14. Florida	0.066
15. Kansas	0.060
16. North Carolina	0.054
17. Utah	0.043
18. Wisconsin	0.040
19. Kentucky	0.040
20. Wyoming	0.034
21. Arkansas	0.033
22. Virginia	0.026
23. Washington	0.026
24. West Virginia	0.006
25. Michigan	0.003
26. Arizona	0.003
27. Minnesota	-0.001
28. Nebraska	-0.007
29. Oklahoma	-0.013
30. Iowa	-0.014
31. Georgia	-0.021
32. Louisiana	-0.034
33. Montana	-0.044
34. South Dakota	-0.055
35. Pennsylvania	-0.056
36. Connecticut	-0.059
37. North Dakota	-0.063
38. Alabama	-0.068
39. Tennessee	-0.070
40. South Carolina	-0.093
41. California	-0.105
42. Ohio	-0.105
43. Hawaii	-0.123
44. Delaware	-0.129
45. New Jersey	-0.137
46. Rhode Island	-0.143
47. Massachusetts	-0.147
48. New York	-0.191
49. Illinois	-0.193
50. Maryland	-0.273

Source: Authors' calculations.

state-mandated local land-use plans and horizontal consistency mandates, and internal consistency requirements and an outside group's assessment of the overall strength of the state planning role.

The least important issue subcategory in regulatory policy is utilities: natural gas, telecommunications, and cable (electricity restructuring is excluded for the lack of reliable, up-to-date information on which states are still attempting to maintain competition at the retail and wholesale levels). While these services are important for household budgets, it is not 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 natural 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.<sup>13</sup> Utilities therefore comprise just 3.6 percent of the overall regulatory index, with natural gas, telecom, and cable weighted equally (see appendix for variable coding descriptions).

Table 2 presents the overall ranking of states on regulatory policy.

Although we believe 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. Therefore, table 3 provides such

a ranking. For reasons stated earlier, this economic freedom index should improve on previous rankings and, thus, could be used independently of the overall index as a substitute for previous measures.

## PATERNALISM

IN DECIDING HOW to weight personal freedoms, we started from the bottom up, beginning with the freedom we saw as least important in terms of saliency, constitutional implications, and the number of people affected, and working up to the most important. For us, gaming and gambling laws fall at the bottom. All states—even Nevada—regulate gaming to some extent, and while gaming is a popular leisure activity among Americans, it is hardly critical to the foundations of the Republic. Gaming laws are worth 6.2 percent of the overall personal freedom index. Within this subcategory, we rated state and local gaming revenues as a percentage of personal income as three-tenths (the only type of tax that gets a positive score in our index!), each type of gaming permitted as one-twentieth, whether “aggravated gambling” is a felony as one-fifth, legalization of Internet gaming as one-sixth, and laws prohibiting social gaming—which are prima facie highly intrusive but we suppose almost never enforced—as one-thirtieth of the total.

The next-lowest-weighted subcategory in paternalism is alcohol regulation, worth 50 percent more than gaming laws. Because of the more apparent ubiquity of alcohol consumption, we weighted regulations that make it more expensive to consume alcohol higher than those that restrict gambling.<sup>14</sup> Alcohol regulations include state control of alcohol distribution (an index of wholesale and retail control of beer, wine, and spirits), worth just under one-third of the total; taxes on beer, wine, and spirits, worth just over two-fifths; “blue laws” that prohibit Sunday

13. Peter Van Doren and Jerry Taylor, “Rethinking Electricity Restructuring,” *Cato Institute Policy Analysis* no. 530, [http://www.cato.org/pub\\_display.php?pub\\_id=2609](http://www.cato.org/pub_display.php?pub_id=2609), accessed August 4, 2008.

14. Iain Gately, *Drink: A Cultural History of Alcohol* (New York: Gotham Books, 2008).

sales, worth just over one-sixth; and keg regulations (registration/bans), mandatory server training, and happy-hour laws worth the remaining one-tenth.

The next tier from the bottom consists of auto and road regulations and tobacco regulations, each worth 12 percent of personal freedom. Libertarians generally support rules of the road that facilitate optimal traffic flow and prohibit reckless and intoxicated drivers from imposing risks of harm on others, but they oppose laws that punish private behavior that does not violate the rights of others. For that reason, seatbelt laws and sobriety checkpoints count as notable infringements on individual liberty. Bicycle- and motorcycle-helmet laws are also restrictions that impose undue costs (though any harm that comes to people from not wearing helmets should be fully internalized by the individuals in question). Mandatory automotive personal-injury and underinsured driver insurance are paternalistic restrictions on individual choice. Open-container bans are included as a minor nuisance (we support drunk-driving laws, however), and cell-phone driving bans are also included. In theory, cell-phone driving bans could be justified on libertarian grounds as necessary for public safety, but it is better to subsume such bans under a general “distracted driving” penalty, as some states have, which we do not code as a restriction on freedom. It is also worth noting that research disputes the effect of cell-phone usage on crash rates,<sup>15</sup> and research also shows that text-messaging bans do not reduce crashes, probably because they are difficult to enforce.<sup>16</sup>

Tobacco laws receive a higher weight than alcohol regulations because they tend to go much further. The taxes are higher and the limitations on consumption are much more onerous. Smoking bans make up over half of this subcategory, with cigarette taxes making up most of the rest. Regulations

on vending machines and Internet purchases round out this subcategory.

Campaign-finance regulations are worth just slightly more, at 12.9 percent of personal freedom. We gave this fairly technical area a relatively high weight because of these laws’ First Amendment implications. Of primary importance are regulations on individual donations to candidates and parties and grassroots political action committee (PAC) donations to candidates and parties. Secondarily, we consider restrictions on corporate and union contributions, but these receive just over half the weight of the other restrictions for two reasons. First, we suspect that corporations and unions are often lobbying for an agenda that restricts freedom in some way. Second, corporations may even prefer restrictions on what they can give to candidates so that politicians cannot shake them down for more funds. Finally, a public financing of elections index is worth almost one-fifth of the subcategory (see appendix for coding details).

At the next level we have asset-forfeiture rules. Asset forfeiture, when perpetrated without a conviction of the owner, is an egregious violation of both property rights and the Fourth Amendment. Unfortunately, only a minority of states have reformed asset-forfeiture rules to put the burden of proof on the government and require owner involvement in criminal activity for forfeiture.

Marriage and civil-union laws and arrests for victimless crimes are each worth 16.2 percent of personal freedom. We have measured arrests for victimless crimes in three ways. The first focuses on drug arrests, which constitute the majority of victimless-crimes arrests. The drug-arrest index divides per capita, over-18 drug arrests by the ratio of the over-18 population that reports having used drugs in the

15. Saurabh Bhargava and Vikram Pathania, “Driving Under the (Cellular) Influence: The Link Between Cell Phone Use and Vehicle Crashes” (working paper, AEI Center for Regulatory and Market Studies, Washington, DC, 2007), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1129978](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1129978).

16. Larry Copeland, “Texting Bans May Add Risk to Roads,” *USA Today*, September 28, 2010, [http://www.usatoday.com/tech/wireless/2010-09-28-1Atextingbans28\\_ST\\_N.htm](http://www.usatoday.com/tech/wireless/2010-09-28-1Atextingbans28_ST_N.htm), accessed December 6, 2010.

past month to examine how ferociously drug laws are enforced. The other two variables use arrests of adults over 18 for liquor laws, gambling, and prostitution in the numerator. One measure uses state population in the denominator, while the other uses total arrests. The first variable thus measures the likelihood of being arrested for engaging in a victimless crime, while the second captures the focus of police in the state: are they going after real criminals or just people engaged in vice? The latter two variables are equally weighted and, combined, equal the weight of the drug-arrests index.

Marriage and civil-union laws are coded equally with arrests for victimless crimes because of the high salience of the issue. State attempts to enhance the ability of same-sex partners to make voluntary contracts that affect life or death decisions unequivocally enhance individual liberty. (One could argue that states should get the government out of marriage licensing altogether and offer streamlined “life-partnership contracts” to all sorts of families and households, not just heterosexual and homosexual two-partner relationships.) Our main variable in this subcategory simply indicates whether the state recognizes some form of domestic partnership, civil union, or marriage for same-sex couples (states do not get extra points for moving up that scale). Also in this subcategory, although worth far less in the index, are blood-test requirements and marriage-license waiting periods, which libertarians would deem unnecessary for consenting adults.

The *mala prohibita* and civil liberties subcategory is a miscellany of paternalistic additions to the criminal-law and civil-liberty issues. Almost a third of the whole subcategory has to do with the high-salience issue of legalized prostitution, which only Nevada and, to a lesser extent, Rhode Island (where brothels are banned, but not sex for money) can boast. Next comes physician-assisted suicide, which only Oregon and Washington permitted as of the closing date on our index (Montana now allows it as well, via

court decision). Whether police can take DNA from criminal suspects comprises a little over a tenth of the subcategory. Religious freedom restoration acts (RFRA), statewide trans fat bans, and two-party consent laws for recording public officials (which police and prosecutors interpret extremely broadly) are weighted the same. The other two policies, worth about a tenth together, are fireworks bans and prohibitions on raw-milk sales.

Marijuana policies are a high-profile issue and are worth over a tenth of the paternalism index. Full legalization of the production and sale of marijuana is the optimal policy choice, which will enhance freedom not only by allowing adults to engage in consensual behavior but also by reducing the harmful consequences of the drug war and the related and more dangerous activities that result from drugs’ being illegal (such as incentives for gang involvement). Unfortunately, every state criminalizes the production and sale of marijuana for nonmedical purposes.<sup>17</sup> Some states have decriminalized possession of small amounts of marijuana, legalized medical marijuana, or moderated sentencing criteria for marijuana offenses. These policies should be understood as “humanitarian” measures rather than real alternatives to prohibition. Nevertheless, they do enhance freedom for some people in an important way. We consider medical-marijuana exceptions to be the least important marijuana policy in our dataset, partly because fewer people are affected by this exception than by marijuana laws in general, but mostly because laboratory-developed cannabinoids are rendering the medical argument for legalization less compelling over time. Anything that increases individuals’ fundamental freedom in their own bodies is positive, but the other marijuana policies—legalization of low-level possession (only in Alaska), decriminalization of low-level possession, making high-level possession a misdemeanor rather than a felony, making low-level cultivation a misdemeanor rather than a felony, mandatory minimum sentences for low-level cultivation or sale, and maximum pos-

17. We do not consider laws on the possession of cocaine, heroin, or other drugs. Because every state criminalizes possession of these drugs, there is no variance to work with.

sible sentences for a single marijuana offense (some states allow life in prison for a single marijuana charge)—are more important. We also include in this subcategory policies toward *Salvia divinorum*, which some states have banned. This variable receives a very low weight because of the plant’s unpopularity for consumption.

Gun control is worth just under a seventh of the full paternalism category. It is worth slightly more than marijuana policies because variance in state policies is so much greater and because state and federal constitutions explicitly protect the right to keep and bear arms.<sup>18</sup> Illinois allows municipalities to ban possession of handguns altogether, although *McDonald v. Chicago* (2010) has recently overturned such laws, while 26 states allow anyone to wear a handgun openly on the hip without a permit of any kind.<sup>19</sup> The appendix describes our construction of the gun-control variable in more depth. Essentially, this variable captures a wide range of policies, from concealed- and open-carry regulations to assault-weapons bans, waiting periods, gun-show and private-sale regulations, licensing of gun owners, registration of firearms, trigger locks, and more.

Education is the most important subcategory under paternalism, worth roughly twice as much as marriage and civil unions, asset forfeiture, and arrests for victimless crimes and worth more than three times as much as alcohol regulations. It represents almost one-twelfth of the total freedom index. Besides taxing and spending, which are each worth one-eighth of the overall index, education is the most important subcategory. The reason we consider education regulations so important is that they affect the future course of liberty by affecting how and what the next generation is taught. Education regulations lie within the paternalism category because they are fundamentally justified on the claim that parents do not know how or where best to educate their own chil-

dren. Politically, of course, the regulations probably exist to serve the interests of school administrators and teachers’ unions rather than for any more high-minded purpose.

Even if some regulations, such as curriculum requirements, helped to achieve better educational outcomes, libertarians would generally reject them as infringements on the legitimate sphere of parental discretion. As with gun-control laws and sobriety checkpoints, the libertarian point of view holds that people should be left alone unless they demonstrably pose a risk of harm to others; this viewpoint rules out laws based on “prior restraint,” which violates the rights of all individuals in order to prevent the possible commission of future harms by some. Therefore, if some parents intentionally maintain their children in a state of gross ignorance, then they should be prosecuted for abuse. Otherwise, families should be left alone to pursue the educational choices best suited to them.

Home- and private-school regulations are each worth just over a third of the subcategory. The remainder is divided equally among availability of tax credits or deductions for attending private school, number of years of compulsory schooling, and mandatory kindergarten. Among private-school regulations, the lowest weight goes to a variable counting whether a state has a law explicitly authorizing homeschooling. The lack of a law does not necessarily mean that homeschooling is prohibited. In Idaho, there is no homeschooling law, and the practice is therefore permitted and effectively unregulated. However, we do think that having a law is a net benefit because it should provide some legal protection to parents.<sup>20</sup> The most egregious homeschooling regulations, in our view, are teacher qualifications—which rule out homeschooling for some parents—and standardized testing requirements, which can be expensive and time-consuming. Next is an index of curriculum con-

18. See in particular *District of Columbia v. Heller*, 554 U.S. 570 (2008).

19. Two additional states allow permit-free open carry unless local ordinances prohibit it.

20. In this case, we mirror the concerns of the Bill of Rights supporters who argued against the Federalists that a written legal protection of individual rights was necessary even though they were natural rights retained by individuals.



trol, which is usually broad rather than detailed, followed by indices of notification and recordkeeping requirements, which can be annoying but are usually not onerous. Private-school regulation can actually go even further. In some states, the local school board or other government agency must approve all new private schools. That variable is weighted highly, as is licensure of private-school teachers, while curriculum control and school registration are worth half as much.

Table 4 gives the summary scores and ranking of the states on personal freedom. Note that the range of scores on personal freedom is smaller than that on economic freedom. We take this difference to reflect the fact that liberal and conservative states both like to protect some personal freedoms and threaten others, whereas on economic issues, liberal states simply tend to have bigger governments.

## RANKINGS AND DISCUSSION

BY SUMMING THE economic freedom and personal freedom scores, we obtain the overall freedom index, presented in table 5. New Hampshire and South Dakota again find themselves in a virtual tie for first. Under unified Democratic governance between January 2007 and January 2009, New Hampshire increased on personal freedom (+0.064) while falling slightly on economic freedom (−0.012), despite a smoking ban. South Dakota improved dramatically on fiscal policy (+0.103), where it was already strong. The next tier of states consists of Indiana, Idaho, Missouri, and Nevada, all roughly tied.

On the other hand, many states perform quite poorly in providing a liberty-friendly environment for their citizens. New York is the least free by a considerable margin. This will surprise few residents of the Empire state. In order from the bottom, New York is followed by New Jersey, California, Hawaii, Massachusetts, and Rhode Island. Unfortunately, these states make up a substantial portion of the total American population. Moreover, these bottom six states have

**TABLE 5: OVERALL FREEDOM RANKING**

STATE	OVERALL FREEDOM
1. New Hampshire	0.441
2. South Dakota	0.414
3. Indiana	0.344
4. Idaho	0.343
5. Missouri	0.315
6. Nevada	0.315
7. Colorado	0.303
8. Oregon	0.285
9. Virginia	0.274
10. North Dakota	0.225
11. Florida	0.224
12. Oklahoma	0.223
13. Iowa	0.221
14. Texas	0.211
15. Georgia	0.188
16. Tennessee	0.168
17. Kansas	0.161
18. North Carolina	0.158
19. Alabama	0.151
20. Utah	0.141
21. Wyoming	0.119
22. Arizona	0.092
23. Nebraska	0.082
24. Mississippi	0.061
25. Wisconsin	0.026
26. South Carolina	0.014
27. Michigan	0.013
28. Arkansas	0.000
29. Montana	−0.007
30. Vermont	−0.047
31. Pennsylvania	−0.050
32. Kentucky	−0.053
33. Maine	−0.060
34. Minnesota	−0.140
35. Louisiana	−0.143
36. West Virginia	−0.146
37. New Mexico	−0.178
38. Connecticut	−0.180
39. Delaware	−0.196
40. Washington	−0.196
41. Illinois	−0.200
42. Ohio	−0.215
43. Maryland	−0.268
44. Alaska	−0.300
45. Rhode Island	−0.383
46. Massachusetts	−0.393
47. Hawaii	−0.445
48. California	−0.487
49. New Jersey	−0.505
50. New York	−0.752

Source: Authors' calculations.

considerable ground to make up even to move off this ignoble list, let alone into a creditable position in the rankings. Individual state profiles provide more information about each state.

Some states improved over the two years since the last study, while others fell significantly. Table 6 lists the five most improved states and five states that slipped the most in terms of freedom. Interestingly, average freedom in the 50 states basically held steady between 2007 and 2009. Oregon takes the prize for the most improved state, due mostly to a big improvement in the quality of its court system, a substantial decline in tax collections (from 9.7 to 8.8 percent of personal income), and the enactment of same-sex civil unions. Wyoming and California vie for the most worsened state, in both cases due partly to deteriorating fiscal situations. In California, almost every area of fiscal policy worsened between 2007 and 2009. California also enacted new regulations, such as mandated paid family leave. In Wyoming, fiscal policy appeared to deteriorate because falling energy prices led to a fall in personal income in this energy-rich state, the denominator in the fiscal-policy variables. Nevertheless, Wyoming, which was sixth in overall freedom in 2007 and fell to twenty-first in 2009, remains in much better shape than most states.

Figure 1 is a scatter plot of state economic- and personal-freedom scores. The common libertarian conception about the political spectrum is that left-liberals sit in the upper left corner of this diagram, favoring extensive personal freedom and little economic freedom, while right-conservatives belong in the bottom right corner, favoring economic but not personal freedom. It should be clear from this chart that the truth is much different. Highly liberal states (New York, New Jersey, Rhode Island, Hawaii, Maryland, Massachusetts, and California) seem to cluster much more in the bottom left where both economy and personal life are more regulated. Vermont, Washington, New Mexico, Maine, Oregon, and Alaska seem to conform more to the standard

paradigm of left-liberalism. Conservative states divide by region: Southern and Midwestern states (South Carolina, Alabama, Tennessee, Iowa, and the Dakotas) tend to score lower on personal freedom than Western states (Nevada, Idaho, Colorado, and Texas), but there are plenty of exceptions (Mississippi, Indiana, North Carolina, and Missouri are high on personal freedom, while Oklahoma and Montana are mediocre).

Figures 2–4 show the relationship between state percentage of the vote for the Democratic and Green presidential tickets in 2008 and state scores on economic, personal, and overall freedom.<sup>21</sup> Democratic/Green presidential vote share is a rough measure of citizen-opinion liberalism, and these charts allow us to examine the relationship between left–right ideology at the voter level and state policy orientation toward individual freedom. To reiterate previous observations, the relationship between ideology and personal freedom is nearly flat, reflecting the propensity of liberal and conservative states to protect certain freedoms but not others. The relationship between liberalism and economic freedom is more strongly negative, and as a result the relationship between liberalism and overall freedom is modestly negative, but only among the most liberal states. In short, moderate states are no less or more free than conservative states, but liberal states do tend to be less free, particularly on economic issues.

Table 7 provides economic, personal, and overall freedom scores by census division.<sup>22</sup> The Mountain division comes in first on personal freedom, while West North Central comes in first both overall and on economic freedom. The Middle Atlantic (New York, New Jersey, and Pennsylvania) is the worst on both economic and personal freedom. The Pacific (which includes Alaska and Hawaii) does very badly on economic freedom but rather well on personal freedom. Southern states do a bit better the more westerly they are, particularly on personal freedom.

21. The lines represent the best polynomial fit in two degrees, and the shaded areas are the 95 percent confidence intervals.

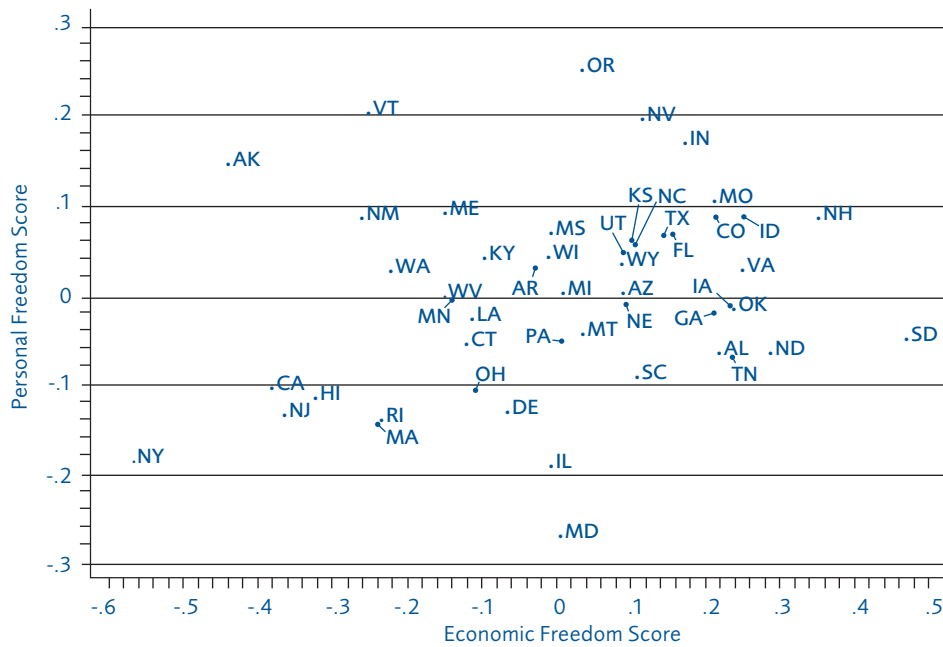
22. For the U.S. census divisions, see [http://www.census.gov/geo/www/us\\_regdiv.pdf](http://www.census.gov/geo/www/us_regdiv.pdf), accessed July 30, 2008.

**TABLE 6: MOST IMPROVED AND WORSENEED STATES, 2007–2009**

STATE	CHANGE, '07-'09
1. Oregon	+0.167
2. Nevada	+0.140
3. Maine	+0.123
4. Washington	+0.117
5. West Virginia	+0.089
46. New Jersey	-0.099
47. Arizona	-0.111
48. Massachusetts	-0.112
49. California	-0.143
50. Wyoming	-0.143

Source: Authors' calculations.

**FIGURE 1: FREEDOM IN THE STATES**



**FIGURE 2: CITIZEN IDEOLOGY AND PERSONAL FREEDOM BY STATE**

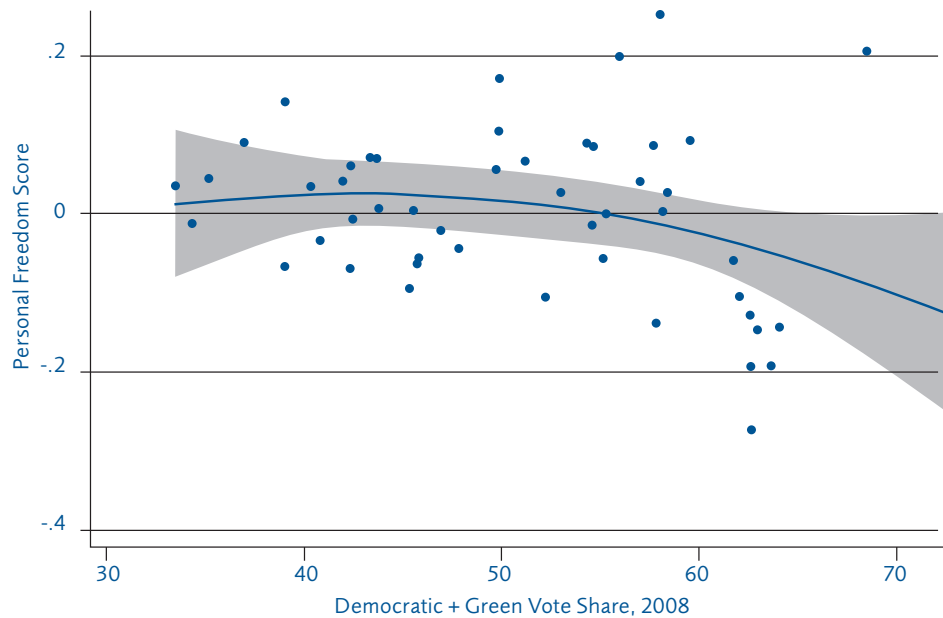


Figure 5 maps the states on freedom, rendering the regional patterns visually clearer. The bastions of freedom appear to lie mostly in the heartland, the country lying between the Mississippi and the Rockies. New Mexico is an unusually poor state in this region, while the relative freedom of New Hampshire, Indiana, and Virginia stands out in stark contrast to their neighboring states.

We regressed net internal migration by state from 2000 to 2009 as a percentage of 2000 state population on total freedom scores in 2007 and mean January temperature in each state's largest city to determine whether freer states tend to attract more people and less free states tend to repel them.<sup>23</sup> Both independent variables are statistically significant and positive at the 99 percent confidence level.<sup>24</sup> Substantively, the results show that an increase of 0.5 points on the freedom scale, for instance from Connecticut to Iowa, increases net migration by a whopping 5.9 percentage points of 2000 population. This is about twice as large as the effect of a change in mean January temperature of 20 degrees, for instance from Chicago, Illinois, to Birmingham, Alabama. When we regress migration on January temperature, economic freedom, and personal freedom, all variables are again significant at the 99 percent level, and the positive effect of personal freedom is actually more than twice as large as that of economic freedom. A 0.25-unit increase in personal freedom increases migration by 5.0 percentage points of 2000 population, while the comparable effect for economic freedom is 2.4 percentage points (but there is less observed variance across the states on personal than economic freedom). Of course, these results present correlations, which do not necessarily indicate causation, but it seems implausible to us that migration would affect freedom, especially since policy change happens slowly. The most plausible interpretation is that

Americans in general are indeed attracted to freedom for its own sake, not just for the economic benefits.

To estimate those economic benefits, we also regressed annualized growth rates in total personal income from 2000 to 2008 on 2007 economic and personal freedom, state and local severance taxes as a percentage of personal income in 2000 (to proxy the state economy's dependence on mineral extraction), the log of initial per-capita personal income, mean January temperature in the largest city, and an index of educational attainment from Morgan Quitno Press.<sup>25</sup> Education, January temperatures, and severance revenues were positively related to income growth and initial per-capita income was negatively related. Economic freedom was associated with more income growth (statistically significant at the 95 percent confidence level), but personal freedom was not. The results show that a 0.25-unit increase in economic freedom increases the average annual growth rate in personal income by about 0.25 percentage points.

If Americans generally 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.

## CONCLUSION

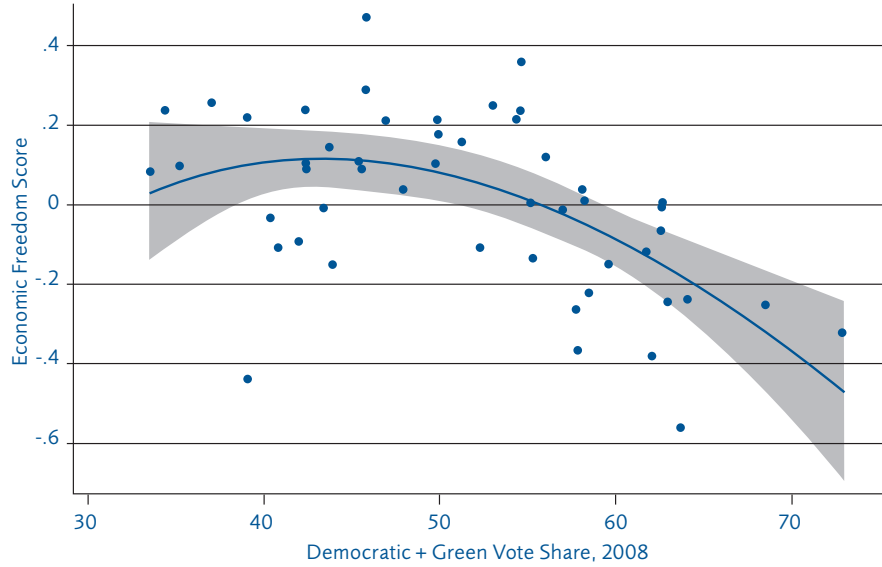
ALTHOUGH WE HOPE we have demonstrated that some states provide freer environments than others, it would be inappropriate to infer that the freest states necessarily enjoy a libertarian streak, while others suffer from a statist mentality. Other research has shown that in the United States, state politics, like

23. The source for net internal migration is the U.S. Census Bureau; the source for mean January temperature in each state's largest city is the National Oceanic and Atmospheric Administration.

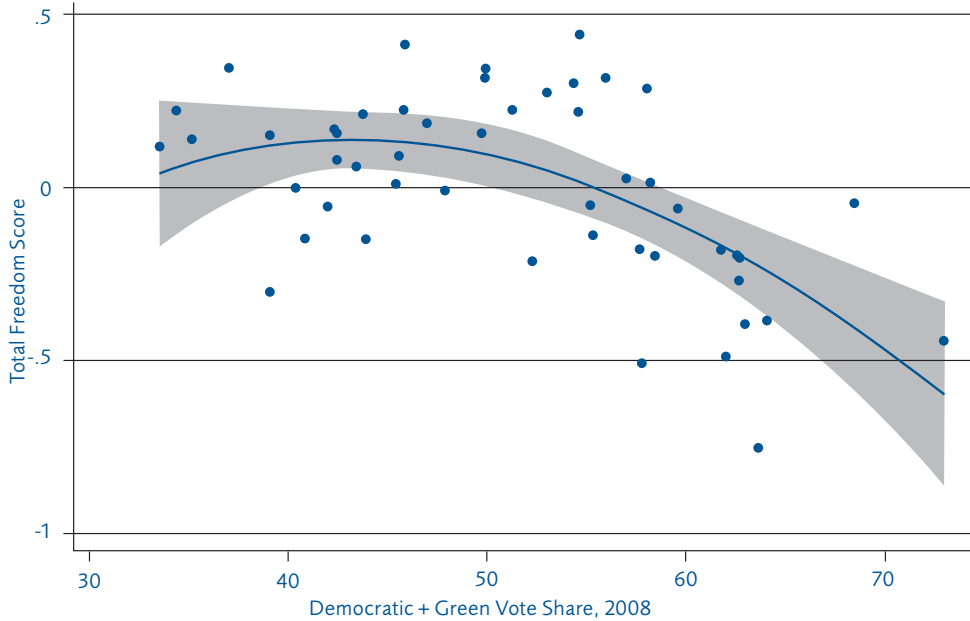
24. We ran the regressions with and without robust standard errors with no difference in the results reported.

25. "Results of the 2006 Smartest State Award" (Lawrence, KS: Morgan Quitno Press, 2007), <http://www.morganquitno.com/edrank.htm>, accessed December 5, 2010.

**FIGURE 3: CITIZEN IDEOLOGY AND ECONOMIC FREEDOM BY STATE**



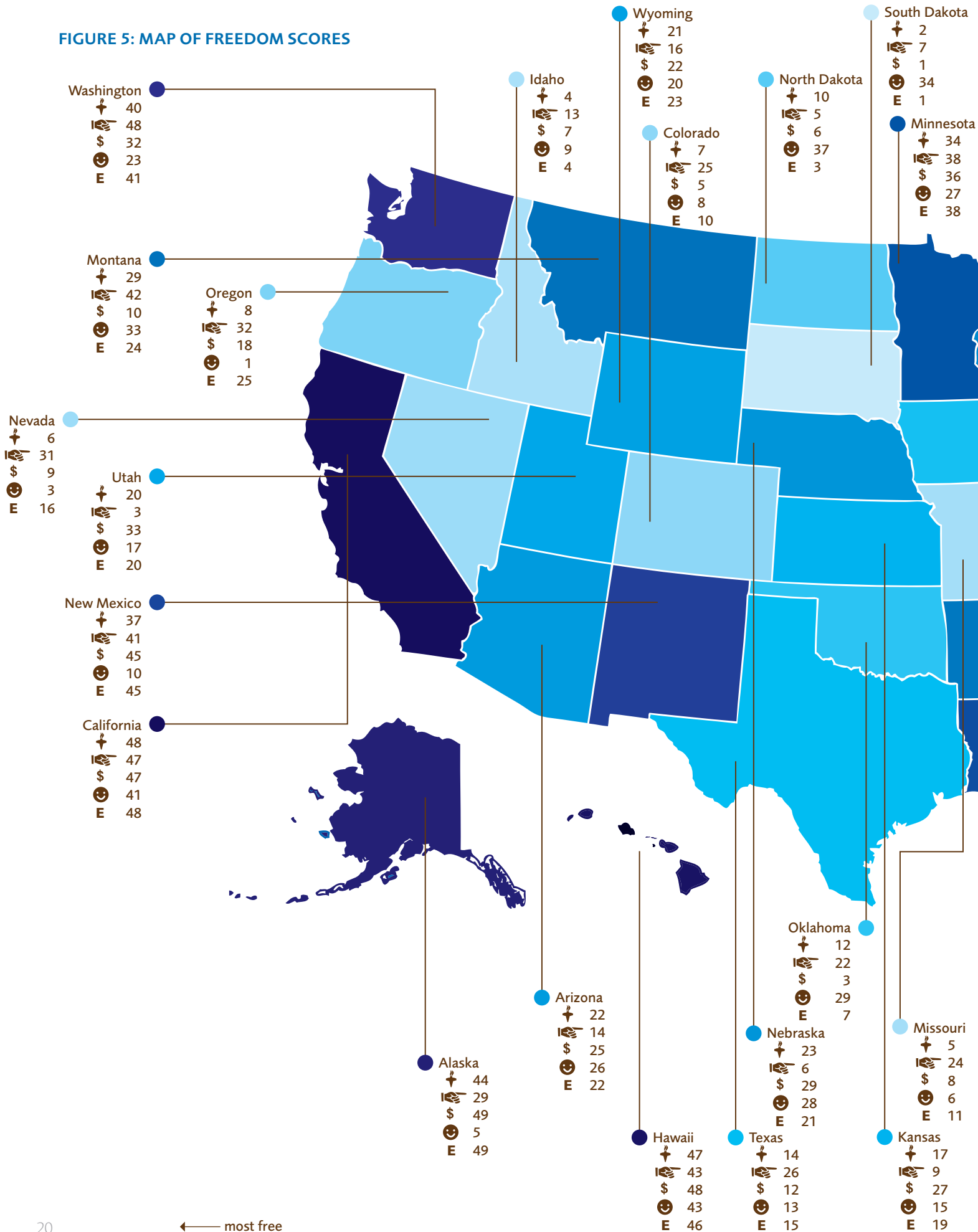
**FIGURE 4: CITIZEN IDEOLOGY AND OVERALL FREEDOM BY STATE**

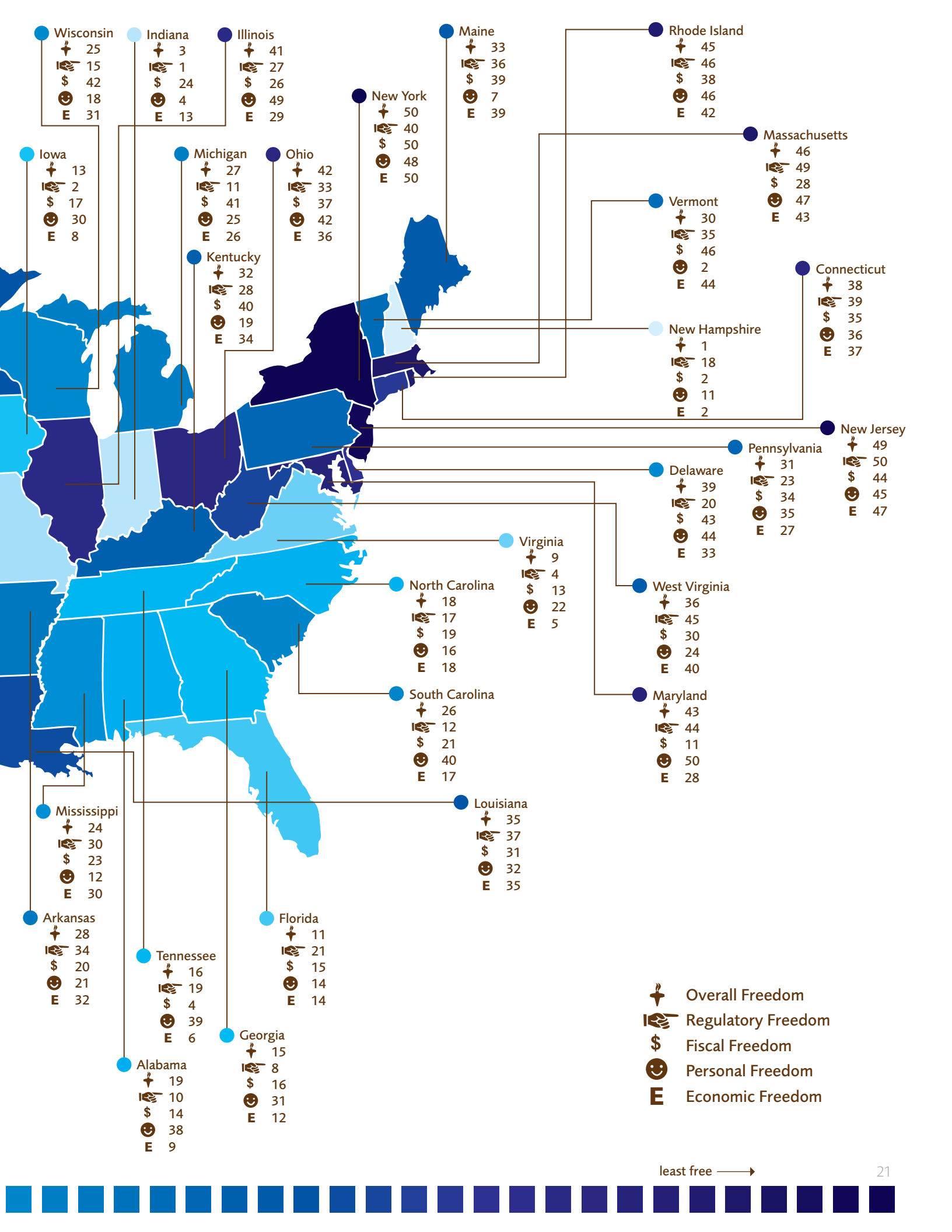


**TABLE 7: ECONOMIC, PERSONAL, AND OVERALL FREEDOM SCORES BY CENSUS DIVISION**

CENSUS DIVISION	ECONOMIC FREEDOM	PERSONAL FREEDOM	OVERALL FREEDOM
New England	-0.109	0.005	-0.104
Middle Atlantic	-0.308	-0.128	-0.436
East North Central	0.011	-0.017	-0.006
West North Central	0.179	0.004	0.183
South Atlantic	0.077	-0.046	0.031
East South Central	0.089	-0.007	0.082
West South Central	0.059	0.014	0.073
Mountain	0.079	0.062	0.141
Pacific	-0.266	0.038	-0.229

FIGURE 5: MAP OF FREEDOM SCORES





**Wisconsin**  
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 \$ 42  
 😊 18  
 E 31

**Indiana**  
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**Illinois**  
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**Iowa**  
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**Michigan**  
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**Ohio**  
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 🤝 33  
 \$ 37  
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**New York**  
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**Maine**  
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**Rhode Island**  
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 \$ 38  
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**Massachusetts**  
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 🤝 49  
 \$ 28  
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**Kentucky**  
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 \$ 40  
 😊 19  
 E 34

**Vermont**  
 † 30  
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 \$ 46  
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**Connecticut**  
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 \$ 35  
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**New Hampshire**  
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 \$ 2  
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**New Jersey**  
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**Delaware**  
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**Pennsylvania**  
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**Virginia**  
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**North Carolina**  
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**West Virginia**  
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**South Carolina**  
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**Maryland**  
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**Mississippi**  
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**Louisiana**  
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**Arkansas**  
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**Tennessee**  
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**Florida**  
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**Alabama**  
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**Georgia**  
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 \$ 16  
 😊 31  
 E 12

- † Overall Freedom
- 🤝 Regulatory Freedom
- \$ Fiscal Freedom
- 😊 Personal Freedom
- E Economic Freedom

least free →

federal politics, plays out *largely* on a single left–right ideological dimension defined by sociocultural attitudes toward equality, authority, and tradition.<sup>26</sup> On the other hand, preliminary unpublished research of ours does suggest that states with larger libertarian blocs tend to have more personal (but not economic) freedom, but the effect is small. One might 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? In our index, conservative states have generally done better than liberal states, but moderately conservative states have done best of all. Previous research has shown that, as of 2007, Alabama and Mississippi were the most conservative states in the country, while New York and New Jersey were the most liberal.<sup>27</sup> In our index Alabama and Mississippi are slightly better than average, while New York and New Jersey are at the bottom. The problem is that the cultural values of liberal governments seem on balance to require more regulation of individual behavior than do the cultural values of conservative governments. While liberal states are freer than conservative states on marijuana and same-sex partnership policies, when it comes to gun owners, homeschoolers, motorists, or smokers, liberal states are nanny states, while conservative states are more tolerant. It is questionable whether we ought to attribute this relative freedom in conservative states to any philosophical respect for freedom inherent in contemporary political conservatism,

or rather to the fact that conservative positions on cultural issues tend to require less regulation of individual behavior. As we have already seen, extremely conservative governments do not appear to afford any more freedom overall than do moderate, centrist governments.

Another reason 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,<sup>28</sup> as well as on institutions and the dynamics of policy change in the United States.<sup>29</sup> Variables of interest include legislature size, 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 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, 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 2000 initiative requiring construction of a high-speed rail system to connect 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 antiliberty directions.

Would it be correct to say, *pace* Nick Gillespie's review in *Reason* of the Pacific Research Institute report on U.S. economic freedom, that "economic freedom's just another word for nothing else to do"?<sup>30</sup> It is true so-called flyover country generally

26. Erikson, Wright, Jr., and McIver, *Statehouse Democracy*; and Keith Poole and Howard Rosenthal, *Congress: A Political-Economic History of Roll-Call Voting* (New York: Oxford University Press, 1997).

27. Sorens, Muedini, and Ruger, "U.S. State and Local Public Policies in 2006: A New Database.

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

29. 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.

30. Nick Gillespie, "Rant: Live Free and Die of Boredom: Is 'Economic Freedom' Just Another Word for Nothing Left to Do?" *Reason*, February 2005, <http://www.reason.com/news/show/36485.html>, accessed July 30, 2008.



scores high on our freedom index, but those states scoring high on our index can at least claim to have gone to less effort to squelch private initiative and personal freedom than have the states at the bottom. Freedom is not the *only* determinant of personal satisfaction and fulfillment, but as our analysis of migration patterns shows, it makes a tangible difference in people's decisions about where to live. Moreover, as we noted during many of the talks we delivered after the first edition of the index appeared, we fully expect people in the freer states to develop and benefit from the kinds of institutions (such as symphonies and museums) and amenities (better restaurants and cultural attractions) seen in some of the older cities on the coasts (in less-free states such as California and New York) as they grow and prosper. Indeed, Joel Kotkin has made a similar point about the not-so-sexy urban areas 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?<sup>31</sup>

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

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 Zimbabwes among the American states. Still, we do find that 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 but is still functioning. 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 Charles Tiebout foresaw.<sup>32</sup> High-quality information on state legal environments will matter a great deal to those seeking an environment friendlier to individual liberty.

31. 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>.

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

## STATE PROFILES

THESE STATE PROFILES highlight some of the most interesting aspects of each state's public policies as they affect individual freedom. In preparation for this year's edition of *Freedom in the 50 States*, we conducted a survey of free-market policy analysts at think tanks associated with the State Policy Network (SPN).<sup>33</sup> We contacted 58 policy analysts in 49 states and received responses from 37 policy analysts in 32 states (63.8 percent). The primary purpose of the survey was to obtain expert information on specific, realistic reform recommendations in each state. Our policy recommendations are therefore based partly on these survey responses and partly on noteworthy scores on policy variables we measure. It is worth noting that our respondents skewed heavily conservative. We asked respondents to grade the issue subcategories in our index on a 0–10 scale of their importance to individual freedom, 10 meaning most important. The top three subcategories for our respondents (mean scores in parentheses) were education (9.15), health-insurance regulation (9.07), and labor regulation (8.57). The bottom three subcategories were same-sex partnerships and other marriage freedoms (4.04), marijuana laws (4.48), and miscellaneous *mala prohibita* (5.37). Three respondents scored marriage-license restrictions as irrelevant to freedom (0).

We encourage researchers to examine the policy spreadsheets carefully for details of particular states' policies. We caution that the information used for these state profiles was accurate as of January 1, 2009. There will have been changes since that time that do not yet show up in our data.

33. See <http://www.spn.org>.

34. National Conference of State Legislatures, "2011 State and Legislative Partisan Composition," [http://www.ncsl.org/documents/statevote/2010\\_Legis\\_and\\_State\\_post.pdf](http://www.ncsl.org/documents/statevote/2010_Legis_and_State_post.pdf), accessed December 6, 2010.

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

### ALABAMA



↑: #19

E: #9

☺: #38

Change in overall freedom, 2007–2009: –0.013

Change in overall freedom ranking since 2007: 0

Net domestic migration, 2000–2009 (% of 2000 population): +1.9%

Governor, 2011: Robert Bentley (R)

Legislature, 2011: House 66R/39D, Senate 22R/12D/11<sup>34</sup>

### Analysis

ALABAMA DOES MUCH better on economic than personal freedom, as one might expect from a highly socially conservative state. Nevertheless, Alabama does well on some personal freedoms, such as smoking bans, cigarette taxes, and gun control. Alabama has a strangely restrictive alcohol regime, with the second-highest beer taxes and highest spirits taxes in the country. In addition, Alabama's marijuana laws are unusually punitive: A three-year mandatory minimum sentence exists for all marijuana cultivation or sale convictions, by far the highest in the country, and the maximum sentence for a single cultivation or sale conviction is life in prison. Furthermore, Alabama's court system is one of the worst in the country according to the Chamber of Commerce survey.

### Policy Recommendations

- (1) Move from elected to appointed judges in order to improve the quality of the state's liability system.<sup>35</sup>
- (2) Eliminate mandatory minimums for marijuana offenses.

(3) Improve auto and road regulations: make the seatbelt law secondary rather than primary, repeal the motorcycle-helmet law for adults, and repeal the bicycle-helmet law.



Change in overall freedom, 2007–2009: –0.012  
 Change in overall freedom ranking since 2007: 0  
 Net domestic migration, 2000–2009 (% of 2000 population): –1.4%  
 Governor, 2011: Sean Parnell (R)  
 Legislature, 2011: House 16D/24R, Senate 10R/10D

### Analysis

ALASKA'S BIG PROBLEM is fiscal policy. 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 highest debt and government spending to personal income ratios in the country. However, Alaska does extremely well on personal freedom, scoring fifth on our ranking. Reasons for its score include fully legalized possession of small amounts of marijuana (accomplished through a court ruling), the least-restrictive gun laws in the country, strong asset-forfeiture protections, recognition of same-sex domestic partnerships, and possibly the best homeschooling laws in the country. On economic regulation, Alaska does poorly on labor law, occupational licensing, and eminent-domain reform but relatively well on health-insurance regulation.

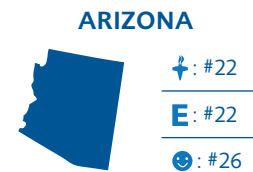
### Policy Recommendations

(1) Cut spending on the areas of grossest overspending relative to national averages: public schools,

highways and airports, corrections, administration (especially financial administration and public buildings), and “miscellaneous commercial activities.”

(2) Repeal the prevailing-wage law.

(3) Repeal some of the more unusual occupational licenses, such as child-care administrator, geoscientist, hydrologist, and massage therapist (some of these are implemented at the city level).



Change in overall freedom, 2007–2009: –0.011  
 Change in overall freedom ranking since 2007: –9  
 Net domestic migration, 2000–2009 (% of 2000 population): +1.4%  
 Governor, 2011: Jan Brewer (R)  
 Legislature, 2011: House 40R/20D, Senate 21R/9D

### Analysis

ARIZONA IS DECENT on both economic (#22) and personal (#26) freedom, ending up at number 22 overall, but dropping nine places from 2007. The state does particularly well on gun laws, alcohol regulations and taxes, home- and private-school regulations, labor laws, and its liability system, but it has changed dramatically for the worse in government spending, smoking bans, the taking of DNA from some felony arrestees without a conviction, and employer verification of legal-resident status. As of this writing, Arizona's “clean elections” law is under judicial review. Although of course not appearing in our index, Sheriff Joe Arpaio's antics have attracted unfavorable nationwide attention.<sup>36</sup> Also not covered by the period of our index is the controversial stop-and-identify law.

36. Radley Balko, “Sheriff Joe's Enabler,” Reason.com, January 19, 2010, <http://reason.com/archives/2010/01/19/sheriff-joes-enabler>, accessed December 6, 2010; Craig Harris and Yvonne Wingett, “Anti-Arpaio Protesters Awarded Settlement from 2008 Arrests,” AZCentral.com, July 9, 2010, <http://www.azcentral.com/news/election/azelections/articles/2010/07/09/20100709arpaio-protesters-settlement.html>, accessed December 6, 2010; and “America's Worst Sheriff (Joe Arpaio),” The Board Blog, NYTimes.com, December 31, 2008.

### Policy Recommendations

- (1) Spending on “protective inspection and regulation,” electric power, and transit has increased dramatically, by almost 50 percent in two years in nominal terms. Cut these areas first.
- (2) If the clean elections law is overturned, as seems likely, do not replace it.
- (3) Civil liberties are becoming a concern in Arizona. The state should establish stronger guidelines for local law enforcement and consider repealing the statutes that allow for abuse.

#### ARKANSAS



↑: #28

E: #32

😊: #21

Change in overall freedom, 2007–2009: 0.051

Change in overall freedom ranking since 2007: +2

Net domestic migration, 2000–2009 (% of 2000 population): +2.9%

Governor, 2011: Mike Beebe (D)

Legislature, 2011: House 44R/55D/1 Vac., Senate 15R/20D

#### Analysis

ARKANSAS IS NUMBER 28 in our index, doing much better on personal than economic freedom. Arkansas does surprisingly well on fiscal policy for a poor, smallish state, especially on spending adjusted for federal grants. Arkansas’ Revenue Stabilization Law, requiring *ex post* balanced budgets, deserves some credit for this advantage.<sup>37</sup> However, the state could stand to do much better on fiscal decentralization and local government budget constraints, where poor performance is a result of centralized school funding. Arkansas scores high on motorist freedoms, with only secondary seatbelt enforcement, no helmet laws for adults, no open-container law, and no uninsured-motorist policy requirement. Arkansas has virtually no regulation of private schools, and

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

the homeschooling laws are better than average, although notification requirements are onerous (annual, extensive materials). Arkansas has jumped onto the smoking-ban bandwagon. The state could significantly improve its regulatory environment by repealing its health-insurance coverage mandates, which add an estimated 44.7 percent to the cost of premiums. Occupational licensing is rampant, and the state has failed to reform eminent domain.

### Policy Recommendations

- (1) State grants to local school districts should be drastically reduced.
- (2) Prohibit private-to-private eminent domain transfers and tighten blight standards.
- (3) Remove nonuniversally applicable health-insurance benefit mandates such as TMJ treatment, mastectomy, maternity care, in-vitro fertilization (IVF), hospice care, contraceptives, and drug abuse/alcoholism treatment.

#### CALIFORNIA



↑: #48

E: #48

😊: #41

Change in overall freedom, 2007–2009: -0.1428

Change in overall freedom ranking since 2007: -2

Net domestic migration, 2000–2009 (% of 2000 population): -4.4%

Governor, 2011: Jerry Brown (D)

Legislature, 2011: House 28R/52D, Senate 14R/25D

#### Analysis

CONTRARY TO POPULAR perception, California not only taxes and regulates its economy more than most other states, it also aggressively interferes in the personal lives of its citizens. California simply

needs to cut government spending. The budgetary categories most out of line with the rest of the country are administration, social services, environment and housing, and “other.” Labor laws are extremely strict, of course; for instance, California is one of only five states to mandate short-term disability insurance. Health-insurance coverage mandates add about 49 percent to the cost of premiums in the state. Eminent-domain reform has been cosmetic, and the state’s liability system almost reaches the abysmal quality of the Deep South’s. On personal freedoms, California does well on same-sex partnerships and marijuana, but it also has the most restrictive gun laws in the country, a highly restrictive policy regime for motorists, and smoking bans. The state’s civil asset-forfeiture regime is arguably the best in the country, apart from North Carolina’s, which has only criminal forfeiture.

### Policy Recommendations

- (1) Repeal some health-insurance mandated coverages, such as acupuncture, orthotics, IVF, home health care, dental anesthesia, and bone-mass measurement.
- (2) Cut state spending in the categories in which spending is well above national averages.
- (3) Relax labor laws to boost employment, such as repealing short-term disability and paid family-leave mandates.

### COLORADO



Change in overall freedom, 2007–2009: -0.064  
 Change in overall freedom ranking since 2007: -5  
 Net domestic migration, 2000–2009 (% of 2000 population): +4.9%  
 Governor, 2011: John Hickenlooper (D)  
 Legislature, 2011: House 33R/32D, Senate 15R/20D

### Analysis

OVERALL, COLORADO HAS strong fiscal policies and is the most fiscally decentralized state in the country, with localities raising fully 45.5 percent of all state and local expenditures. However, its debt burden is quite high and growing rapidly (23.5 percent of personal income, an increase of 2.4 percent in two years). The state has resisted the temptation of sin taxes, with low rates on beer, wine, spirits, and cigarettes. On the other hand, Colorado’s smoking bans are among the most extreme in the country, with no exceptions or local option for any locations other than workplaces. Colorado has decriminalized low-level marijuana possession. Arrests for drug offenses, relative to state usage, are relatively low. On private-school regulation, the state has a light touch but falls short with its fairly detailed curriculum requirements, more extensive than those required of homeschoolers. Its homeschool laws are only about average, with particularly onerous recordkeeping requirements. Colorado’s enactment of a minimum wage helped to drag down its regulatory freedom score. Colorado is one of the very best states on occupational licensing and civil-asset forfeiture. Gun laws are mediocre and have worsened recently, with local bans on assault weapons and large-capacity magazines.

### Policy Recommendations

- (1) Allow the minimum wage to revert to the federal minimum.
- (2) Gun laws seem worse than the state’s political climate would justify. Logical reforms include full state preemption of local open-carry ordinances, repealing gun-show regulations and mandated background checks for private sales, and deregulating airguns.
- (3) Repeal certain health-insurance regulations that drive up costs, such as mandated direct access to specialists and standing referrals.

**CONNECTICUT**

+ : #38

E : #37

😊 : #36

Change in overall freedom, 2007–2009: –0.088

Change in overall freedom ranking since 2007: –7

Net domestic migration, 2000–2009 (% of 2000 population): –2.8%

Governor, 2011: Dan Malloy (D)

Legislature, 2011: House 51R/100D, Senate 13R/23D

**Analysis**

CONNECTICUT IS FISCALLY healthy, with average debt and low government spending, but taxes are unreasonably high given these facts (excluding gas and severance, 11.5 percent of personal income, up from 10.8 percent two years prior). The prime areas for future improvement are gun rights, blue laws, a ban on the audio recording of public officials, home-school standardized testing and recordkeeping requirements, health-insurance coverage mandates, eminent-domain reform, campaign-finance regulations, cigarette taxes, and smoking bans. On the positive side, Connecticut is one of the few states to have enacted civil unions legislatively, has quite low victimless-crime arrest rates, and has repealed its blood-test requirement for marriage.

**Policy Recommendations**

- (1) Sweep out archaic blue laws and two-party consent requirements for the audio recording of public officials in the course of their duties.
- (2) End public financing of elections and relax contribution limits to political candidates and parties, restrictions that may end up being challenged in court in any case.
- (3) Cut taxes, particularly on motor vehicles, real property, and individual income.

**DELAWARE**

+ : #39

E : #33

😊 : #44

Change in overall freedom, 2007–2009: –0.011

Change in overall freedom ranking since 2007: –1

Net domestic migration, 2000–2009 (% of 2000 population): +5.9%

Governor, 2011: Jack Markell (D)

Legislature, 2011: House 15R/26D, Senate 7R/14D

**Analysis**

DELAWARE USED TO be known as a business haven, but that is changing. State and local debt has been mounting significantly, rising from 18.3 percent to 22.5 percent of personal income between FY 2006 and FY 2008. Government spending is high and rising, apparently due to boosts in federal grant funds, while taxes are about average. Even for its size, Delaware is fiscally centralized, and local governments are heavily dependent on grants. For a left-leaning East Coast state, Delaware is surprisingly about average on gun control and labor law, but does not do well enough on drugs: Its marijuana laws are poor, and Delaware is one of the few states to ban the virtually harmless psychedelic *Salvia divinorum*. On regulatory policy, Delaware stands out for a relatively light hand on health insurance, including one of the most parsimonious health-insurance coverage mandates regimes (adding just 21.9 percent to the cost of an average policy). Delaware also has the best liability system in the country. The one area of regulation where Delaware could improve markedly is land-use restrictions. However, it may be unreasonable to expect a high-density state to relax its control in this area. Delaware is one of five states with a statewide ban on all personal fireworks and has adopted one of the very strictest smoking bans in the United States. Its asset-forfeiture laws are also among the worst in the country.

### Policy Recommendations

- (1) Make marijuana possession and low-level cultivation and sale misdemeanors, or even better, decriminalize them.
- (2) Enact same-sex civil unions.
- (3) Curb forfeiture abuse by requiring proof of owner culpability and/or by redirecting revenues away from law enforcement.



Change in overall freedom, 2007–2009: 0.011  
Change in overall freedom ranking since 2007: +1  
Net domestic migration, 2000–2009 (% of 2000 population): +7.4%  
Governor, 2011: Rick Scott(R)  
Legislature, 2011: House 81R/39D, Senate 28R/12D

### Analysis

DESPITE LACKING A personal-income tax, Florida is average in almost all fiscal categories, rising well above average only on decentralization, local budget constraints, and government employment. Property and general sales taxes are higher than average. Florida’s gun laws are about average nationally but below average for the South. Marijuana laws are generally quite restrictive, and there is a *Salvia* ban. Florida is one of the few states to mandate personal-injury coverage in auto-insurance plans. Other than mandatory registration, Florida’s regulation of private schools is minimal, and homeschooling is also lightly regulated apart from recordkeeping requirements. Land-use planning has gone very far in Florida, and greater room for local flexibility in development plans is probably warranted. Florida has improved by allowing the federal minimum wage to catch up, and the state also benefits from right-to-work laws and a relatively good workers’

compensation regime. To its credit, Florida has gone further than any other state in reforming eminent domain. Health-insurance coverage mandates have gotten much worse, with an 8.5 percent jump in policy-attributable premium costs between 2007 and 2009. Contribution limits on grassroots PACs are unnecessarily restrictive for such a large state. Smoking bans exist, but there is some local flexibility for bars, while cigarette taxes are low. Florida has RFRA and bans raw milk.

### Policy Recommendations

- (1) Stop adding health-insurance coverage mandates and consider repealing the ones that exist.
- (2) Raise campaign contribution limits to candidates, particularly for individuals and grassroots PACs.
- (3) End mandatory registration of private schools.



Change in overall freedom, 2007–2009: 0.061  
Change in overall freedom ranking since 2007: +5  
Net domestic migration, 2000–2009 (% of 2000 population): +6.9%  
Governor, 2011: Nathan Deal (R)  
Legislature, 2011: House 113R/66D/11, Senate 36R/20D

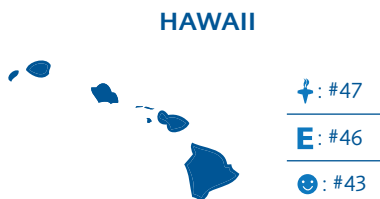
### Analysis

GEORGIA IS AN urbanizing Deep South state, which makes for a mediocre 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. Taxes are lower than average, but government spending has been increasing faster than average, and the state is relatively fiscally decentralized. Georgia has less gun control than all of its neighboring states except Tennessee. Marijuana laws are bad

but not as punitive as those of Alabama or Missouri. Georgia has fairly restrictive laws on road users, with primary seatbelt enforcement, motorcycle- and bicycle-helmet laws, an open-container law, and sobriety checkpoints. Georgia barely regulates private schools at all, but its homeschool regulations are quite strict, including teacher-qualification requirements. Labor law is extremely good. Natural gas, telecom, and cable have all been deregulated. Asset-forfeiture rules require significant improvements (the burden of proof is on the claimant, who has to prove that he “could not reasonably have known” about criminal activity to get his property back, and all proceeds go to law enforcement, providing incentives for abuse). Georgia also enjoys one of the best court systems in the South (about average nationally). Smoking bans have arrived, but bars are exempt from a total ban.

### Policy Recommendations

- (1) Eliminate teacher qualifications for homeschooling parents and end the requirement to keep all teaching materials on hand.
- (2) Place the civil asset-forfeiture burden of proof on the government and redirect revenues.
- (3) Repeal the motorcycle-helmet law for adults, make seatbelt enforcement secondary, and ban sobriety checkpoints.



Change in overall freedom, 2007–2009: 0.086

Change in overall freedom ranking since 2007: +2

Net domestic migration, 2000–2009 (% of 2000 population): –2.7%

Governor, 2011: Neil Abercrombie (D)

Legislature, 2011: House 8R/43D, Senate 1R/24D

### Analysis

HAWAII HAS MUCH room to improve. On the spending side, the state is highly fiscally centralized due to its unique statewide school system, but despite being freed from the burden of paying for schools, local governments have to raise over 80 percent of their funds through own-source taxes, the highest figure in the country. Sales, individual income, and motor-vehicle-license taxes are high. Gun laws are among the worst in the country, and the marijuana regime is fairly restrictive. Hawaii has the second strictest gambling laws in the country, after Utah: The only type of gaming permitted is social. Educational regulation is excessive, with private schools having to obtain state approval to operate, significant homeschool regulations, and school attendance mandated through age 18. Smoking bans are universal in restaurants, bars, workplaces, and public places without any exceptions. On the other side of the ledger, the asset-forfeiture regime is reasonable, limited same-sex domestic partnerships are recognized, and victimless crimes (excluding drug) make up just 3.5 percent of all arrests, while the drug-arrest rate is also much better than average. On labor law the state government is interventionist, with a prevailing-wage law, strict workers’ compensation requirements, mandatory short-term disability insurance, and a state occupational safety and health agency. Hawaii has not reformed eminent domain, and the state liability system is far below average. On health insurance the state is surprisingly laissez-faire, with no community rating and fewer mandates than average.

### Policy Recommendations

- (1) Eliminate the state approval requirement for private schools.
- (2) Enact same-sex partnerships.
- (3) Enact strong prohibitions on private-to-private eminent-domain transfers with blight reform.



## IDAHO



Change in overall freedom, 2007–2009: –0.009

Change in overall freedom ranking since 2007: –1

Net domestic migration, 2000–2009 (% of 2000 population): +8.6%

Governor, 2011: Butch Otter (R)

Legislature, 2011: House 57R/13D, Senate 28R/7D

### Analysis

TRUE TO ITS reputation, Idaho is among the freest states in the country. After Wyoming, Idaho has the lowest government-debt ratio in the United States. Taxes and spending are a bit lower than average, but given its citizen ideology, Idaho could presumably improve its record here, especially in cutting government payroll. Individual income taxes are rather high. Idaho has the third-best gun laws in the country, but taxes on spirits are high, and it could improve its marijuana laws substantially. The state has few restrictions on motorists other than secondary seatbelt enforcement and an open-container law. It deserves credit for being one of the few states to refuse to authorize privacy-invading sobriety checkpoints. On educational policies Idaho really shines, with only nine years of mandated schooling and no regulations on private or homeschooling other than curriculum requirements. One personal freedom Idaho needs to reform is asset forfeiture; the state has the same regime as Arizona. Labor laws are generally solid, and health-insurance coverage mandates add only 15 percent to the cost of premiums. However, eminent-domain reform has not gone as far as it should. There is a blanket smoking ban in restaurants and a near-total ban in workplaces but none at all for bars.

### Policy Recommendations

(1) Reform asset-forfeiture laws by placing the burden of proof on the government to prove owner guilt

and by preventing law enforcement from obtaining the proceeds.

(2) Give eminent-domain reform real teeth by prohibiting all private-to-private transfers, making blight standards building-specific, and placing limits in the constitution.

(3) Freeze government hiring and use savings to cut individual income taxes.

## ILLINOIS



Change in overall freedom, 2007–2009: –0.043

Change in overall freedom ranking since 2007: –6

Net domestic migration, 2000–2009 (% of 2000 population): –5.1%

Governor, 2011: Pat Quinn (D)

Legislature, 2011: House 54R/64D, Senate 24R/35D

### Analysis

ILLINOIS IS ONE of the worst states to live in from a personal-freedom perspective, but on economic freedom it is in the middle of the pack. Illinois has the fifth-harshes gun-control laws in the country, after California, Maryland, New York, and Massachusetts, and the state's victimless-crimes arrest rates are almost unfathomable. In 2008, more than 2 percent of the state's population was arrested for a victimless crime (and that figure does not count people under 18), and the vast majority of these arrests were for drugs. Illinois's drug law-enforcement rate is by far the worst in the country at more than three standard deviations worse than average. Asset-forfeiture laws are also among the worst in the nation. On the plus side, Illinois's homeschool regulations are effectively as minimal as Idaho's, a case of benign neglect it seems. Since 2007, smoking bans have come in with a vengeance. Illinois is in the middle of the pack on most economic issues, but could certainly stand to

relax its labor laws, improve the court system, and expand eminent-domain reforms.

### Policy Recommendations

- (1) Allow the state minimum wage to revert to the federal standard.
- (2) Decriminalize marijuana, legalize medical marijuana, and repeal the *Salvia* ban.
- (3) End partisan elections for the state supreme court in order to improve the court system.

#### INDIANA



Change in overall freedom, 2007–2009: 0.028  
 Change in overall freedom ranking since 2007: +2  
 Net domestic migration, 2000–2009 (% of 2000 population): -0.4%  
 Governor, 2011: Mitch Daniels (R)  
 Legislature, 2011: House 59R/40D, Senate 37R/13D

### Analysis

INDIANA IS ONE of the rare outposts of freedom in the northeastern quadrant of the country. Fiscal policies are about average, but we see a warning sign in government debt, which increased by 4.1 percent of personal income between FY 2006 and FY 2008. In those years, tax collections fell, but spending increased as a percentage of the economy. Indiana has deregulated natural gas, telecom, and cable, and it licenses the fewest occupations in the country as a percentage of its workforce. The state has managed to construct a relatively humane marijuana-sentencing regime without decriminalizing. Indiana has good education laws, with very light regulation of home and private schools, but it has recently expanded the mandatory years of schooling from 9

to 11. Indiana has very little campaign-finance regulation, except for corporate PACs; it has also repealed its public financing. There are smoking bans across the board, but they all have meaningful exceptions. Gambling laws are odd but make sense in a public-choice, Baptists-and-bootleggers fashion.<sup>38</sup> 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.

### Policy Recommendations

- (1) Indiana spends more than average on public welfare and hospitals. We recommend constraining these budgets and using savings to retire debt.
- (2) Repeal blue laws.
- (3) Repeal the Internet-gaming ban, legalize social gambling, and make “aggravated gambling” a misdemeanor rather than a felony.

#### IOWA



Change in overall freedom, 2007–2009: 0.002  
 Change in Overall Freedom ranking since 2007: -3  
 Net domestic migration, 2000–2009 (% of 2000 population): -1.8%  
 Governor, 2011: Terry Branstad (R)  
 Legislature, 2011: House 60R/40D, Senate 24R/26D

### Analysis

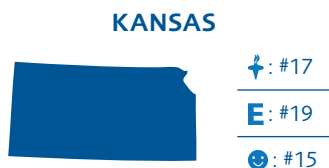
DESPITE FREQUENTLY ELECTING politicians who do not seem very interested in preserving freedom, Iowa’s policies are fairly freedom friendly. The state particularly stands out on economic regulation. Iowa also has a light touch on land-use planning. Labor regulations are business friendly, with right-to-work laws, no minimum- or prevailing-wage laws, and a decent workers’-compensation regime.

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

Health-insurance coverage mandates are low. The court system is very good. Occupational licensing is much better than average. On personal freedoms, the picture is mixed. Marijuana sentencing definitely needs reform. Private schools are highly regulated, and homeschool standardized testing and notification requirements are burdensome. Asset forfeiture needs reform. However, most forms of gaming are permitted. Individual and grassroots PAC political contributions are unregulated, but corporate PAC contributions are banned altogether. Extensive smoking bans have swept in recently. Cable-franchise reform was enacted not long ago. A judicial decision legalizing same-sex marriage occurred after the period covered by this index.

### Policy Recommendations

- (1) Improve the environment for personal freedom by cutting sin taxes and reforming marijuana sentencing guidelines.
- (2) End private-school teacher licensing. Reduce standardized testing and notification requirements for homeschoolers.
- (3) Reform asset forfeiture by placing the burden of proof on the government and redirecting proceeds to the general fund.



Change in overall freedom, 2007–2009: -0.013  
 Change in overall freedom ranking since 2007: 0  
 Net domestic migration, 2000–2009 (% of 2000 population): -2.6%  
 Governor, 2011: Sam Brownback (R)  
 Legislature, 2011: House 92R/33D, Senate 31R/9D

### Analysis

WHILE KANSAS SCORES highly on freedom overall, the state is mediocre on fiscal issues. The public payroll is extremely large. The areas of spending that could most stand to be cut are transportation and social services, while the taxes that should have priority for cutting are individual income, sales, and property taxes. By contrast, the state does very well on economic regulation and personal freedom. Gun control is slight, marijuana sentencing laws are relatively humane, homeschooling is virtually unregulated, labor laws are light, cable franchising is in place, occupational licensing is somewhat low (although there has been some deterioration here), and smoking bans have many exemptions. In some areas, the state could improve a bit, particularly on health-insurance coverage mandates and contribution limits to individual candidates from individuals and PACs.

### Policy Recommendations

- (1) 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.
- (2) Raise contribution limits to political candidates.
- (3) Enact light cuts to transportation and social services in order to reduce rates slightly on income, sales, and property taxes.

**KENTUCKY**

↑: #32

E: #34

☺: #19

Change in overall freedom, 2007–2009: 0.043  
 Change in overall freedom ranking since 2007: 0  
 Net domestic migration, 2000–2009 (% of 2000 population): +2.0%  
 Governor, 2011: Steve Beshear (D)  
 Legislature, 2011: House 42R/58D, Senate 22R/15D/11

**Analysis**

KENTUCKY ENDS UP being a bit higher on personal freedom than economic. Its debt ratio is very high, at 28 percent of personal income. Kentucky is also highly fiscally centralized. Home- and private-school laws are fairly liberal, but homeschool recordkeeping requirements are burdensome. Telecom has recently been deregulated. The state does have a prevailing-wage law and an elimination rider ban for individual health-insurance plans. Drug arrests are very high for the state's user base. Campaign-finance regulations are extremely strict, although public financing has been abolished recently. Cigarette and spirits taxes are low, but beer and wine taxes are high. Smoking bans offer exemptions.

**Policy Recommendations**

- (1) Tighten the rules for municipal-bond issuance and cut spending, particularly on grants to local school districts and employee compensation (repeal the prevailing-wage law), in order to retire debt.
- (2) Reduce homeschool recordkeeping requirements to a simple record of attendance, like Indiana and Tennessee require.
- (3) Dramatically raise contribution limits for grassroots PACs and individuals.

**LOUISIANA**

↑: #35

E: #35

☺: #32

Change in overall freedom, 2007–2009: 0.058  
 Change in overall freedom ranking since 2007: +4  
 Net domestic migration, 2000–2009 (% of 2000 population): –7.1%  
 Governor, 2011: Bobby Jindal (R)  
 Legislature, 2011: House 51R/50D/4I, Senate 16R/22D/1I

**Analysis**

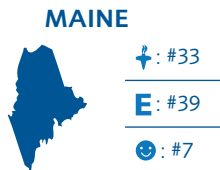
LOUISIANA IS THE least free former Confederate state—and one of the only ones to lose residents to other states this decade—but has been improving overall. Sales taxes are high, and government spending has increased dramatically in a short period (3.3 percent of personal income). Government employment is high. Gun laws are very good, and alcohol laws are also liberal, but the marijuana sentencing regime is subpar, with the maximum sentence for a single offense being 80 years and even low-level cultivation a felony. While the state allows many forms of gambling, it has enacted a prohibition on Internet gambling and unauthorized gaming is a felony (the politics of this combination of policies is clear). Private schools are heavily regulated, with teacher licensing and mandatory registration. However, the homeschooling laws are much better. Health-insurance coverage mandates add 48 percent to the cost of private plans, up from 43 percent just two years prior. The state has gone a long way to reform eminent domain. The liability system is among the very worst in the country. The state has improved a great deal in its arrest rates for victimless crimes, including drugs, but still is more draconian than average.

**Policy Recommendations**

- (1) End partisan judicial elections in order to improve the court system.

(2) Freeze government hiring and use the proceeds to cut the general sales tax.

(3) Eliminate private-school regulations.



Change in overall freedom, 2007–2009: 0.123

Change in overall freedom ranking since 2007: +4

Net domestic migration, 2000–2009 (% of 2000 population): +2.4%

Governor, 2011: Paul LePage (R)

Legislature, 2011: House 78R/72D/11, Senate 20R/14D/11

### ANALYSIS

MAINE IMPROVED ITS standing significantly between 2007 and 2009, especially on fiscal policy. Its rural character has preserved its relatively free firearms regime, but it also has very high overall tax collections. However, nonfuel, nonseverance taxes as a percentage of the economy fell from 13.1 percent to 11.9 percent and the state has gone from second worst to fourth worst. Property, sales, and individual income taxes are all high, but property and sales taxes have fallen. There is evidence that local governments are becoming cash-strapped as a result. The first offense of low-level marijuana possession carries only a fine, and low-level cultivation is a misdemeanor. The state also has medical-marijuana exceptions, and the maximum sentence for a single marijuana offense is 10 years. Educational policies are about average; the state could improve substantially here by ending standardized-testing requirements for homeschoolers and requiring parental notification only once (or never) rather than annually. Maine has a good asset-forfeiture regime and allows same-sex partnerships. Cigarette taxes are high, and smoking bans are airtight everywhere. The federal minimum wage has caught up with Maine's. The state has adopted strict community rating for health insurance, banned elimination riders, and has 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 state). The state does boast a good liability system, but it could stand to reform eminent domain further. Maine has pulled back on its public election-financing program, no longer offering it to parties.

### Policy Recommendations

(1) Reduce standardized testing and notification requirements for homeschoolers.

(2) Deregulate health insurance in the noted categories.

(3) Enact blight reform and a full ban on private-to-private eminent-domain transfers, then codify these provisions in the state constitution.



Change in overall freedom, 2007–2009: -0.039

Change in overall freedom ranking since 2007: -3

Net domestic migration, 2000–2009 (% of 2000 population): -1.8%

Governor, 2011: Martin O'Malley (D)

Legislature, 2011: House 43R/98D, Senate 12R/35D

### Analysis

MARYLAND'S IMPOSITIONS ON personal freedom include the second-strictest gun laws in the country, fairly harsh marijuana laws (except that the first offense of high-level possession is a misdemeanor, and there is a weak medical-marijuana law), extensive auto and road regulations, tight gambling laws, a law allowing police to take DNA from certain felony arrestees, burdensome homeschooling laws (curricula must be *approved* by the government), high drug-arrest rates, and lack of same-sex partnerships. On the regulatory side, centralized land-use planning is very advanced, labor regulation is severe, health-insurance coverage mandates add a whopping 50.9

percent to the cost of policies, occupational licensing is much more pervasive than average, and eminent-domain abuse is almost totally unchecked. Total smoking bans were enacted recently, and cigarette taxes have been hiked dramatically. However, taxes on beer, wine, and spirits are fairly low, and overall Maryland has one of the least restrictive alcohol-control systems in the country.

### Policy Recommendations

- (1) Legalize same-sex civil unions.
- (2) Strengthen the medical-marijuana law and decriminalize low-level possession.
- (3) Roll back occupational licensing. Examples of licensed professions not always licensed elsewhere include audiologists, occupational-therapist assistants, private investigators, bartenders, tree trimmers, embalmers, well-drilling journeymen, fire-alarm and security-system installers, and boiler operators.

### MASSACHUSETTS



Change in overall freedom, 2007–2009:  $-0.112$   
 Change in overall freedom ranking since 2007:  $-3$   
 Net domestic migration, 2000–2009 (% of 2000 population):  $-4.3\%$   
 Governor, 2011: Deval Patrick (D)  
 Legislature, 2011: House 30R/128D, Senate 4R/36D

### Analysis

MASSACHUSETTS HAS A reputation as a liberal state *par excellence*, and therefore it might be surprising to discover that the state ranks higher on economic than personal freedom. The state has fallen significantly since 2007, due in part to the notorious Romneycare health-insurance reform. Tax rates remain about average, and the government payroll is remarkably small. The biggest fiscal problem for

Massachusetts is debt, which equals more than a quarter of personal income. Meanwhile, on personal freedoms the state has highly restrictive gun laws, bicycle- and motorcycle-helmet laws, personal injury and uninsured motorist auto-insurance mandates, fairly restrictive gambling laws, a total fireworks ban, extremely strict private- and homeschool requirements, terrible asset-forfeiture rules, extremely strict campaign-finance laws, high cigarette taxes, and a total statewide smoking ban. On the positive side, the state did decriminalize marijuana possession in 2008. Same-sex marriage remains in place. Labor laws are subpar, except on workers' compensation funding (self-insurance is allowed).

### Policy Recommendations

- (1) Massachusetts is abnormally fiscally centralized. Reduce state grants to local school districts to encourage better use of funds. Use savings to retire state debt.
- (2) Reform asset forfeiture to place burden of proof on the government and to redirect proceeds to the general fund.
- (3) Repeal the antiquated requirement that new private schools obtain approval from local school boards.

### MICHIGAN



Change in overall freedom, 2007–2009:  $-0.038$   
 Change in overall freedom ranking since 2007:  $-2$   
 Net domestic migration, 2000–2009 (% of 2000 population):  $-5.4\%$   
 Governor, 2011: Rick Snyder (R)  
 Legislature, 2011: House 63R/47D, Senate 26R/12D

### Analysis

MICHIGAN'S AVERAGE SCORE on economic freedom masks an interesting divergence between its poor

fiscal state (#41) and its relatively decent regulatory environment (#11). 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 higher than average. On the regulatory side, the state has a very high minimum wage. However, the state permits workers' compensation self-insurance and exempts agricultural workers from the system altogether, has very little community rating for health insurance (but does ban elimination riders, raising rates), has bucked the national trend by repealing many health-insurance coverage mandates, has deregulated natural gas, telecom, and cable, has relatively few licensed occupations, has a good asset-forfeiture regime, and has reformed eminent domain fairly extensively (the state has backslid slightly in this area, however). Cigarette taxes are high, but smoking bans offer many exceptions. Sobriety checkpoints are not authorized.

### Policy Recommendations

- (1) Allow the minimum wage to revert to the federal standard in order to boost employment.
- (2) Spending on higher education and libraries is well above national norms, and in a time of austerity it makes most sense to focus budget cuts on these areas in particular.
- (3) Business taxes are a bit higher than average; cut or repeal them to encourage job growth.

### MINNESOTA



✦: #34

E: #38

😊: #27

Change in overall freedom, 2007–2009: 0.012

Change in overall freedom ranking since 2007: 0

Net domestic migration, 2000–2009 (% of 2000 population): -0.9%

Governor, 2011: Mark Dayton (D)

Legislature, 2011: House 72R/62D, Senate 37R/30D

### Analysis

MINNESOTA'S TAXES AND spending are somewhat higher than average, although debt and government employment are not. Social services spending and individual income taxes stand out as particularly high. Some striking facts about Minnesota include the following: the state still has blue laws for alcohol, low-level marijuana possession is decriminalized, the state lacks helmet laws and prohibits sobriety checkpoints but requires personal injury and underinsured motorist auto insurance coverage, health-insurance coverage mandates are the third most costly in the country, occupational licensing is the second worst in the country, asset forfeiture puts the burden of proof on the owner, and cigarette taxes are high. The state has improved by allowing its minimum wage to lapse to the federal standard.

### Policy Recommendations

- (1) Reform civil-asset forfeiture by putting the burden of proof on the government and redirecting all proceeds away from law enforcement.
- (2) Roll back occupational licensing for sanitarians, title searchers, audiologists, occupational-therapist assistants, private detectives, embalmers, "power-limited technicians," boiler operators, and other occupations.
- (3) Roll back health-insurance coverage mandates for speech and hearing specialists, osteopathy, dietitians, occupational therapy, reconstructive surgery, port wine stain removal, ovarian cancer screening, infertility services, Lyme disease treatment, and other nonuniversally applicable treatments.

**MISSISSIPPI**

↑: #24

E: #30

😊: #12

Change in overall freedom, 2007–2009: –0.013

Change in overall freedom ranking since 2007: 0

Net domestic migration, 2000–2009 (% of 2000 population): –1.3%

Governor, 2011: Haley Barbour (R)

Legislature, 2011: House 50R/72D, Senate 24R/26D/2 Vac.

**Analysis**

MISSISSIPPI DEFIES SOME of the stereotypes about the Deep South. Perhaps the most conservative state in the Union, Mississippi does very well on personal freedom but not on economic freedom. Its marijuana policies are a study in contradictions. Low-level possession is decriminalized, and low-level cultivation is a misdemeanor rather than a felony, but you can get life in prison for a single conviction of high-level cultivation or sale. Drug arrests are among the highest in the country. On fiscal policy the state is about average, with high spending fueled by federal grants and extremely high government employment. Social-services spending is by far the highest in the country. Gambling is more tolerated than in most states, except that social gaming is illegal. Private- and homeschool regulation is minimal. Labor laws are good, and health-insurance regulations are also better than average. However, eminent-domain abuse has not been curtailed at all, and the state's liability system is infamously one of the worst in the country. Mississippi is one of two states still requiring a blood test for marriage. Cigarette taxes are very low, and smoking bans have a light touch.

**Policy Recommendations**

- (1) Pass comprehensive legislation banning private-to-private eminent-domain transfers.
- (2) Pass tort reform to improve the liability system. Mississippi has nonpartisan judicial elections, and

there is some evidence that these are bad for court quality, although not as bad as partisan elections (see the Alabama discussion).

- (3) Clamp down on government employment and spending in areas such as Medicaid, where Mississippi far outspends every other state as a percentage of the economy.

**MISSOURI**

↑: #5

E: #11

😊: #6

Change in overall freedom, 2007–2009: 0.065

Change in overall freedom ranking since 2007: +4

Net domestic migration, 2000–2009 (% of 2000 population): +0.7%

Governor, 2011: Jay Nixon (D)

Legislature, 2011: House 106R/57D, Senate 26R/8D

**Analysis**

MISSOURI WAS ALREADY a relatively free state but grew freer yet since the last index. Government spending is relatively low and even lower when the availability of federal grants is taken into account. Nonfuel, nonseverance taxes are just 8.8 percent of personal income, the 10th lowest in the land. The alcohol regime is one of the least restrictive in the United States, with no blue laws and taxes well below average. Gun control is very limited. Unfortunately, marijuana sentencing is extremely harsh; Missouri may have the worst cannabis laws in the country and jumped on the *Salvia* “ban wagon” early. Several types of gambling are legal and regulated, but oddly there is no social gambling exception. Other than recordkeeping requirements, private- and homeschools are almost unregulated. There are some limits on regulatory takings. Labor laws are generally market friendly, but implementing right-to-work laws and allowing workers' compensation self-insurance would improve Missouri's score here. A cable-franchise reform was recently enacted. Occupational licensing is less extensive



than average. Eminent domain reform has been superficial. Cigarette taxes are low.

### Policy Recommendations

- (1) Pass right-to-work laws and allow workers' compensation self-insurance.
- (2) Reform marijuana sentencing by making possession a misdemeanor and reducing the maximum possible sentence far below the current life in prison.
- (3) Pass comprehensive eminent-domain reform that includes narrow criteria for blight designation.

### MONTANA



✦: #29

E: #24

☺: #33

Change in overall freedom, 2007–2009: 0.028

Change in overall freedom ranking since 2007: 0

Net domestic migration, 2000–2009 (% of 2000 population): +4.4%

Governor, 2011: Brian Schweitzer (D)

Legislature, 2011: House 68R/32D, Senate 28R/22D

### Analysis

MONTANA HAS A reputation for being a relatively free place. However, this reputation is not generally justified. Alcohol distribution is highly state controlled at both the wholesale and retail levels. Marijuana sentencing is extremely harsh. Health-insurance coverage mandates are somewhat excessive, including mandatory direct access to specialists. Occupational licensing is much more prevalent than average. Asset-forfeiture abuse is rampant, and eminent-domain reform has been anemic. Arrests for victimless crimes other than drugs are high. Cigarette taxes are rather high, and the state has universal smoking bans. Corporate PAC contributions to candidates and parties are prohibited. On the positive side, government spending is low once we adjust for the temptation of federal grants, but the state has slipped a bit here since 2007. Taxes are way below average.

Montana's gun laws are the sixth 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 homeschools only slightly less so. Land-use planning is almost nonexistent at the state level.

### Policy Recommendations

- (1) Repeal health-insurance coverage mandates to reduce costs.
- (2) Reduce occupational licensing for epidemiologists, clinical lab technicians, occupational-therapist assistants, audiologists, private detectives, alarm installers, well-driller helpers, and boiler operators.
- (3) Reform civil-asset forfeiture by requiring the government to satisfy a burden of proof and by directing revenues to the general fund.

### NEBRASKA



✦: #23

E: #21

☺: #28

Change in overall freedom, 2007–2009: -0.012

Change in overall freedom ranking since 2007: 0

Net domestic migration, 2000–2009 (% of 2000 population): -2.4%

Governor, 2011: Dave Heineman (R)

Legislature, 2011: nonpartisan

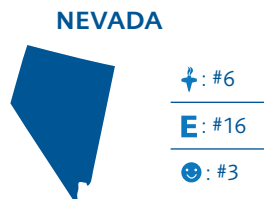
### Analysis

NEBRASKA FALLS BEHIND some other Great Plains states, particularly on economic freedom. Government spending is high, more than a standard deviation above average after grants adjustment. Taxes have fallen slightly, and debt has expanded dramatically. The main reasons Nebraska's spending figures look high are municipalized electric power and the Census Bureau category "other and unallocable." The firearms regime is mediocre, considering that Nebraska is a fairly rural state. For instance, the state government does not preempt

local limitations on firearms carry, licensing of gun dealers, background checks for private sales and gun shows, registration of firearms, or licensing of handguns. Nebraska requires state approval and teacher licensure for private schools, but there are broad exemptions. Homeschooling laws are liberal overall, but notification requirements are burdensome. Labor laws are very good, and health-insurance regulations are reasonable on the whole. Asset-forfeiture rules are much better than average. Eminent domain has not been sufficiently reformed. The state's liability system is one of the very best in the country. Arrest rates for victimless crimes are extremely high for both drug and nondrug offenses. Smoking bans are now complete.

### Policy Recommendations

- (1) Enact state preemption of local firearms policies, including a strong "peaceable journey" law.
- (2) Eliminate regulations on private schools, including mandatory registration, approval, licensure, and specific curricular requirements. Relax notification requirements for homeschoolers.
- (3) Reform eminent domain further by enacting stringent requirements for blight determination.



Change in overall freedom, 2007–2009: 0.140

Change in overall freedom ranking since 2007: +10

Net domestic migration, 2000–2009 (% of 2000 population): +1.9%

Governor, 2011: Brian Sandoval (R)

Legislature, 2011: House 16R/26D, Senate 10R/11D

### Analysis

NEVADA HAS A reputation as a libertarian state, mostly because of legal prostitution and gambling,

but reality is only beginning to catch up to perception. Nevada starts out with the obvious advantages of the most liberal gaming regime in the country (but an Internet-gaming ban) and local-option prostitution. On fiscal policy the state is better than average, but in less visible ways, since spending and taxation are only slightly better than average. Debt is rising, but the state is more than two standard deviations better than average on fiscal decentralization and almost two standard deviations better than average on government employment. Gun and alcohol laws are fairly relaxed, and marijuana laws are better than average, except for the possibility of life imprisonment. The state imposes the strictest private-school regulations in the country: mandatory state approval of all schools, mandatory state licensure of all teachers, and detailed curriculum control. Homeschool laws are far less restrictive and have been further liberalized recently. The state recently enacted a minimum wage. Smoking bans are complete in restaurants and workplaces, but bars are partially exempted. Health-insurance coverage mandates are more than a standard deviation worse than average. Telecom and cable were recently deregulated and a significant eminent-domain reform enacted. Same-sex civil unions were passed in 2008.

### Policy Recommendations

- (1) Repeal health-insurance coverage mandates such as coverage for TMJ treatment, prostate screening, mammograms, the HPV vaccine, hospice care, home health care, dental anesthesia, and seeing social workers, opticians, and osteopaths.
- (2) Deregulate private schools.
- (3) Allow the minimum wage to revert to the federal standard.

## NEW HAMPSHIRE



✦: #1

E: #2

😊: #11

Change in overall freedom, 2007–2009: 0.053

Change in overall freedom ranking since 2007: 0

Net domestic migration, 2000–2009 (% of 2000 population): +2.8%

Governor, 2011: John Lynch (D)

Legislature, 2011: House 298R/102D, Senate 19R/5D

### Analysis

NEW HAMPSHIRE IS, by our count, the freest state in the country. Depending on weights, however, it really shares the slot with South Dakota. New Hampshire does much better on economic than personal freedom and on fiscal than regulatory policy. Under unified Democratic control in 2007–2008, the state saw a respectable increase in freedom. A smoking ban was enacted, but so were same-sex civil unions. Taxes, spending, and fiscal decentralization remain more than a standard deviation better than average, and government debt actually went down slightly. Gun 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. Marijuana laws are middling; low-level possession could be decriminalized like it is in Maine, while low-level cultivation could be made a misdemeanor like it is in both Maine and Vermont. New Hampshire is the only state in the country with no seatbelt law for adults. It lacks a motorcycle-helmet law but does have a bicycle-helmet law and authorizes sobriety checkpoints. State approval is required to open a private school. Homeschool laws are slightly worse than average; standardized testing and recordkeeping requirements are stricter than those in most states. Eminent-domain reforms have gone far. The state’s liability system is one of the best, but campaign-finance regulations are quite strict. The drug law-enforcement rate is low and dropping, while arrests for other victimless crimes are high and dropping. Asset-forfeiture law is definitely subpar, with potential for abuse.

## Policy Recommendations

- (1) Enact the marijuana reforms cited above.
- (2) Remove standardized-testing requirements for homeschoolers.
- (3) Asset forfeiture requires reform to place the burden of proof on the government.

## NEW JERSEY



✦: #49

E: #47

😊: #45

Change in overall freedom, 2007–2009: –0.098

Change in overall freedom ranking since 2007: –1

Net domestic migration, 2000–2009 (% of 2000 population): –5.5%

Governor, 2011: Chris Christie (R)

Legislature, 2011: House 33R/47D, Senate 16R/24D

### Analysis

NEW JERSEY IS a highly regulated state all around, near the bottom in both personal and economic freedom, and it deteriorated further in 2007–2008. Taxes are high, and spending is about average. Spending on education is particularly high. Property taxes are among the highest in the country, and individual income taxes are also high. Gun control is extensive and worsening. Marijuana laws are subpar, although a medical-marijuana law was enacted in 2010. New Jersey has primary seatbelt enforcement, motorcycle- and bicycle-helmet laws, a cell-phone driving ban, an open-container law, sobriety checkpoints, and mandatory underinsured-motorist and personal-injury coverage for drivers. Fireworks are prohibited. Asset forfeiture is largely unreformed. Cigarette taxes are stratospheric, and smoking bans are as draconian as any in the country. On the positive side, alcohol is taxed fairly reasonably, and Atlantic City has casinos. More importantly, private- and homeschool regulations are surprisingly light, extending only to broad curriculum requirements.

Same-sex partnerships are also recognized. On economic regulation, labor laws are predictably costly (the minimum wage was allowed to lapse, but paid family leave was legislated), statewide land-use planning (“smart growth”) is in force, occupational licensing is severe, and there is extensive community rating for private health insurance.

### Policy Recommendations

- (1) Reform asset forfeiture by placing the burden of proof on the government and redirecting revenues from law enforcement.
- (2) Cut state funding to local school districts and use the savings to cut income, property, and cigarette taxes.
- (3) Repeal occupational licenses, such as those for contractors, claims adjusters, urban planners, rehabilitation counselors, librarians, and court reporters.

#### NEW MEXICO



Change in overall freedom, 2007–2009: 0.004  
 Change in overall freedom ranking since 2007: –1  
 Net domestic migration, 2000–2009 (% of 2000 population): +1.3%  
 Governor, 2011: Susana Martinez (R)  
 Legislature, 2011: House 33R/37D, Senate 15R/27D

### Analysis

NEW MEXICO IS the laggard of the Mountain West, but like several other small, rural states, it does well on personal freedom. Spending and taxes are high, fiscal decentralization is low, and a fifth of the state’s workforce is on state or local government payrolls (this ratio did drop consistently from 2004 to 2008). The state does well on personal freedoms because gun control is light, several kinds of gambling are allowed, private-school regulation is light (but homeschool regulation is tougher by

national standards), there is RFRA, asset forfeiture has been partly reformed, a medical marijuana law has recently been enacted, and victimless-crimes arrest rates are low. However, the state recently expanded the ages of mandatory school attendance and enacted sweeping smoking bans. In economic regulation, New Mexico could improve most by rolling back health-insurance coverage mandates and occupational licenses. Eminent domain was reformed in 2007.

### Policy Recommendations

- (1) Roll back occupational licenses, such as those for teacher assistants, ambulance drivers, mobile-home installers, pipelayers, boilermakers, bartenders, and dental assistants.
- (2) Repeal health-insurance mandated coverages for services such as lay midwives, acupuncturists, TMJ treatment, bone-mass measurement, home health care, and IVF.
- (3) Spending on higher education, police, and corrections is high; these areas should be targeted for reduction with the savings applied toward cutting the gross-receipts tax.

#### NEW YORK



Change in overall freedom, 2007–2009: –0.012  
 Change in overall freedom ranking since 2007: 0  
 Net domestic migration, 2000–2009 (% of 2000 population): –8.9%  
 Governor, 2011: Andrew Cuomo (D)  
 Legislature, 2011: House 48R/100D, Senate 32R/30D

### Analysis

NEW YORK IS by far the least free state in the Union. It has also experienced the most interstate emigration of any state over the last decade. New York has by

far the highest taxes in the country. Property, selective sales, individual income, and corporate-income taxes are particularly high. Spending on public welfare, hospitals, electric power, transit, employee retirement, and “other and unallocable” expenses are well above national norms. Only Alaska has more government debt as a percentage of the economy. On personal freedoms, gun laws are extremely restrictive, but marijuana laws are better than average, while tobacco laws are extremely strict, and cigarette taxes are the highest in the country. Motorists are highly regulated, and homeschool regulations are excessive, but nondrug victimless-crimes arrests are low. New York has the strictest health-insurance community-rating regulations in the country, which have wiped out the individual market. Mandated coverages are worse than average but were actually cut back substantially in 2007–2008. Eminent-domain abuse is rampant and unchecked. Perversely (in our view), the state has stricter contribution limits for grassroots PACs than for corporate and union PACs. On the positive side, occupational licensing is somewhat better than average.

### Policy Recommendations

- (1) The most liberal state in the country can surely find the political will to legalize same-sex partnerships of some kind.
- (2) Cut spending in all the areas mentioned above, privatize (and rate-regulate) transit systems, and cut taxes across the board.
- (3) Reduce the burdensome testing, notification, and recordkeeping requirements on homeschoolers.

## NORTH CAROLINA



✦: #18

E: #18

😊: #16

Change in overall freedom, 2007–2009: –0.031

Change in overall freedom ranking since 2007: –4

Net domestic migration, 2000–2009 (% of 2000 population): +8.4%

Governor, 2011: Bev Perdue (D)

Legislature, 2011: House 67R/52D/1I, Senate 31R/19D

### Analysis

NORTH CAROLINA IS right in the middle of the pack in three of our categories. Overall spending, taxes, and debt are slightly below average, though income taxes and social service spending are too high. The state performs slightly better relative to its peers in terms of personal freedom. Unsurprisingly given its history, cigarette taxes and smoking regulations are minimal. North Carolina has the best asset-forfeiture laws in the land. It could improve them by putting the burden of proof on the government. Gun laws are better than average, including legal open carry. However, the state licenses handgun owners and gun dealers. Although wine taxes are low, beer and spirits taxes are quite onerous (with the latter a full standard deviation higher than average). Marijuana laws are fairly strict despite the decriminalization of low-level marijuana possession (indeed, in 2009, the state also banned *Salvia*). Motorist freedoms and gambling are highly constrained. Homeschoolers face teacher qualification and annual standardized-testing requirements. Victimless-crime arrests and drug-law enforcement are relatively unexceptional. On regulation, labor laws are excellent, but occupational licensing needs to be rolled back (especially the elimination of licensing for acupuncturists, landscape contractors, cat and dog dealers, and athletic trainers). The state liability system is solid and health-insurance coverage mandates are fewer than average. However, eminent-domain reform has not gone far enough to be effective.

### Policy Recommendations

- (1) Spending on hospitals is very high and could be cut, possibly through privatization; individual income taxes are also high and should be cut.
- (2) Increase school choice by at least allowing intra-district mandatory public-school choice.
- (3) Eliminate handgun licensing.

#### NORTH DAKOTA



Change in overall freedom, 2007–2009: 0.054

Change in overall freedom ranking since 2007: +8

Net domestic migration, 2000–2009 (% of 2000 population): –3.1%

Governor, 2011: Jack Dalrymple (R)

Legislature, 2011: House 69R/25D, Senate 35R/12D

#### Analysis

NORTH DAKOTA IS a stereotypical conservative state that performs quite well on economic freedom (#3) but is a lot less laissez-faire on personal issues. Like its neighbor to the south, North Dakota is exceptional on fiscal policy. It has very low government spending, debt, and taxes. However, like Oklahoma, the government has a bloated payroll that represents 14.5 percent of the private workforce. North Dakota shares with Wyoming a strange workers'-compensation funding policy: all private and self-insurance is banned, and employers are required to contribute to a state fund. Health-insurance coverage mandates are much lower than average. Along with Florida, North Dakota has the most thoroughly reformed eminent-domain regime in the country. The state's liability system is among the best in the nation. As for personal freedom, North Dakota scores well in a few areas but has much room for improvement. Gun 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 down side, marijuana laws are poor. The state's asset-forfeiture rules could also use tweaking. In particular, it should change who has the burden of proof and the standard of proof required for forfeiture. 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. Unfortunately, North Dakota has the greatest level of victimless-crime arrest rates (both as a percentage of the population and of all arrests). On the other hand, its drug law-enforcement rate is actually below average.

### Policy Recommendations

- (1) Prioritize crimes against persons and property so as to lower the victimless-crime arrest rate and better focus law enforcement resources on deterring and punishing more serious crimes.
- (2) Eliminate or relax regulations on private schools and homeschoolers. At least allow mandatory intra-district public-school choice.
- (3) Reduce the size of the government sector to be consistent with national norms.

#### OHIO



Change in overall freedom, 2007–2009: 0.048

Change in overall freedom ranking since 2007: 0

Net domestic migration, 2000–2009 (% of 2000 population): –3.2%

Governor, 2011: John Kasich (R)

Legislature, 2011: House 59R/40D, Senate 23R/10D

## Analysis

OHIO PERFORMS POORLY in nearly every conceptual area. Spending and taxation are higher than average, with administration, education, and social-service spending especially high as a percentage of personal income. On the plus side, government debt is below average. Ohio, like three other states, does not allow private workers' compensation insurers. However, unlike North Dakota and Wyoming, it does allow employer self-insurance for workers'-compensation. The state's occupational-licensing regime and level of health-insurance coverage mandates are decent. Ohio has improved its eminent-domain regime, but further reform is warranted. Its liability system is only average. On the other hand, Ohio's asset-forfeiture laws are quite good, with the state more than a standard deviation better than average. It could improve even further, though, by shifting the burden of proof to the government. Gun-control laws are relatively poor, though not extreme as in the case of states like Illinois or California. In fact, Ohio allows open carry without 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. Homeschooling regulations are unreasonable, including teacher licensure and mandatory state approval of home-school curricula. However, private-school regulations are lighter. Draconian smoking bans are in place and cigarette taxes are above average. Beer and wine taxes are reasonably good but the spirits tax is fairly high.

## Policy Recommendations

(1) Aggressively reduce taxes, especially given that tax revenue as a percentage of personal income is almost a whole standard deviation higher than the average. We find that Ohio spends much more than the national average on financial administration (mostly at the state level) and on judicial, legal, and "other governmental" administration (mostly at the local level); thus, we particularly recommend cuts to these areas.

(2) Continue reforming eminent-domain laws.

(3) Look at Indiana as a model Rust Belt state and reform Ohio's regulatory system in line with that model. For instance, consider rolling back occupational licensing and allowing competition in the utilities.



Change in overall freedom, 2007–2009: 0.044

Change in overall freedom ranking since 2007: +3

Net domestic migration, 2000–2009 (% of 2000 population): +1.1%

Governor, 2011: Mary Fallin (R)

Legislature, 2011: House 70R/31D, Senate 32R/16D

## Analysis

OKLAHOMA IS A solid performer and among the most economically free states. Indeed, it is the third-best state in terms of fiscal freedom, with low spending, taxation, and debt. However, like many Southern states, it has much room for improvement in terms of personal freedom. One fiscal oddity is that the government has a bloated payroll that represents 15.2 percent of the private workforce, nearly a standard deviation higher than the national average. In terms of personal freedom, gun control is fairly limited and alcohol taxes and restrictions are decent. However, the state's marijuana sentencing is unreformed. Indeed, Oklahoma's lifetime maximum possible sentence for a single marijuana offense is draconian. Asset-forfeiture rules are in need of reform. Several types of gambling are legal (not casinos), though social gambling is technically prohibited. Private- and homeschools 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 and the state's drug law-enforcement rate are at or below national averages. Land-use planning is minimal. Labor and health-insurance laws are generally

market friendly. Eminent-domain reform needs much more work. Campaign-finance regulations are quite strict. Improvements have been seen in the state's liability-system rating.

### Policy Recommendations

- (1) Cut back the size of the government workforce until it is in line with the national average.
- (2) Protect individual property rights better by reforming eminent-domain and asset-forfeiture laws.
- (3) Provide tax credits for donations to K–12 scholarship funds.



Change in overall freedom, 2007–2009: 0.167

Change in overall freedom ranking since 2007: +14

Net domestic migration, 2000–2009 (% of 2000 population): +5.2%

Governor, 2011: John Kitzhaber (D)

Legislature, 2011: House 30R/30D, Senate 14R/16D

### Analysis

OREGON IS THE freest Pacific state and the top state in terms of personal freedom. Moreover, Oregon enjoyed the greatest increase in freedom of any state since 2007 and the highest positive jump in the overall rankings (from #22 to #8). This was primarily due to big improvements in the quality of its court system, the enactment of same-sex civil unions, and a substantial decline in tax collections (from 9.7 percent to 8.8 percent of personal income). Despite the low taxes, government spending in Oregon remains much too high, resulting in relatively high state debt. Public safety, administration, and environment and housing look particularly ripe for cutting. Gun-control laws are a bit better than average. Marijuana possession is decriminalized below a certain level, and there is medical marijuana (cultivation and sale

are felonies, though). However, arrests for victimless crimes are surprisingly high (though Oregon's drug law-enforcement rate declined markedly since 2007). Oregon is one of the few states to refuse to authorize sobriety checkpoints. It is also the only state besides Washington (and now Montana, which allowed it after the closing date on our data) to permit physician-assisted suicide. Private- and homeschool regulations are quite reasonable. Oregon also does quite well in terms of asset forfeiture. The state's cigarette taxes are higher than most, and its smoking bans were recently tightened. Oregon's spirits tax is the highest in the country and quite extreme (though interestingly, its neighbor, Washington, is the only other state three standard deviations above the national average). State land-use planning is very advanced. The minimum wage is the second highest in the country when adjusted for average wages. Labor laws are generally poor. Occupational licensing is excessive. However, health-insurance coverage mandates are a bit below the national average.

### Policy Recommendations

- (1) At the state level, spending on the inspection and regulation bureaucracy, natural resources, and government employees' retirement is well above national norms. We recommend cutting spending in these areas and reducing public debt.
- (2) Eliminate occupational licensing for massage therapists, funeral attendants, pest-control workers, elevator installers and repairmen, boilermakers, fishers and related fishing workers, agricultural product graders and sorters, farm-labor contractors, and other occupations.
- (3) Maintain, if not reduce, the minimum wage, even in the face of future inflation.



## PENNSYLVANIA



✦: #31

E: #27

😊: #35

Change in overall freedom, 2007–2009: –0.035

Change in overall freedom ranking since 2007: –3

Net domestic migration, 2000–2009 (% of 2000 population): –0.3%

Governor, 2011: Tom Corbett (R)

Legislature, 2011: House 112R/91D, Senate 30R/20D

### Analysis

PENNSYLVANIA IS FREER than all six of its neighboring states but has slipped since 2007. The state is mediocre on fiscal policy but much better than average on government employment. Transportation and social-services spending are notably higher than average, even given the state’s density, grant funding, and poverty rate. For a northeastern state, its gun-control laws are not awful, while marijuana sentencing is reasonably humane, even though the state has not decriminalized it at all. Pennsylvania has dramatically liberalized gambling, adding quite a bit to the state treasury. The state’s homeschool laws are perhaps the worst in the country, and its private-school regulations are not much better. Pennsylvania 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, raising the price of health-insurance policies by at least 42.9 percent. Occupational licensing is rare. Eminent domain has been partially reformed, but asset-forfeiture law is quite bad. 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.

### Policy Recommendations

(1) Liberalize homeschooling by eliminating teacher qualifications and reducing burdensome testing, recordkeeping, and notification requirements.

Eliminate private-school teacher licensing and prior approval for opening.

(2) Some good gun-law reforms would include allowing guns to be carried in a car without a permit, ending nonpowder gun regulations, ending dealer licensing, ending the background-check requirement for private sales, and ending the trigger-lock requirement.

(3) Start rolling back a host of minor taxes that are relatively high by national standards: utility, selective sales, and sin taxes especially.

## RHODE ISLAND



✦: #45

E: #42

😊: #46

Change in overall freedom, 2007–2009: –0.031

Change in overall freedom ranking since 2007: +2

Net domestic migration, 2000–2009 (% of 2000 population): –4.2%

Governor, 2011: Lincoln Chafee (I)

Legislature, 2011: House 10R/65D, Senate 8R/29D/11

### Analysis

RHODE ISLAND IS one of the least-free states in the country and performs poorly on all categories. Its fiscal policy is a mess, with spending, taxes, and debt all very high—though it is not as bad in these areas as New York and California. Oddly, however, government employment is fairly low. Gun control is quite strict, but not quite at the harsh levels of neighbors Massachusetts or Connecticut. Alcohol regulations are a bit strict but taxes are low across the board. The marijuana regime is extremely poor for a liberal state (life imprisonment is the maximum sentence). However, there is a medical-marijuana exception. Auto and road freedoms are extensive compared to other northeastern states; Rhode Island does not authorize sobriety checkpoints and does not have a motorcycle-helmet law. Private-school and homeschool restrictions are tight. Private schools must obtain government approval to open and have their

teachers licensed by the state. Rhode Island also has detailed state-curricula control, and homeschoolers have to get their curricula approved and are subject to periodic evaluation. Asset forfeiture (which is a full standard deviation worse than average) and eminent domain both need extensive reform. The state's liability system could also stand improvement. On the upside, victimless-crimes arrest rates and drug law-enforcement rates are quite low. Rhode Island is also one of only two states with liberal prostitution laws. Yet, the state's cigarette taxes and smoking bans are extreme. Land-use planning is extensive. The minimum wage is high, and Rhode Island is one of the few states to require employers to provide short-term disability insurance. It now has adjusted community rating for small-group health insurance, and the number of coverage mandates has jumped significantly since 2006. Occupational licensing is extensive.

### Policy Recommendations

- (1) The most obvious areas for cutting spending locally are police and fire departments, where expenditure is well above national norms as a percentage of state income. State-employee retirement and unemployment compensation are also far above average. Property taxes are especially high and could be cut.
- (2) Reduce the maximum sentence for marijuana offenses.
- (3) Pass a same-sex civil-union law.

### SOUTH CAROLINA



Change in overall freedom, 2007–2009:  $-0.016$

Change in overall freedom ranking since 2007: 0

Net domestic migration, 2000–2009 (% of 2000 population):  $+7.7\%$

Governor, 2011: Nikki Haley (R)

Legislature, 2011: House 75R/48D/1 Vac., Senate 27R/19D

### Analysis

SOUTH CAROLINA IS in the middle of the pack when it comes to overall freedom but performs quite poorly on personal freedom. In terms of fiscal policy, the tax burden is fairly low, but government spending and, therefore, debt are high. Government employment is high and could use cutting. Education spending is also high and social-service spending could be more efficient. Labor and health-insurance regulations are generally good. In particular, South Carolina has a relatively low number of health-insurance coverage mandates and is not a prevailing-wage state. Gun-control laws are a bit better than average, but among the worst in the South. For instance, open carry is completely banned, the state licenses gun dealers, and design safety standards for handguns have been imposed. South Carolina's marijuana laws are unreconstructed, but the state is close to average in terms of victimless-crime arrests and the drug law-enforcement rate. Cigarette taxes remain the lowest in the country. However, some restrictions on smoking on private property have been allowed. South Carolina fares quite poorly in terms of schooling laws. It has mandatory kindergarten but not mandatory intra-district public-school choice. As for homeschoolers, the state has teacher qualifications and burdensome standardized testing, record-keeping, and notification requirements. On the other hand, it has light requirements for private schools. Asset-forfeiture laws (which are a full standard deviation worse than average) and the state's liability system require reform. However, South Carolina's eminent-domain laws are quite respectable.

### Policy Recommendations

- (1) Prune state employment and cut hospital and health-care spending, which is far above national norms.
- (2) Eliminate homeschooling regulations.
- (3) Revise the state's asset-forfeiture laws to make it more difficult for the government to seize assets and to reduce the incentive to do so by lowering the

percentage of proceeds that go to law enforcement.



Change in overall freedom, 2007–2009: 0.081

Change in overall freedom ranking since 2007: +2

Net domestic migration, 2000–2009 (% of 2000 population): +0.9%

Governor, 2011: Dennis Daugaard (R)

Legislature, 2011: House 50R/19D/11, Senate 30R/5D

### SOUTH DAKOTA Analysis

SOUTH DAKOTA RATES as the second-freest state in the nation, although it does better on economic (#1) than personal (#34) freedom. South Dakota is top among the states in terms of fiscal policy, owing to its high fiscal decentralization for its size and its low levels of taxation (7.6 percent adjusted revenues as a percentage of personal income) and spending. It might be hard to improve on South Dakota’s performance in this area. It may be possible to do so by lowering sales taxes or carving out an exemption for food in tandem with a reduction in the size of the state government. On personal freedoms, South Dakota scores well on gun control but relatively poorly on marijuana laws and asset forfeiture (where it is a standard deviation below the average). Cigarette taxes are above average and smoking is banned in private workplaces. The state allows several kinds of gambling but has prohibited Internet gambling and social gambling. Unfortunately, victimless-crimes arrests as a percentage of all arrests are more than two standard deviations above the norm. However, South Dakota has actually improved since the last edition of the index and its drug law-enforcement rate is below the national average. Homeschool requirements, particularly on standardized testing and notification procedures, could also be relaxed. On economic regulation the state scores well. Labor and health-insurance laws are generally very good, with a below-average number of health-insurance coverage mandates. The state’s liability system is among the best. Land-use planning is largely local.

Eminent domain has been reformed extensively.

### Policy Recommendations

- (1) Revise asset-forfeiture laws to make it more difficult for government to seize assets and reduce the incentive to do so by lowering the percentage of proceeds that go to law enforcement.
- (2) Reduce the arrest rate for victimless crimes.
- (3) Allow a medical-marijuana exception.



Change in overall freedom, 2007–2009: –0.047

Change in overall freedom ranking since 2007: –5

Net domestic migration, 2000–2009 (% of 2000 population): +4.6%

Governor, 2011: Bill Haslam (R)

Legislature, 2011: House 64R/33D/11/1 Vac., Senate 19R/13D/1 Vac.

### TENNESSEE Analysis

TENNESSEE IS ALMOST the opposite of left-liberal states like Vermont. It ranks quite well in terms of economic freedom but is among the worst performers on personal freedom. It thus conforms to the frequently misleading stereotype of so-called red states as economically free but socially conservative. By one of our measures, Tennessee has the third-lowest tax collections in the country (8.3 percent of adjusted revenues as a percentage of personal income). It also has a relatively low government-debt ratio. However, it is just average in terms of spending. The Volunteer State is not all that committed to voluntarism in the personal sphere. Taxes on wine and spirits are a bit below average, but the beer tax is extremely high and is the highest in the country. Marijuana laws are strict, though the first offense of “high-level” marijuana possession is a misdemeanor. Gambling is highly controlled, although

the state now allows charitable gaming. Tennessee raised cigarette taxes in 2007, but they remain low. Tennessee also banned smoking in restaurants and added restrictions on smoking in bars and private workplaces. Interestingly, Tennessee is much less interested in arresting people for victimless crimes (excluding drug crimes) than other states, but is much more eager to make drug arrests than its peers. Motorist freedoms are restricted; Tennessee added required auto-liability insurance (disallowing self-insurance) to its sobriety checkpoints, primary seatbelt enforcement, and helmet laws for motorcyclists and bicyclists. The state also falls somewhat short on education despite homeschooling being expressly permitted by statute. For example, it has mandatory kindergarten, burdensome notification requirements for homeschoolers, and other constraints. On the plus side, along with West Virginia and Kentucky, Tennessee has the best gun-control laws in the South. Labor laws are above average, but Tennessee has a prevailing-wage law and its health-insurance laws are mediocre. Occupational licensing has gone way too far. Eminent domain has not really been reformed. However, Tennessee has expanded its deregulation efforts into cable television.

### Policy Recommendations

- (1) Tennessee is one of the few states where electric and gas utilities are mostly municipalized. These could be privatized in view of future restructuring and introduction of competition at the retail level.
- (2) Resist pressure to further increase cigarette taxes.
- (3) Reduce the beer tax consistent with regional and national norms.



↑: #14

E: #15

😊: #13

Change in overall freedom, 2007–2009: -0.042

Change in overall freedom ranking since 2007: -6

Net domestic migration, 2000–2009 (% of 2000 population): +4.1%

Governor, 2011: Rick Perry (R)

Legislature, 2011: House 98R/51D/1 Vac., Senate 19R/12D

### TEXAS Analysis

TEXAS PRIDES ITSELF on being a freedom-loving state, and our rankings bear out that it is freer than most other states. However, its policies are sometimes not as consistent with individual liberty as the rhetoric of its officials and citizens would suggest. Indeed, Texas has slipped in the rankings and has much room for improvement. Texas enjoys one of the lowest tax burdens in the country and state spending is relatively low. Gun control is better than average, but the state falls short on open-carry laws, stricter-than-federal minimum age for purchase rules, and dealer licensing. Alcohol is less regulated than in most other states (although localities can interfere extensively in this realm), and beer, wine, and liquor taxes are low. Low-level marijuana cultivation is a misdemeanor, but otherwise marijuana laws are very harsh. Its lifetime maximum possible sentence for a single marijuana offense is draconian. Even more so than Tennessee, Texas is much less interested in arresting people for victimless crimes, excluding drugs, than its peers, but is much more eager than others to make drug arrests. Texas does not authorize sobriety checkpoints and has relatively light restrictions on motorist freedoms. Private- and homeschools are almost completely unregulated. However, the state would benefit greatly from complete school choice. Labor laws are generally good, except for a prevailing-wage law. Texas is the

only state not to require employers to contribute to workers'-compensation coverage. While Texas has only light community rating, it has imposed mandated coverages on health insurance that add significantly to the cost of insurance premiums. Texas is one of the leaders in telecom and cable "deregulation." Unfortunately, eminent domain has not been extensively reformed. The state's asset-forfeiture laws and liability system are both worse than average. In terms of the latter, ending the election of judges would probably help. Texas has higher than average cigarette taxes but slightly less restrictive smoking bans than many other states.

### Policy Recommendations

- (1) Legalize casino gambling, slot machines, and sports betting. These changes would be especially useful as mechanisms for reducing the state's budget shortfall.
- (2) Repeal the prevailing-wage law.
- (3) Liberalize drug laws. First steps would include legalizing medical marijuana, decriminalizing low-level marijuana possession, and reducing the extremely harsh maximum prison sentences for single marijuana offenses.



✦: #20

E: #20

😊: #17

UTAH

Change in overall freedom, 2007–2009: 0.017

Change in overall freedom ranking since 2007: +1

Net domestic migration, 2000–2009 (% of 2000 population): +2.3%

Governor, 2011: Gary Herbert (R)

Legislature, 2011: House 58R/17D, Senate 22R/7D

### Analysis

UTAH RANKS ROUGHLY in the middle in terms of overall freedom. However, the state, as many would expect, certainly has some idiosyncrasies that come out in our data. For instance, Utah has by far the

tightest regulation of alcohol and gambling in the country. It is one of only four states with total state control of alcohol distribution, the only state to ban all beer kegs, and the only state other than Indiana to have all three of the following restrictions: mandatory server training, blue laws, and happy-hour laws. Effective tax rates on alcohol are also high. In addition, Utah is the only state to proscribe all forms of gambling, including social gambling (though it does not expressly prohibit Internet gambling). The state even makes "aggravated gambling" a felony. (This probably explains the sea of Utah-registered cars in the border-casino parking lots!) Tobacco laws are also fairly strict, with complete smoking bans outside the home, but cigarette taxes are substantially lower than average. Utah also spends more on education, though this can be explained by the greater number of children in the state. Otherwise, it is much like many of its neighbors in the Mountain West with light gun control, few restrictions on motorists, and basic regulation of private- and homeschools. Its tax burden is higher than that of some of its neighbors but essentially at the national average. However, its asset-forfeiture laws are better than those of many of the surrounding states. Utah performs particularly well in the realm of regulatory freedom, ranking third among all states. Health-insurance coverage mandates are much lower than average. Unfortunately, victimless-crimes arrest rates are above average, which is surprising given that fewer individuals in the state are likely engaged in such activities.

### Policy Recommendations

- (1) Eliminate occupational licensing for taxi drivers and chauffeurs, funeral attendants, occupational-therapist assistants, recreational therapists, interpreters and translators, and other occupations.
- (2) Resist the urge to increase cigarette taxes.
- (3) Eliminate homeschooling notification requirements.

## VERMONT



↑: #30

E: #44

😊: #2

Change in overall freedom, 2007–2009: 0.070

Change in overall freedom ranking since 2007: +3

Net domestic migration, 2000–2009 (% of 2000 population): –0.2%

Governor, 2011: Peter Shumlin (D)

Legislature, 2011: House 48R/95D/7I, Senate 8R/22D

## Analysis

VERMONT IS ONE of the few states that conforms to the generally mistaken but common view that so-called blue states intervene extensively in the economic realm but are more relaxed when it comes to social policy. It performs quite poorly in terms of economic freedom but is one of the best states for personal freedom. Vermont's fiscal policy is among the worst in the country. Overall tax collections are by one measure the fifth highest in the country (11.8 percent of adjusted revenues as a percentage of personal income). Property taxes are a particular problem, 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 the most fiscally centralized state by far, with local governments raising just 11.7 percent of total state and local revenues. Local governments are dependent on state grants for nearly 70 percent of their revenue, the highest figure in the United States. Labor laws are worse than average, with a very high minimum wage when adjusted for median earnings. Vermont has adjusted community rating for health insurance but at least has not piled on as many coverage mandates as most other states. Vermont ranks second in personal freedom largely due to its great respect for the individual right to bear arms and its embrace of same-sex civil partnerships.<sup>39</sup> Indeed, it arguably has the best gun laws in the lower 48 states, including open carry and concealed carry without

a permit. Vermont also scores well on its asset-forfeiture rules, and arrests for victimless crimes are much lower than the national average. Yet it has much room for improvement even in the realm of personal freedom. Like Utah, Vermont has full state control of beer, wine, and spirits distribution. Marijuana laws could be much better; while the state has a medical-marijuana exception and low-level cultivation is a misdemeanor, high-level possession is not, and low-level possession is still criminalized. Campaign-finance limits are quite strict even after some relaxation. Smoking bans are extensive, and cigarette taxes are high.

## Policy Recommendations

- (1) Drastically reduce state aid to schools (repeal or amend Act 60) in order to decentralize taxation and make schools more accountable.
- (2) Maintain, if not reduce, the minimum wage, even in the face of future inflation.
- (3) Decriminalize marijuana possession.

## VIRGINIA



↑: #9

E: #5

😊: #22

Change in overall freedom, 2007–2009: 0.017

Change in overall freedom ranking since 2007: –2

Net domestic migration, 2000–2009 (% of 2000 population): +2.4%

Governor, 2011: Bob McDonnell (R)

Legislature, 2011: House 59R/39D/2I, Senate 18R/22D

## Analysis

VIRGINIA IS, BY OUR COUNT, the freest state in the South. However, like the other states below the Mason-Dixon line, it fares better in terms of economic freedom (#5) than personal freedom (#22).

39. Vermont had same-sex civil unions from 2000 until 2009. It now has same-sex marriage, which was approved legislatively and took effect September 1, 2009.

The tax burden, government spending, and debt are all well below national averages. However, state and local government employment is essentially at the national average. Gun laws are decent, with much room for improvement. However, open carry is allowed. Marijuana laws are largely unrefined. Virginia is schizophrenic on education, requiring 13 years of mandatory schooling, including kindergarten attendance, and imposing significant standardized-testing and notification requirements on homeschoolers, but otherwise leaving both private- and homeschools alone. The state has below average numbers of arrests for victimless crimes, and its drug law-enforcement rate is also quite respectable (especially among its Southern peers). However, Virginia’s asset-forfeiture laws could really be improved. As one might expect given its history with tobacco, Virginia’s cigarette tax is quite low and smoking is not banned in private workplaces. However, it does have some smoking restrictions. Moreover, its spirits tax rate is the third highest in the country. Labor laws are solid. Like Hawaii and Pennsylvania, Virginia has no form of community rating for health insurance. However, coverage mandates are extensive. Indeed, Virginia has more than just about any other state, adding significantly to the cost of insurance. Natural gas and cable have been “deregulated” to the consumer. The state has one of the best liability systems in the country, and it has improved on eminent domain since the last edition of the index.

### Policy Recommendations

- (1) Revise asset-forfeiture laws to make it more difficult for government to seize assets and reduce the incentive to do so by lowering the percentage of proceeds that go to law enforcement.
- (2) Reduce the number of state and local government employees to levels consistent with the state’s low levels of spending and taxation.
- (3) Reduce the spirits tax consistent with regional and national norms.

## WASHINGTON



↑: #40

E: #41

😊: #23

Change in overall freedom, 2007–2009: 0.117

Change in overall freedom ranking since 2007: +5

Net domestic migration, 2000–2009 (% of 2000 population): +4.0%

Governor, 2011: Chris Gregoire (D)

Legislature, 2011: House 42R/55D, Senate 22R/27D

### Analysis

WASHINGTON WAS AMONG the states that improved the most in overall freedom and consequently moved up five spots in the rankings. Unfortunately for denizens of that state, it had—and still has—a long way to go. Washington is still among the 10 least-free states. Indeed, it only barely cracks the top half of states in personal freedom. Spending is a bit higher than average, but taxes are slightly lower—a recipe for government debt, which Washington has in abundance. Government employment is also too high. Land-use planning is fairly centralized. Eminent-domain legislation has been enacted but reforms need to go further. Labor and health-insurance laws are poor. Washington has the highest minimum wage in the country. It also has adjusted community rating and has enacted a host of new health-insurance coverage mandates. The state liability system is a bit above average. For a liberal state, gun laws remain quite reasonable. Alcohol is tightly controlled, with taxes on spirits the highest in the country by far (effectively \$22.33 per gallon!). However, beer and wine taxes are considerably lower than average. Cigarette taxes are high overall and the highest in the West; smoking bans are extensive. Marijuana laws are a bit better than average, with a relatively humane (but still too high, at five years) maximum prison term for single offenses. Making high-level possession and low-level cultivation misdemeanors and low-level possession a civil offense would help further. Motorist freedoms are constrained and now include a ban on handheld cell phones. However, Washington does not autho-

rize sobriety checkpoints. Gambling is restricted. Educational regulation is absurdly tight, with private schools needing state approval and under certain conditions, teacher licensing, and homeschoolers needing to meet teacher qualifications, annual standardized testing, and extensive recordkeeping rules, along with other requirements. Washington's asset-forfeiture laws are among the worst in the country and require reform. However, the state performs quite well on victimless-crime arrests and drug-law enforcement.

### Policy Recommendations

- (1) Reduce spending consistent with the state's relatively decent tax-burden levels, starting with reducing government employment and spending on natural resources (mostly at the state government level) and sewerage (at the local government level), which is particularly far above national norms.
- (2) Enact further-reaching eminent-domain reform.
- (3) Reduce centralized land-use planning by repealing or amending the Growth Management Act and Shoreline Management Act.

### WEST VIRGINIA



Change in overall freedom, 2007–2009: 0.090

Change in overall freedom ranking since 2007: +5

Net domestic migration, 2000–2009 (% of 2000 population): +0.9%

Governor, 2011: Earl Ray Tomblin (D)

Legislature, 2011: House 35R/65D, Senate 6R/28D

### Analysis

LIKE WASHINGTON, WEST Virginia is one of the most improved states in our index. But it, too, has a long way to go, especially on the economic side. Spending is high (especially education spending) as are some

particular taxes (though the overall tax burden relative to personal income is about average). In particular, corporate-income and motor-fuel taxes are very high and among the highest in the country. Government employment is more than a standard deviation higher than the national average. The state is fiscally centralized. Statewide land-use planning is virtually nil. West Virginia could improve its labor laws by repealing the prevailing-wage law, adopting right-to-work laws, and permitting private insurance for workers' compensation. However, health-insurance coverage mandates are below average. The state's liability system is one of the worst in the country (more than two standard deviations below average). Asset-forfeiture laws are badly in need of reform, and eminent-domain reform needs to go further. Gun laws are quite liberal, and marijuana laws are fairly moderate. Beer and spirits taxes are fairly low, but the wine tax is more than twice the average level. Cigarette taxes are low and local smoking bans exist. West Virginia has a helmet law and authorizes sobriety checkpoints. 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. West Virginia enjoys a low level of victimless-crime arrests and its drug law-enforcement rate is also low.

### Policy Recommendations

- (1) Cut state employment, which is well above the national average.
- (2) Reduce the corporate income tax consistent with national norms.
- (3) Reform the state's liability and asset-forfeiture laws.



## WISCONSIN



↑: #25

E: #31

😊: #18

Change in overall freedom, 2007–2009: 0.036  
Change in overall freedom ranking since 2007: +2  
Net domestic migration, 2000–2009 (% of 2000 population): -0.2%  
Governor, 2011: Scott Walker (R)  
Legislature, 2011: House 60R/38D/11, Senate 19R/14D

### Analysis

WISCONSIN HAS IMPROVED slightly since the last edition of the index but remains in the middle of the pack. In terms of economic freedom, the state's spending and debt are roughly average. However, government spending on transportation and public safety are above national norms. The overall tax burden is quite a bit higher than average, as are individual income and property taxes. Eminent-domain-law reform has stalled and could go a lot further. Wisconsin has deregulated cable service but still needs further deregulation in other areas. The state has a prevailing-wage law, but minimum wage is not above the federal level. Occupational licensing is average and there is no community rating for health insurance (there are rate bands for small-group insurers). The state has mandatory interdistrict public-school choice and a voucher program. Regulation of private schools, including general curriculum oversight, is light. Homeschools are also regulated with some annoying notification requirements. Wisconsin has very respectable asset-forfeiture laws (over one standard deviation better than average). Like North Dakota, Wisconsin has very high victimless-crime arrest rates (both as a percentage of the population and as a percentage of all arrests). On the other hand, its drug law-enforcement rate is actually below average. Alcohol laws are among the best in the country, with taxes fairly low across the board. Wisconsin does not authorize sobriety checkpoints and, before the data cutoff, was one of three states not to require auto insurance

(it has since passed a law). Cigarette taxes are very high, but smoking bans allow numerous exceptions. Wisconsin enacted a domestic-partnership law after the cutoff date for our data.

### Policy Recommendations

- (1) Reduce the income-tax burden while cutting back spending in areas above the national average, like education.
- (2) Reform eminent-domain laws.
- (3) Broaden the school-choice/school-voucher reforms.

## WYOMING



↑: #21

E: #23

😊: #20

Change in overall freedom, 2007–2009: -0.142  
Change in overall freedom ranking since 2007: -15  
Net domestic migration, 2000–2009 (% of 2000 population): +4.5%  
Governor, 2011: Matt Mead (R)  
Legislature, 2011: House 50R/10D, Senate 26R/4D

### Analysis

WYOMING TIED CALIFORNIA as the state that declined the most in terms of overall freedom and settled in at 21st in the nation. In Wyoming's case, the decline was largely due to fiscal problems as falling energy prices led to a fall in personal income, the denominator in the fiscal-policy variables. Wyoming would be wise to mimic its neighbors South Dakota, Idaho, and Colorado in economic matters. It taxes and spends more than those states, though its government debt remains the lowest in the country. Fortunately for its citizens, severance taxes provide a large part of the state's revenue. Wyoming is highly fiscally decentralized. However, the government payroll is much too large, more than two standard deviations above the national average. Wyoming is also close to the

median in personal freedom. It has very little gun control. Beer taxes are the lowest in the country, and spirits taxes are also very low. Moreover, motorist freedoms are broad and drivers do not have to face sobriety checkpoints. Cigarette taxes are low, and smoking bans have exceptions. Victimless-crimes arrests are quite high, but the drug law-enforcement rate is average. Private schools are fairly regulated while homeschools are not, with the exception of heavy notification requirements. Wyoming has the worst type of asset-forfeiture regime in the country (along with a number of other states). Labor laws are market friendly, except for Wyoming's odd requirement that employers must contribute to a state monopoly fund for workers' compensation. Health-insurance regulation is among the least intrusive in the country; health-coverage mandates are nearly a standard deviation below average. Some eminent-domain reform has occurred.

### **Policy Recommendations**

- (1) Reduce the number of state employees to levels more consistent with national norms.
- (2) Reform asset-forfeiture laws to make it more difficult for government to seize assets and reduce the incentive to do so by lowering the percentage of proceeds that go to law enforcement.
- (3) Deregulate telecommunications and cable.

## EFFECTS OF THE FEDERAL STIMULUS ON STATE AND LOCAL GOVERNMENTS

THIS SECTION ASSESSES the consequences of the American Recovery and Reinvestment Act of 2009 (stimulus) for individual freedom, as affected by state and local policies. While the stimulus was passed immediately after the period covered by this study, we can use findings on the effects of federal grants on state policies to infer what the long-run consequences of the stimulus will be.

Title V of the stimulus provided for “state fiscal relief” in the amount of \$144 billion, the majority of which was dedicated to shoring up Medicaid, with most of the remainder going to education. The purpose of the Medicaid funding was to forestall cuts to the program by state governments, since state governments have to match federal funding. Likewise, the education grants were meant to prevent teacher layoffs and encourage school modernization.<sup>40</sup> Thus, the effect of the stimulus went beyond the headline number to encourage state governments to spend more from their own resources. This aspect of the program in the short term causes fiscal freedom as we measure it to fall below what it would otherwise have been. Of course, one might argue that this increase in the size of government (and corresponding reduction in individual freedom) was justified given the circumstances. We do not address this question here. However, a more interesting question is whether the stimulus’s effects will be purely short term, or whether we can expect longer-term consequences for state and local budgets, as states may decide to continue stimulus-funded programs with own-source revenues.

We start with some anecdotal evidence. In our survey of SPN policy analysts, we asked a question about the effects of the stimulus on state taxes and spending. A respondent from a Rocky Mountain state reported that stimulus funding made up 10 percent of the baseline budget in FY 2010, to be carried into future years. A Pacific Northwest state analyst cited strict maintenance-of-effort requirements as contributing to less-efficient state administration and noted that the legislature passed a significant tax hike in order to support continued state spending at stimulus levels.<sup>41</sup> All 23 respondents who replied to this question said the stimulus permitted increases in state spending; in no case did the stimulus allow states to offset tax cuts.

However, these respondents may be predisposed to oppose federal grants to state governments and the stimulus bill; moreover, not enough time has passed to assess the long-term consequences of the stimulus specifically. Therefore, it is worth looking at broader data to see whether federal grants really do encourage long-term increases in state taxes and spending. Sobel and Crowley test whether federal grants increase state and local taxes beyond the year in which they are awarded.<sup>42</sup> They regress state and local tax revenues and own-source revenues (including nontax revenues) on same-period and lagged federal grants simultaneously to control for the short-run “flypaper” effect. They find that federal grants do cause states to enact own-source funding of programs once federal funds disappear. Specifically, every additional dollar in federal grants stimulates a permanent increase in state and local taxes or revenues of 33–42 cents.

We take the lower-bound estimate and use it to interpret the long-run effect of the federal stimulus. We expect state and local taxes to increase \$47.5

40. U.S. Department of Education, “State Fiscal Stabilization Fund,” <http://www2.ed.gov/policy/gen/leg/recovery/factsheet/stabilization-fund.html>.

41. We are vague about these states’ identities in order to protect the anonymity of respondents.

42. Russell Sobel and George R. Crowley, “Do Intergovernmental Grants Create Ratchets in State and Local Taxes?” Mercatus Research Summaries (Arlington, VA: Mercatus Center at George Mason University, September 17, 2010), <http://mercatus.org/publication/do-intergovernmental-grants-create-ratchets-state-and-local-taxes-0>.

billion in the long run as a result of the stimulus, which is about \$950 million per state or 0.4 percent of national personal income, excluding the District of Columbia. To put that amount in perspective, the average state and local taxation as a percentage of personal income in FY 2008 was 10.1 percent, and the standard deviation was 1.2 percent. Therefore, the adverse long-term effect of the stimulus should be noticeable but not enormous.

## COMPARISON TO PREVIOUS INDICES OF STATE-LEVEL ECONOMIC FREEDOM

THIS PROJECT REMAINS the only effort to code both economic and personal freedom in the 50 states. Other studies compare economic freedom or “competitiveness” in the states but do not treat other critical aspects of individual liberty or selectively subsume a few noneconomic issues within economic freedom concepts. For example, the Fraser Institute’s Economic Freedom of North America (EFNA) index does not deal with such interventions as gun control, homeschooling regulations, and marijuana laws.<sup>43</sup> Meanwhile, the Pacific Research Institute’s U.S. Economic Freedom (USEF) index subsumes gun control and seatbelt laws under “Regulatory Sector” along with occupational licensing, recycling programs, and labor regulations.<sup>44</sup> Lastly, *Rich States, Poor States*, a publication of the American Legislative Exchange Council (ALEC), creates a state ranking on Economic Outlook based on 15 fiscal and regulatory variables that are equally weighted. To be fair, economic freedom (or economic policy outlook) may be a valid concept unto itself, and these studies claim only to measure that concept. However, given that liberty and human flourishing

encompass and require more than mere economic freedom, this study provides a more robust understanding of the overall condition of freedom in the American states.

We also believe our measurement of economic freedom improves on prior studies. In fact, this report includes component scores for both economic freedom (the sum of scores on our fiscal policy and regulatory policy categories) and personal freedom (the paternalism category) for those who wish to maintain the distinction.<sup>45</sup> We note improvements under the following five headings:

(1) *Number of variables.* Our database includes far more variables than the EFNA and ALEC studies, which use 10 and 15 variables, respectively, while avoiding the pitfalls of double counting and variable interdependence in the USEF study, which includes multiple variables for tobacco and alcohol taxes, recycling requirements, total tax take, and various categories of government spending. We also have complete data on every variable.

(2) *Standardization of variables.* ALEC does not specify a standardization method. EFNA uses a 0–10 scale standardization of every variable, where 0 corresponds to “a low level of economic freedom” on the policy measure and 10 corresponds to “a high level of economic freedom,” with other states interpolated based on relative position on the raw variable. The problem with this approach is that it is extremely sensitive to outliers. If one state has much higher government

43. Nathan J. Ashby et al., *Economic Freedom of North America 2010* (Vancouver, BC: Fraser Institute, 2010).

44. Lawrence J. McQuillan et al., *U.S. Economic Freedom Index: 2008 Report* (San Francisco: Pacific Research Institute, 2008), [http://www.pacificresearch.org/docLib/20080909\\_Economic\\_Freedom\\_Index\\_2008.pdf](http://www.pacificresearch.org/docLib/20080909_Economic_Freedom_Index_2008.pdf).

45. We nevertheless maintain that individual liberty is a seamless concept and that a rigid conceptual division between “economic” and “personal” freedoms is unsupportable. Singapore is not very free despite its pro-capitalist economic policy. Property rights are not secure when “unapproved” uses of property (or one’s own body) are punished.

spending than other states, for instance, then 49 states will cluster around the 10 value while the big-government state will take on the 0 value. USEF ranks the states 1–50 on each indicator variable and averages those indicators to create sector scores, then uses principal components analysis (PCA) to reduce the variance in their policy variables to a single dimension. This method of standardizing the indicator variables throws out important information, namely the size of the difference between states on continuous variables (such as government spending). By contrast, we standardize each variable by taking, for each state on each policy variable, the number of standard deviations better (freer) than the mean.<sup>46</sup> This approach takes into account the size of differences among states on raw variables while moderating skew due to outliers.

(3) *Weighting of variables.* USEF averages standardized indicators for five components of economic freedom and then conducts PCA on those five components, extracting the first dimension as the summary measure of economic freedom. As a check of external validity the authors report that the overall economic freedom variable predicts net population migration, which we also find for our personal and economic indices. The problem with using PCA to create an index of economic freedom is that it uses correlations among variables to create the components. In essence, the procedure teases

out the ways state governments tend to covary on public policies, a concept that political scientists refer to as “policy ideology.”<sup>47</sup> Thus, liberal states tend to have high income taxes, low sales taxes, and recognition of same-sex domestic partnerships, for instance, while conservative states take the opposite tack on those policies. Policies that are highly ideologically charged will “load” heavily onto the first extracted principal components.<sup>48</sup> The USEF measure of economic freedom is actually a measure of policy conservatism on economic issues. While USEF problematically uses PCA to weight the variables, EFNA and ALEC weight policy areas equally to create their overall indices. Although there is no objectively correct way to weight these variables, since every individual values different aspects of freedom differently, we have weighted variables roughly according to the number of people affected by the policy, the intensity of preferences on the issue, and the importance of state policy variation.

(4) *Measurement issues.* We improve on previous attempts to measure fiscal interventionism. For instance, USEF uses revenues and spending per capita, which are poor measures of government intervention that reward states for having low per-capita income (because states with poorer economies bring in less revenue for a given tax rate). Mississippi has low government spending per capita but high government spending as a percentage of

46. For variables for which lower raw numbers are better, the formula for the standardized variable is  $STDVAR_i = -\frac{RAWVAR_i - \overline{RAWVAR}}{stdev(RAWVAR)}$ .

For variables for which higher raw numbers are better, the formula for the standardized variable is  $STDVAR_i = \frac{RAWVAR_i - \overline{RAWVAR}}{stdev(RAWVAR)}$ .

47. See Erikson, Wright, and McIver, *Statehouse Democracy*; and Sorens, Muedini, and Ruger, “U.S. State and Local Public Policies in 2006.”

48. For instance, occupational licensing is an important threat to freedom but does not load significantly onto the first component extracted from a PCA because it is not a liberal-conservative ideological issue. See Sorens, Muedini, and Ruger, “U.S. State and Local Public Policies in 2006.”

the state economy. EFNA divides revenues and spending by state GDP, which is better but not ideal, since state GDP figures suffer from a “corporate headquarters bias” and the attribution of labor income solely to the state where it was earned (important for states that send or receive many interstate commuters). To figure out the best denominator for fiscal variables, we regressed total spending and revenues by state on state personal income, GDP, and “corrected GDP” (used in the last version of this index). We found that state personal income was by far the best predictor of the size of state and local government, and that once personal income was included, none of the other measures of economic size correlated with government size. Since we believe that this aspect of freedom is inversely related to the proportion of the economy coercively extracted by the state, and personal income appears to be the best measure of the resources available for such extraction, we now measure taxation and spending as a percentage of personal income.

(5) *Variable relevancy.* USEF includes variables that might not bear a direct relationship to freedom (e.g., number of state legislators and government units). ALEC includes an institutional measure: constitutional tax and expenditure limits. Our database includes only variables measuring public policies and their enforcement, rather than policy outcomes (growth, unemployment, etc.) or institutional rules (size of legislature, initiative and referendum, procedures for raising taxes or spending, etc.).

In conclusion, our report not only provides a broader framework for understanding the state of freedom in

the American states, but also carefully measures the economic components of freedom.

## CONSTRUCTION OF THE INDEX

### METHOD

WE STARTED BY collecting data on state and local public policies affecting individual freedom as defined above.<sup>49</sup> All of the statutory policies are coded as of January 1, 2009, the fiscal data are coded for the fiscal year 2007–2008, the law-enforcement data cover the entire year of 2008, and all data are also back-coded consistently to January 1, 2007 (FY 2006–2007). We omit federal territories. The database covers fiscal policy, gun control, alcohol regulation, marijuana policies, tobacco and smoking laws, automobile regulations, law-enforcement data, education policies, land-use and environmental laws, labor-market regulations, health-insurance policies, utilities deregulation, occupational licensing, asset-forfeiture rules, eminent-domain reform, court systems, marriage and domestic-partnership regulations, campaign-finance laws, and sundry *mala prohibita* and civil-liberty issues.

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, arrest rates for victimless crimes, etc.). Although we went directly to the statutes and legislative-session data for many of our variables (which are now available online for all 50 states), we also collected fiscal data from the Census Bureau and Bureau of Economic Analysis, law-enforcement data from the Federal Bureau of Investigation, health-insurance-policy data from the Henry J. Kaiser Family Foundation, labor-market-regulations data from the Department of Labor, Occupational Safety and

49. The following is adapted from Sorens, Muedini, and Ruger, “U.S. State and Local Public Policies in 2006.”

Health Administration, and National Academy of Social Insurance, and so on.

In some cases, more complex ordinal scales are created from the simpler variables, but the disaggregated data are available in separate spreadsheets at <http://mercatus.org/freedom-50-states-2011> for researchers to create their own scales. 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 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.

The spreadsheet with all the variables included in our freedom index is available in Microsoft Excel 97–2003 format at <http://mercatus.org/freedom-50-states-2011>. To find the sources and formulas for constructed variables, interested readers can also download individual spreadsheets for each policy area. Given that individual readers may ultimately have a different view of how to weight each variable, we invite them to apply different weights to each variable and come up with their own state freedom rankings. One of the benefits of our construction and

ranking of freedom is that it initiates a discussion of what it means to be free and focuses attention on the proper relationship between the government and the people in a free society. Just starting that conversation is worthwhile since it draws people away from—or at least challenges—the notion that they should only think in terms of some standard like “justice as fairness” or equality or any number of competing values in tension with individual liberty.

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 the most 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 is 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 percentage of respondents in the U.S. Chamber of Commerce survey indicating satisfaction with that state’s liability system. This continuous variable seems to capture the concept we want quite well: West Virginia, Louisiana, and Mississippi come out at the bottom, while Delaware scores first.

Some policies seem to have minor importance for freedom, such as unenforceable bans on adult toy sales. We did not think it worth the effort to code for all 50 states laws that would not much affect the final freedom scores in any case.

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 the measure of occupational and professional licensing.

We have also carefully calculated the numerators of the state tax and spending ratios. For taxes, we count all tax revenues except motor fuel and mineral severance taxes, and we exclude “current charges” (mostly user fees: university tuition, highway tolls, airport fees, and the like), “miscellaneous general revenue” (interest earnings, special assessments, sale of property, and “other general revenue”), utility revenue, liquor-store revenue, and insurance-trust revenue. For spending, we actually include two sets of two variables. The first variable, weighted more heavily, includes all state and local government expenditures. The second variable subtracts current charges from expenditures on the theory that it is better for government spending to be paid for out of user fees than general taxes. The two central problems with the second measure are that (1) states may receive windfall revenues from contracting out public services, causing their current charges figures to jump dramatically (for example, Indiana’s 2006 highway revenue), and (2) government spending can crowd out private alternatives, even when funded through user fees, and especially when guaranteed by a legal monopoly. Thus, we do not wish to reward states with high current charges excessively, but we also want to take the possible advantages of the user-fee approach into account. These two variables are measured in two different ways, with and without adjustment for federal grants.

A final adjustment worth mentioning is that performed on fiscal decentralization (local own-source revenues divided by total state and local government spending). This variable captures the devolution of taxing powers to local governments. In order to attract mobile taxpayers and businesses, local governments with taxing authority should seek to eliminate rents in order to keep taxes low (“market-

preserving federalism”).<sup>50</sup> Another advantage of fiscal decentralization is that it allows individuals to choose to live in jurisdictions that provide a preferred mix of public goods.<sup>51</sup> Fiscal federalism, rightly understood, can thus promote individual freedom. However, states that have larger populations are more likely to be fiscally decentralized because they typically have some local jurisdictions with large populations that enjoy economies of scale. Compare Texas to Vermont: is Vermont really less decentralized than Texas, as the data indicate? After all, Texas has local jurisdictions that are larger in population than the entire state of Vermont! We decide to adjust fiscal decentralization for state population in order to capture the true range of choice that citizens enjoy among jurisdictions in a state. In Vermont’s case, the relevant tax competition occurs perhaps more among New England states than among the towns of Vermont. We perform the adjustment by regressing fiscal decentralization on the natural log of state population and taking the residuals (once the natural log is controlled, raw population has no effect on fiscal decentralization).

Weighting the standardized variables to create overall measures of economic and personal freedom has elements of both art and science. We decided to weight economic and personal freedom equally to create an “overall freedom” score. Fiscal and regulatory policies are weighted equally to create the economic freedom score. Fiscal policies have to do with taxing, spending, and government employment and wages. Regulatory policies include government regulations intended to effect particular economic outcomes, such as higher productivity, redistribution among interest groups, or resolution of externalities, as well as miscellaneous features of the economic system, such as the quality of the tort system. The personal freedom/paternalism category focuses on regulatory policies whose justification seems to be regulation of individual choice in the alleged

50. Yingyi Qian and Barry Weingast, “Federalism as a Commitment to Preserving Market Incentives,” *Journal of Economic Perspectives* 11, no. 4 (1997): 83–92; and Rodden, “Reviving Leviathan.”

51. Tiebout, “A Pure Theory of Local Expenditures.”



interests of the individual or the “public.”<sup>52</sup> The dividing line between economic and paternalist regulation is often unclear; how should homeschooling laws count, for instance? In general, we have erred on the side of placing regulations that are not directly related to economic issues in the paternalist category.

Within these three categories—fiscal policy, regulatory policy, and paternalism—the rule of thumb we use to weight particular issues is the salience of the issue (i.e., the substantive importance of state policy variation) and the number of people affected by it. We use the existence of explicit constitutional protections at either the federal or state level as *prima facie* evidence of high salience. We do this because the fact that representatives of the people have chosen to incorporate a right into a constitution apparently reflects a widespread belief that such a right is too fundamental to leave to the discretion of transitory legislative majorities. Our choices of weights may certainly be challenged, but we have tried a number of different weights vectors and have found the results to be quite robust. We recommend that reviewers therefore treat with skepticism very small differences between states on overall freedom scores.

Figure 6 gives the weights for the categories and issue subcategories. For the individual variables’ weights, consult the data appendix. Discussions of changes from the first index and of variable codings and weighting justifications follow.

## CHANGES FROM THE FIRST INDEX

We have made a few changes from the first edition as we attempt to hone our measures of freedom. Of course, in order to maintain consistency over time,

all of the new and revised variables have been back-coded to 2007.

In fiscal policy, we measure government spending, employment, and taxation somewhat differently from the first edition. Variables that previously used “corrected GSP” in the denominator now use personal income. The spending and employment variables were previously also adjusted for federal grants received by each state, but now we include and weight equally variables that are not so adjusted. The rationale is that states do have a choice whether or not to take such grants, and federal grants are associated with future increases in state spending and taxation.<sup>53</sup> Finally, the tax variables no longer include mineral severance taxes, the onus of which is largely on consumers around the world rather than state residents. This change drastically improves the scores of states like Alaska and Wyoming, although the state spending financed by such taxes still counts against them.

Under regulatory policy, we added health-insurance and labor-regulation variables, such as the individual-health-insurance mandate in Massachusetts, employer verification of legal-resident status, and mandated family leave. Therefore, we increased the weights for these issue subcategories slightly. We also dropped some environmental regulations from the index on the grounds that there may be a legitimate government role in dealing with the environmental externalities concerned: state endangered-species acts and state wetland statutes and programs. Therefore, we decreased the weight of the land and environment regulation subcategory substantially. We also decreased the importance of the eminent-domain reform subcategory somewhat. Recent evidence suggests that state eminent-domain reforms have often been ineffectual, as governments have

52. For a critique of the term “the public” and its uses, see Lysander Spooner, *A Letter to Grover Cleveland On His False Inaugural Address; The Usurpations and Crimes of Lawmakers and Judges and the Consequent Poverty, Ignorance, and Servitude of the People* (1886; republished by Kessinger Publishing, n.d.), 7.

53. Sobel and Crowley, “Do Intergovernmental Grants Create Ratchets?”

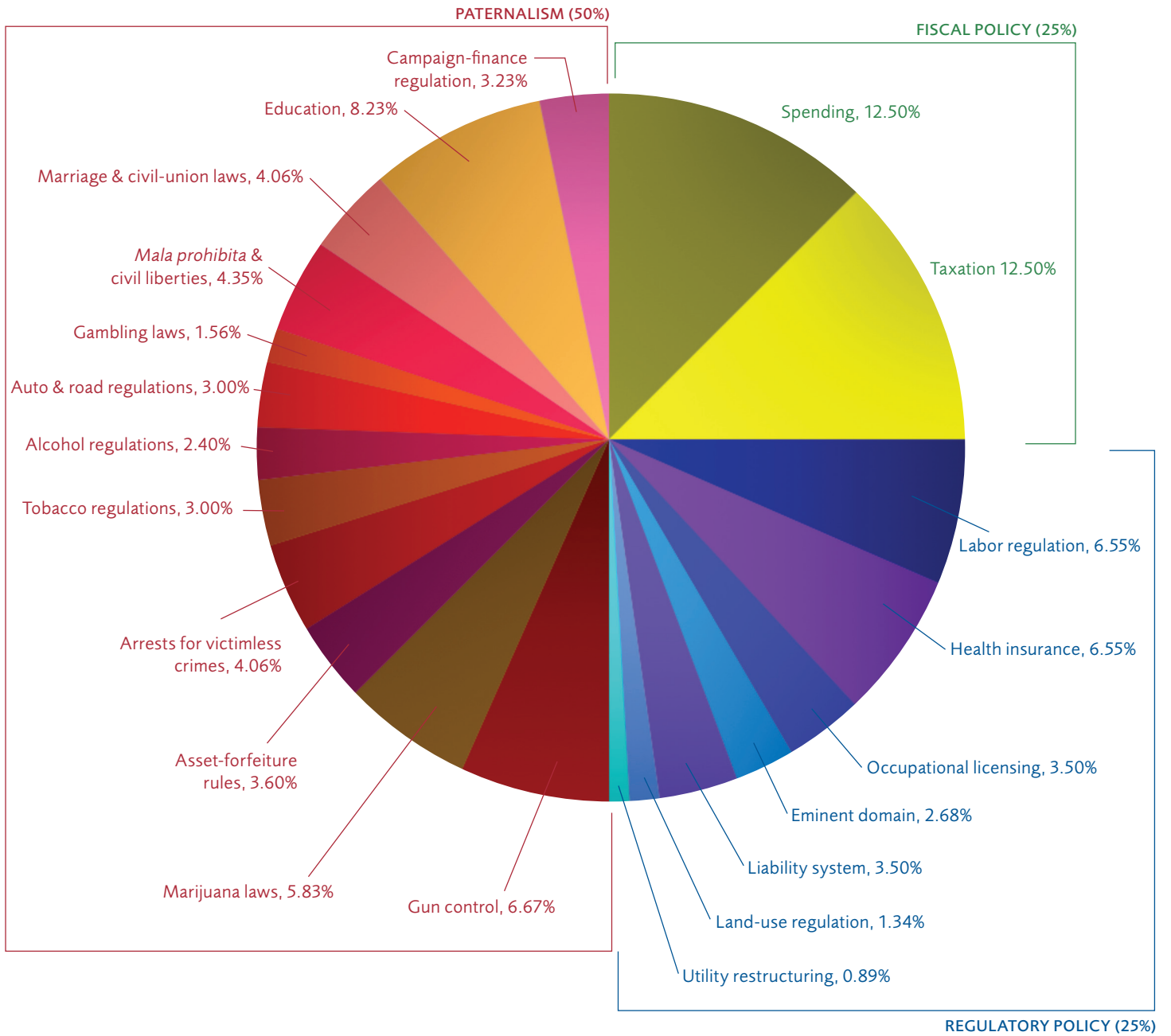
used quasi-legal end-runs around the traditional eminent-domain process to seize private property.<sup>54</sup> Finally, we adjusted other regulatory policy weights to accommodate these changes.

Another significant change to the regulatory policy category is the inclusion of a new, more accurate occupational-licensing indicator. The new indicator includes not just licensing in selected occupations, but a comprehensive coding of licensure requirements in each state, with an overall index of licensure that estimates the percentage of each state's workforce that is subject to licensure.

Under paternalism, we added several new variables and replaced the asset-forfeiture measure. The new variables are mostly concentrated in the issue subcategories *mala prohibita* and civil liberties, marijuana laws, and gun control, with the subcategories reweighted accordingly. The asset-forfeiture measure is a much more accurate representation of the rules that actually affect the incentives and ability of police to seize the property of innocent owners.

54. David T. Beito, "Fox News on Eminent Domain Through the Back Door," *History News Network*, August 3, 2010, <http://hnn.us/blogs/entries/129846.html>, accessed December 1, 2010.

**FIGURE 6: ISSUE CATEGORY WEIGHTS**



SOURCE: AUTHORS' CALCULATIONS

## DATA APPENDIX

THIS DATA APPENDIX contains a description of each variable used in the study and its location in our spreadsheets on the website, as well as a hierarchical summary of category, issue subcategory, and variable weights.

### VARIABLE DESCRIPTIONS

THE SOURCES FOR our variables may be found in each of the individual policy-area spreadsheets, each of which has two tabs, one for data and one for sources. For more information, please consult the codebook at <http://mercatus.org/freedom-50-states-2011>.

Variable name	Variable description	Spreadsheet
Adebtpi	asldebt/apersinc	A_fiscal_09.xls
Adjspipi	residuals: asppia regressed on agrantspi	A_fiscal_09.xls
Adjspipib	residuals: asppib regressed on agrantspi	A_fiscal_09.xls
Asppia	atotspt/apersinc	A_fiscal_09.xls
Asppib	atotsptb/apersinc	A_fiscal_09.xls
Afdecr	residuals: afdec on ln(apop)	A_fiscal_09.xls
Algbc	Local government budget constraints: local government own-source general revenues divided by total local government general revenues	A_fiscal_09.xls
Ainctot2	atott2/apersinc	A_fiscal_09.xls
Agovempa	Residuals: agovempr regressed on agrantspi	A_fiscal_09.xls
Agovempr	State and local government employment divided by private employment	A_fiscal_09.xls
Asldebt	State and local debt	A_fiscal_09.xls
Agrantspi	afgrant/apersinc	A_fiscal_09.xls
Afgrant	State and local intergovernmental revenue	A_fiscal_09.xls
Atotspt	State and local government spending	A_fiscal_09.xls
Atotsptb	State and local government spending minus current charges	A_fiscal_09.xls
Apop	State population	A_fiscal_09.xls
Atott2	Nonfuel, nonseverance tax revenues	A_fiscal_09.xls
Apersinc	State personal income	A_fiscal_09.xls
Bguns2	First, unrotated principal component: bipc, bipt, boci, bcci, basslt, bmags, brifle, bgunban, bnpg, bminage, bwait, bmult, bdealer, bstheft, bssp, binsp, botheft, bpriv, bshows, blicens, bregis, bdesign, blocks, baumh, bmicro, bballist, bdtr, bretent, bpurge, bconst	B_guns_09.xls
Bipc	Initial permit cost in dollars (twice the maximum cost in any other state if no permits issued, 0 if permits not required)	B_guns_09.xls
Bipt	Initial permit term (0 if no permits issued, 25 if permits not required)	B_guns_09.xls
Boci	Open-carry index (see "carry indices" page for construction)	B_guns_09.xls

Bcci	Concealed-carry index (see "carry indices" page for construction)	B_guns_09.xls
Basslt	Assault-weapons ban? (1=yes, 0.5=locally, 0=no)	B_guns_09.xls
Bmags	Large-capacity ammunition magazines ban? (1=yes, 0.5=locally, 0=no)	B_guns_09.xls
Brifle	50 caliber rifles banned or regulated? (1=banned, 0.5=regulated, 0=no)	B_guns_09.xls
Bgunban	Local gun ban in place? (1=yes, 0=no)	B_guns_09.xls
Bnpg	Nonpowder guns use or possession regulated? (1=yes, 0.5=locally, 0=no)	B_guns_09.xls
Bminage	Stricter minimum age to purchase or possess firearms than federal standard? (1=yes, 0=no)	B_guns_09.xls
Bwait	Waiting period on firearms purchases? (1=all firearms, 0.5=some firearms, 0=no)	B_guns_09.xls
Bmult	Restrictions on multiple purchases or sales of firearms? (1=yes, 0.5=locally, 0=no)	B_guns_09.xls
Bdealer	Licensing or regulation of gun dealers? (1=yes, 0.5=locally, 0=no)	B_guns_09.xls
Bstheft	Gun-dealer regulation: mandatory theft reporting of all firearms (1=yes, 0=no)	B_guns_09.xls
Bssp	Store security precautions required? (1=yes, 0=no)	B_guns_09.xls
Binsp	Police inspections of gun stores (1=required, 0.5=permitted, 0=none)	B_guns_09.xls
Botheft	Owners required to report lost or stolen guns? (1=yes, 0.5=locally, 0=no)	B_guns_09.xls
Bpriv	Background checks required at private sales or gun shows? (1=yes, 0.5=locally, 0=no)	B_guns_09.xls
Bshows	Gun shows regulated? (1=yes, 0.5=locally, 0=no)	B_guns_09.xls
Blicens	Licensing of gun owners? (1=all guns, 0.5=handguns only, 0=no; multiplied by 0.5 if locally only)	B_guns_09.xls
Bregis	Registration of firearms? (1=all firearms, 0.5=some firearms, 0=no; multiplied by 0.5 if locally only)	B_guns_09.xls
Bdesign	Design safety standards for handguns? (1=yes, 0=no)	B_guns_09.xls
Blocks	Locking devices required? (1=yes, 0=no)	B_guns_09.xls
Bchild	Child-access prevention laws? (3=criminal liability if child may gain access, 2=criminal liability if child actually gains access, 1=criminal liability if access provided knowingly, intentionally, or recklessly, 0=none, multiplied by 0.5 if local only, multiplied by 0.5 if gun must be loaded and/or a handgun for liability to attach)	B_guns_09.xls
Baumh	Authorized-user requirement for new handguns? (1=yes, 0=no)	B_guns_09.xls
Bballist	Ballistic-identification requirements? (1=yes, 0=no)	B_guns_09.xls
Bmicro	Ammunition microstamping required? (1=yes, 0=no)	B_guns_09.xls
Bdtr	Law specifying no duty to retreat before using deadly force? (1=yes, applying everywhere, 0.5=only in home, 0=none)	B_guns_09.xls
Bretent	Retention of sales records? (1=kept by state, 0.5=kept by seller, 0=no requirement; multiplied by 0.5 if locally only)	B_guns_09.xls
Bpurge	State government required to purge background check records? (1=yes, 0=no)	B_guns_09.xls
Bconst	State constitution contains individual right to keep and bear arms? (1=yes, 0=no)	B_guns_09.xls
Calcdist	Sum of six alcohol-distribution variables	C_drugs_09.xls

Ckeg	Statewide beer-keg registration requirement, or kegs banned (1=yes, 0=no, 2=all kegs banned)	C_drugs_09.xls
Ctrain	Mandatory alcoholic-beverage server training law (1=yes, 0=no)	C_drugs_09.xls
Cbeert	Beer-tax rates (dollars per gallon, ad valorem rates added under assumption of \$10 per gallon)	C_drugs_09.xls
Cwinet	Wine tax rate (dollars per gallon of wine, less than 14% alcohol by volume, ad valorem rates added under assumption of \$50 per gallon)	C_drugs_09.xls
Cspirit	Spirits tax rate (dollars per gallon of spirits, ad valorem rates added under assumption of \$50 per gallon)	C_drugs_09.xls
Cbluelaw	Dblue-0.5*dblue2	C_drugs_09.xls
Chappy	Happy-hour law? (1=yes, 0.5=locally, 0=no)	C_drugs_09.xls
Cmpleg	"Low-level" marijuana possession legal? (1=yes, 0=no)	C_drugs_09.xls
Cmpdecr	First offense of "low-level" marijuana possession decriminalized? (1=yes, 0=misdemeanor, 2=fully legal)	C_drugs_09.xls
Cmpmisd	First offense of "high-level" marijuana possession a misdemeanor? (1=yes, 0=no)	C_drugs_09.xls
Cmcmisd	"Low-level" cultivation a misdemeanor? (1=yes, 0=no)	C_drugs_09.xls
Cmmms	Mandatory minimums for "low-level" marijuana cultivation or sale (not including special penalties for minor sales)? (if yes, number of years, 0 if no)	C_drugs_09.xls
Cmedmj	Medical-marijuana exception? (1=yes, 0.5=partial, 0=no)	C_drugs_09.xls
Cmmaxpen	Maximum possible prison term for any single marijuana offense, in years	C_drugs_09.xls
Csalvia	<i>Salvia divinorum</i> ban? 1=yes, 0.9=if only legal when not intended for human consumption, 0.5=if restrictions on distribution of the plant, 0=no	C_drugs_09.xls
Cbret	Exclusive state control of retail sales of some types of beer (1=yes, 0=no)	C_drugs_09.xls
Cbwhol	Exclusive state control of wholesale sales of some types of beer (1=yes, 0=no)	C_drugs_09.xls
Cwret	Exclusive state control of retail sales of some types of wine (1=yes, 0=no)	C_drugs_09.xls
Csret	Exclusive state control of retail sale of some types of spirits (1=yes, 0=no)	C_drugs_09.xls
Cwwhol	Exclusive state control of wholesale sale of some types of wine (1=yes, 0=no)	C_drugs_09.xls
Cswhol	Exclusive state control of wholesale sale of some types of spirits (1=yes, 0=no)	C_drugs_09.xls
Dbelt	Dbeltlaw+dbeltenf	D_mala_09.xls
Dhmall	Motorcycle-helmet law covering all drivers? (1=yes, 0=no)	D_mala_09.xls
Dbike	Bicycle-helmet law exists? (1=yes, 0=no)	D_mala_09.xls
Dcell	Statewide ban on handheld cell phones? (1=yes, 0=no)	D_mala_09.xls
Docont	Open-container law for automobile drivers or passengers? (1=yes, 0=no)	D_mala_09.xls
Dsobchk	Sobriety checkpoints authorized? (1=yes, 0=no)	D_mala_09.xls
Dautouuc	Uninsured/underinsured coverage required? (2=both, 1=uninsured only, 0=no)	D_mala_09.xls
Dautopip	Personal-injury protection (auto insurance) required? (1=yes, 0=no)	D_mala_09.xls
Dsocgam	Social gambling allowed? (1=yes, 0=no)	D_mala_09.xls
Dgamfel	Aggravated gambling is a felony (1=yes, 0=no)	D_mala_09.xls

Dintgam	Express prohibition on Internet gambling? (1=yes, 0=no)	D_mala_09.xls
Dtrack	Betting on greyhound or horse racing legalized? (1=statewide, 0.5=local option, 0=no)	D_mala_09.xls
Dcasino	Casino gambling legalized? (1=statewide, 0.5=local option, 0=none: note that only state law is coded, not law applicable to sovereign Indian tribes)	D_mala_09.xls
Dparimut	Pari-mutuel wagering legalized? (1=yes, 0=no)	D_mala_09.xls
Dchargam	Charitable gaming permitted? (1=yes, 0=no)	D_mala_09.xls
Dslots	Slot games legal? (1=yes, 0=no)	D_mala_09.xls
Dsports	Sports betting legal? (1=yes, 0=no)	D_mala_09.xls
Dgrpi	dgamrev/(apersinc*1000)	D_mala_09.xls
Drawmilk	Raw-milk sales legal for human consumption? (1=yes, 0=no)	D_mala_09.xls
Dfirewks	(Dfwks1+Dfwks2+Dfwks3)/(2-Dfwks4)	D_mala_09.xls
Dprost	Prostitution legalization local option? (1=yes, 0=no)	D_mala_09.xls
Dpas	Physician-assisted suicide legalized? (1=yes, 0=no)	D_mala_09.xls
Drfra	Religious freedom restoration act? 1=yes, 0.5=broad exemptions, 0=no	D_mala_09.xls
Ddna	Police may take DNA samples from arrestees? (2=all felony arrestees, 1=certain felony arrestees, 0.5=certain felony arrestees after judicial determination/indictment, 0=no)	D_mala_09.xls
Dtrans	Statewide trans-fat ban in restaurants? (1=yes, 0=no)	D_mala_09.xls
Drecord	Two-party consent laws for recording public officials? (1=yes, illegal to record public officials without their consent, 0.5=statute contains exception when conversation happens in a public place/where there is little expectation of privacy, 0=no)	D_mala_09.xls
Dbeltlaw	Seatbelt law for adults? (1=yes, 0=no)	D_mala_09.xls
Dbeltenf	Standard enforcement of seatbelt use for adults? (1=yes, 0=no)	D_mala_09.xls
Dfwks1	Roman candles, firecrackers, and skyrockets permitted, size limitations okay (1=yes, 0=no)	D_mala_09.xls
Dfwks2	Some federally permitted fireworks legal (1=yes, 0=no)	D_mala_09.xls
Dfwks3	Wire or wood sticks and/or novelty sparklers legal (1=yes, 0=no)	D_mala_09.xls
Dfwks4	Fireworks sales legal year round (1=yes, 0=no)	D_mala_09.xls
Etcld	Tax credit/deduction law? (2=for parents, 1=for donations to scholarship funds only, 0=none)	E_educ_09.xls
Ecsyrs	ecsaub-ecsalb	E_educ_09.xls
Ekind	Kindergarten attendance required? (1=yes, 0=no)	E_educ_09.xls
Emrps	Mandatory registration of private schools? (1=yes, 0.5=yes with broad exemptions, 0=no) (note: if approval is required, registration is also coded as being required)	E_educ_09.xls
Emaps	Mandatory state approval, where state has discretion, licensing, or accreditation of private schools? (1=yes, 0.5=yes with broad exemptions, 0=no)	E_educ_09.xls
Emlpst	Mandatory state licensure of private-school teachers? (1=yes, 0.5=yes with broad exemptions, 0=no)	E_educ_09.xls

Epscurr	Extent of private-school curriculum control (2=detailed [content specified or approved by state], 1=general [subjects], 0=none (Note: If examinations are required prior to graduation, this is considered a form of detailed curriculum control.))	E_educ_09.xls
Ehslaw	Homeschooling explicitly permitted by statute? (1=yes, 0=no, must use alternative options)	E_educ_09.xls
Ehscurr	Required subjects/curriculum for homeschoolers? (2=curriculum must be approved, 1=subjects required, 0=none)	E_educ_09.xls
Ehstq	Teacher qualifications required? (1=some qualifications required under all home-schooling options, 0=some homeschooling options do not require teaching qualifications)	E_educ_09.xls
Ehsst	Standardized testing or other official evaluation required? (2=annual, 1=periodic, 0=none)	E_educ_09.xls
Ehsnoti	Homeschooling notification index (ehsnotf*ehsnote)	E_educ_09.xls
Ehsrkr	Extent of homeschool recordkeeping requirements (2=teaching materials/record of instruction, 1=attendance, 0=none)	E_educ_09.xls
Ecsaub	Compulsory school age, upper bound (minimum standard if set by local school district; age at which parental waivers not permitted)	E_educ_09.xls
Ecsalb	Compulsory school age, lower bound (minimum standard if set by local school district; age at which parental waivers not permitted)	E_educ_09.xls
Ehsnotf	Frequency of homeschooling notice required (2=annually, 1=once, 0=never)	E_educ_09.xls
Ehsnote	Extent of homeschooling notice required (2=curriculum, qualifications, or other info must be submitted, 1.5=curriculum and similar info must be submitted only once, 1=only basic identifying or attendance info must be submitted, 0=none)	E_educ_09.xls
Frtpt	Compensation required for or economic assessment required before regulatory taking (stricter than federal standard)? (2=both, 1=one of the two, 0=neither)	F_land_09.xls
Fgfsp	Guidelines for a state development plan (0=none, 1=yes but no land-use element, 2=yes and include land-use element)	F_land_09.xls
Fsspr	Strength of state planning role (1=weak, 2=significant, 3=substantial)	F_land_09.xls
Fsmpl	State-mandated local plans (1=yes)	F_land_09.xls
Fic	Internal consistency (1=state imposes requirement that zoning be based upon and consistent with the legally adopted comprehensive plan)	F_land_09.xls
Fvc	Vertical consistency (0=none, 1=state merely assists localities, 2=state imposes requirement that the local comprehensive plan of a city or county not conflict with plans of higher levels of government within the state)	F_land_09.xls
Fhc	Horizontal consistency (0=none required, 1=state merely assists localities, 2=state requires intergovernmental coordination among neighboring jurisdictions)	F_land_09.xls
Gminwag	For states with higher than federal minimum wage: (Gminraw/Gearnpc)*10; '0' otherwise	G_labor_09.xls
Gprev	Prevailing wage law? 1=yes, 0=no	G_labor_09.xls
Grtw	General right-to-work law? 1=yes, 0=no	G_labor_09.xls
Gcomp	Predicted values: Tobit regression of gcompcov on gcompman, gsbexem (dummies for each value), gagexem	G_labor_09.xls



Gcompfnd	1+gprivins+gselfins-gsfund	G_labor_09.xls
Gdisab	Short-term disability insurance required? 1=yes, 0=no	G_labor_09.xls
Gosh	Does state have its own occupational safety and health agency? (1=yes, 0.5=for public employees only, 0=no)	G_labor_09.xls
Gleave	Paid family leave required? (1=yes, 0=no)	G_labor_09.xls
Gverif	Employer verification of legal resident status (1=required of all employers, 0=not required of all employers)	G_labor_09.xls
Gminraw	Minimum wage rate (for 12/31/2006: \$5.15 if none or same as federal, for 12/31/2008: \$7.25 if none or same as federal)	G_labor_09.xls
Gearnpc	Annual private earnings by place of work per capita, in thousands of current dollars (Api*1000/Apop)	G_labor_09.xls
Gcompcov	WC-covered employees as a % of UI-covered employees	G_labor_09.xls
Gcompman	Employer-provided workers' compensation mandated? 1=yes, 0=no	G_labor_09.xls
Gsbexem	Workers' compensation optional for certain small businesses? (1=fewer than three employees, 2=fewer than four employees, 3=fewer than five employees, 0=no exemption)	G_labor_09.xls
Gagexem	Workers' compensation optional for certain agricultural workers? 1=yes, 0=no	G_labor_09.xls
Gprivins	Private workers'-compensation insurers permitted? 1=yes, 0=no	G_labor_09.xls
Gselfins	Employer self-insurance for workers' compensation permitted? 1=yes, 0=no	G_labor_09.xls
Gsfund	State funds offer workers'-compensation insurance? 1=yes, 0=no	G_labor_09.xls
Hindgii	hgself+hgii	H_health_09.xls
Hsgrate	Small-group health-insurance-market rate restrictions (3=pure community rating, 2=adjusted community rating, 1=rate bands, 0=no rating restrictions)	H_health_09.xls
Hirate	Individual-market rate restrictions (3=pure community rating, 2.5=community rating with exceptions for some plans, 2=adjusted community rating, 1.5=rate bands plus premium caps for high-risk pool policies, 1=age or health rating bands, 0.5=other rating bands, 0=none)	H_health_09.xls
Hierb	Individual health insurance: elimination riders banned? (1=yes, 0=no)	H_health_09.xls
Hcsf	COBRA continuation coverage expanded to firms with less than 20 employees? (1=yes, 0.5=employers have option of continuation or conversion, 0=no)	H_health_09.xls
Hgccsf	Mandatory group conversion coverage for small-firm employees? (1=yes, 0.9=choice between continuation and conversion coverage is allowed but one is mandated, 0.5=a broad class of insurers is exempted (e.g., HMOs or non-HMOs), 0.1=conversion mandated only in case of divorce or dependents aging off plan, 0=no)	H_health_09.xls
Hgccrl	Mandatory group conversion coverage rating limits for small-firm employees (1=yes, 0.5=only for some policies, 0.1=only in very limited cases, 0=no)	H_health_09.xls
Hmer	Mandated external review for certain types of grievances? (1=yes, 0=no)	H_health_09.xls
Hbfp	Bans on financial incentives to providers to withhold covered care? (1=yes, 0=no)	H_health_09.xls
Hmspec	Mandates direct access to providers? (1=yes, 0=no)	H_health_09.xls

Hhrhip	High-risk health-insurance pool? (1=yes or state high-risk reinsurance plan, 0.5=only for portability, 0.1=yes but not open to new enrollees and numbers less than 1,000; 0=no)	H_health_09.xls
Hsrp	Standing referrals to specialists mandated? (1=yes, 0=no)	H_health_09.xls
Hgself	Guaranteed issue of health plans for self-employed or groups of one? (1=yes, 0=no)	H_health_09.xls
Hgii	Individual-market guaranteed issue? (2=all products, 1=some products/individuals/companies (insurer of last resort), 0=no)	H_health_09.xls
Hlhpm	Licensing of Health Plan Medical Directors (1=yes, 0=no)	H_health_09.xls
Hmindex	Health-insurance coverage-mandates index (hmdindex+hmpindex+hmbindex)	H_health_09.xls
Himand	Individual health-insurance mandate? 1=yes, 0=no	H_health_09.xls
Hmdindex	Health-insurance mandated dependent coverage index (each mandate weighted by percentage added cost to average health-insurance policy, according to Coalition for Affordable Health Insurance)	H_health_09.xls
Hmpindex	Health-insurance mandated providers index (each mandate weighted by percentage added cost to average health-insurance policy, according to Coalition for Affordable Health Insurance)	H_health_09.xls
Hmbindex	Health-insurance mandated-benefits index (each mandate weighted by percentage added cost to average health-insurance policy, according to Coalition for Affordable Health Insurance)	H_health_09.xls
Icigtax	Cigarette tax per pack of 20, including maximum local taxes, in dollars	I_smoking_09.xls
Ibanrest	Smoking ban in restaurants (1=total or near-total, 0.75=smoking only in ventilated areas, 0.5=some nonsmoking areas required or local bans, 0=no or few regulations)	I_smoking_09.xls
Ibanbar	Smoking ban in bars (1=total or near-total, 0.75=smoking only in ventilated areas, 0.5=some nonsmoking areas required or local bans, 0=no or few regulations)	I_smoking_09.xls
Ibanwork	Smoking ban in private workplaces (1=total, 0.75=few exceptions [such as ventilated areas], 0.5=numerous exceptions/designated areas/local bans, 0.25=minimal regulation, 0=no regulation)	I_smoking_09.xls
Ivend	Regulations on vending machines (1=banned, 0.5="hard" location restrictions, 0=age restrictions/supervision requirements only)	I_smoking_09.xls
Inetpurc	Regulations on Internet purchases? (1=yes, 0=no or minimal)	I_smoking_09.xls
Ismplaw	Regulations for "smoker protection" in employment? (1=yes and insurance discrimination banned, 0.5=yes but [implicitly or explicitly] insurance discrimination or incentives to stop smoking allowed, 0=no)	I_smoking_09.xls
Icigtax	Cigarette tax per pack of 20, including maximum local taxes, in dollars	I_smoking_09.xls
Jdrsng	Deregulation of retail sales of natural gas (0=no unbundling, 1=partial unbundling, 2=unbundling)	J_util_09.xls
Jtdereg	Telecommunication deregulation (1=deregulation legislation passed and signed)	J_util_09.xls
Jclsfc	Cable legislation for state-issued franchise companies(1=yes, state has "enacted legislation to promote effective competition among cable-service providers")	J_util_09.xls

K_Lic_09-Sl.Xls	Weighted sum of occupational licenses (weights are each occupation's share of the national workforce)	K_lic_09-sl.xls
Lforf	Aggregate asset-forfeiture score ( $0.2 * lproceeds + 0.6 * lstandard + 0.16 * lproceeds * lstandard + 0.8 * lproceeds * liob + 0.58 * lstandard * liob$ ) (formula is based on regression results)	L_forf_09.xls
Lproceeds	Percentage of proceeds to law enforcement (1=0–5%, 2=5.1–20%, 3=20.1–80%, 4=80.1–95%, 5=95.1–100%)	L_forf_09.xls
Lstandard	Standard of proof for showing property subject to forfeiture (1=beyond reasonable doubt, 2=beyond reasonable doubt/clear and convincing depending on type, 3=clear and convincing, 4=clear and convincing/preponderance of the evidence depending on type, 5=preponderance of the evidence, 6=preponderance/probable cause depending on type, 7=prima facie/probable cause)	L_forf_09.xls
Liob	Innocent-owner burden (1=burden on government, 2=depends on type of property, 3=burden on owner)	L_forf_09.xls
Mindex	Eminent-domain-reform index ( $[(mreform + mprivate + mblight) * [1 + (0.5 * mconst)]]$ )	M_ed_09.xls
Mreform	Enacted eminent-domain reform through legislation or initiative (1=yes, 0=no, including judicial action)	M_ed_09.xls
Mprivate	Private property (1=prohibits private-property taking for any private use, regardless of alleged public benefit, 0.5=prohibits only some private-to-private transfers, 0=no effective restrictions on this type of eminent-domain use)	M_ed_09.xls
Mblight	Blight (1=implemented stricter definition either explicitly or implicitly, 0.5=retained vague definition but required higher standard of proof, 0=otherwise)	M_ed_09.xls
Mconst	Constitution enshrines all additional restrictions on eminent domain (1=yes, 0=no, 0.5=only some restrictions have been codified constitutionally)	M_ed_09.xls
Oliabrck	Ranking of state liability systems: "SCORE" (see source; higher scores indicate less tortious systems)	O_courts_09.xls
Rvcarrst	Sum: rweap, rprost, rgamb, rliquor, rloit	R_enfor_09.xls
Rarrests	Sum: rweapa, rprosta, rgamba, rliquora, rloita	R_enfor_09.xls
Rdrenrat	Drug law-enforcement rate=rdrugs divided by ruse, times 100	R_enfor_09.xls
Rweapa	Arrests for carrying or possession of weapons divided by all arrests, 18 & over	R_enfor_09.xls
Rprosta	Arrests for "prostitution and commercialized vice" divided by all arrests, 18 & over	R_enfor_09.xls
Rdrugsa	Arrests for "drug-abuse violations" divided by all arrests, 18 & over	R_enfor_09.xls
Rgamba	Arrests for gambling divided by arrests, 18 & over	R_enfor_09.xls
Rliquora	Arrests for "liquor laws" divided by arrests, 18 & over	R_enfor_09.xls
Rloita	Arrests for curfew and loitering-law violations divided by arrests, all ages	R_enfor_09.xls
Rweap	Arrests for carrying or possession of weapons divided by population, 18 & over	R_enfor_09.xls
Rprost	Arrests for "prostitution and commercialized vice" divided by population, 18 & over	R_enfor_09.xls
Rdrugs	Arrests for "drug-abuse violations" divided by population, 18 & over	R_enfor_09.xls
Rgamb	Arrests for gambling divided by population, 18 & over	R_enfor_09.xls
Rliquor	Arrests for "liquor laws" divided by population, 18 & over	R_enfor_09.xls
Rloit	Arrests for curfew and loitering-law violations divided by population, all ages	R_enfor_09.xls

Ruse	Past month use of any illicit drug, as percentage of the population	R_enfor_09.xls
Ssame	Same-sex civil union, marriage, or extensive domestic partnership=1, limited domestic partnership=0.5, no same-sex unions=0	S_marr_09.xls
Sbldtest	Blood test required (1=yes, 0=no)	S_marr_09.xls
Swait	Total waiting period (slwp+slwp2)	S_marr_09.xls
Slwp	Waiting period between applying for and receiving license, in days	S_marr_09.xls
Slwp2	Waiting period between receipt of license and ability to marry	S_marr_09.xls
Tpubfin	Public financing index=(tfullpub+[0.5*tpartpub]+[0.5*tpfpps])/(1+ttaxadd)	T_elec_09.xls
Tindconc	Limits on individual contributions to legislative candidates, per election cycle, in 2005 dollars (\$50,000 if no limit)	T_elec_09.xls
Tindconp	Limits on individual contributions to political parties, per election cycle, in 2005 dollars (\$200,000 if no limit)	T_elec_09.xls
Tgprc	Index of grassroots PAC regulation, candidate contributions=tindpac*tpacconc*.00001	T_elec_09.xls
Tgprp	Index of grassroots PAC regulation, party contributions=tindpac*tpacconp*.00001	T_elec_09.xls
Tcprc	Index of corporate PAC regulation, candidate contributions=tcorpac*tpacconc*.00001	T_elec_09.xls
Tcprp	Index of corporate PAC regulation, party contributions=tcorpac*tpacconp*.00001	T_elec_09.xls
Tfullpub	Full public financing for state election campaigns available? (1=all or most state elections, 0.1=trial basis or a few state offices, 0=none)	T_elec_09.xls
Tpartpub	Some public financing for state election campaigns available? (1=all or most state offices, 0.1=some state offices or on trial basis, 0=none)	T_elec_09.xls
Tpfpps	Some public financing for political parties available? (1=yes, 0=no)	T_elec_09.xls
Ttaxadd	Is the source of public funds a voluntary tax add-on only? (1=yes, 0=no)	T_elec_09.xls
Tindpac	Limits on individual contributions to PACs, per election cycle, in 2005 dollars (\$200,000 if unlimited)	T_elec_09.xls
Tcorpac	Limits on corporate contributions to PACs, per election cycle, in 2005 dollars (\$200,000 if unlimited)	T_elec_09.xls
Tpacconc	Maximum available limits on PAC contributions to candidates, per election cycle, in 2005 dollars (\$50,000 if no limit)	T_elec_09.xls
Tpacconp	Maximum available limits on PAC contributions to political parties, per election cycle, in 2005 dollars (\$50,000 if no limit)	T_elec_09.xls
Swait	Total waiting period (slwp+slwp2)	S_marr.xls
Tcorpac	Limits on corporate contributions to PACs, per election year, in dollars (\$200,000 if unlimited)	T_elec.xls
Tcprc	Index of corporate PAC regulation, candidate contributions=tcorpac*tpacconc*.00001	T_elec.xls
Tcprp	Index of corporate PAC regulation, party contributions=tcorpac*tpacconp*.00001	T_elec.xls
Tfullpub	Full public financing for election campaigns available? (1=all elections, 0.1=trial basis or a few offices, 0=none)	T_elec.xls

Tgprc	Index of grassroots PAC regulation, candidate contributions= $tindpac * tpacconc * .00001$	T_elec.xls
Tgprp	Index of grassroots PAC regulation, party contributions= $tindpac * tpacconp * .00001$	T_elec.xls
Tindconc	Limits on individual contributions to legislative candidates, per election year, in dollars (50,000 if no limit)	T_elec.xls
Tindconp	Limits on individual contributions to political parties, per election year, in dollars (200,000 if no limit)	T_elec.xls
Tindpac	Limits on individual contributions to PACs, per election year, in dollars (\$200,000 if unlimited)	T_elec.xls
Tpacconc	Limits on PAC contributions to candidates, per election year, in dollars (\$50,000 if no limit)	T_elec.xls
Tpacconp	Limits on PAC contributions to political parties, per election year, in dollars (\$50,000 if no limit)	T_elec.xls
Tpartpub	Some public financing for election campaigns available? (1=all offices, 0.1=some offices or on trial basis, 0=none)	T_elec.xls
Tpfpps	Some public financing for political parties available? (1=yes, 0=no)	T_elec.xls
Tpubfin	Public financing index= $(tfullpub + (0.5 * tpartpub) + (0.5 * tpfpps)) / (1 + ttaxadd)$	T_elec.xls
Ttaxadd	Is the source of public funds a voluntary tax add-on only? (1=yes, 0=no)	T_elec.xls

**CONCEPT, ISSUE CATEGORY, AND VARIABLE WEIGHTS**

CONCEPT
ISSUE CATEGORY
POLICY VARIABLE
<p>Fiscal Policy: 25%, of which:</p> <ul style="list-style-type: none"> <li>Spending: 50%, of which:                             <ul style="list-style-type: none"> <li>Grants-adjusted spending: 16.67%</li> <li>Adjusted spending minus current charges: 8.33%</li> <li>Total spending: 16.67%</li> <li>Spending minus charges: 8.33%</li> <li>Population-adjusted fiscal decentralization: 25%</li> <li>Local-government budget constraints: 6.25%</li> <li>Grants-adjusted government employment: 9.38%</li> <li>Total government employment: 9.38%</li> </ul> </li> <li>Taxation: 50%, of which:                             <ul style="list-style-type: none"> <li>State and local debt: 25%</li> <li>Nonfuel, nonseverance tax revenues: 75%</li> </ul> </li> </ul> <p>Regulatory Policy: 25%, of which:</p> <ul style="list-style-type: none"> <li>Labor regulation: 26.2%, of which:                             <ul style="list-style-type: none"> <li>Minimum wage: 21%</li> <li>Right-to-work laws: 26%</li> <li>Short-term disability insurance: 12%</li> <li>State OSHA: 2%</li> <li>Prevailing-wage law: 4%</li> <li>Workers'-compensation coverage regulations: 12%</li> <li>Workers'-compensation funding regulations: 4%</li> <li>Paid family leave: 12%</li> <li>Employer verification of legal status: 6%</li> <li>Smoker-protection laws: 1%</li> </ul> </li> <li>Health insurance: 26.2%, of which:                             <ul style="list-style-type: none"> <li>Individual guaranteed issue: 8.57%</li> <li>Community rating, small groups: 11.43%</li> <li>Community rating, individuals: 11.43%</li> <li>Individual policies, elimination riders banned: 4.29%</li> <li>COBRA continuation, small firms: 1.43%</li> <li>Group conversion coverage, small firms: 1.43%</li> </ul> </li> </ul>

Group conversion rating limits: 1.43%  
Mandated external grievance review: 1.43%  
Financial incentives to providers banned: 2.86%  
Direct access to specialists mandated: 4.29%  
High-risk health-insurance pool: 1.43%  
Standing referrals mandated: 2.86%  
Licensing of health-plan medical directors: 1.43%  
Health-insurance coverage mandates index: 28.57%  
Individual health-insurance mandate: 17.14%

Occupational licensing: 14%

Eminent domain: 10.72%

Liability system: 14%

Land-use regulation: 5.36%, of which:

Strength of state planning role: 4.76%  
Regulatory-taking restrictions: 14.29%  
Guidelines for state development plan: 19.05%  
Mandated local plans: 9.52%  
Internal-consistency mandate: 4.76%  
Vertical-consistency mandate: 38.1%  
Horizontal-consistency mandate: 9.52%

Utility restructuring: 3.56%, of which:

Natural gas: 33.33%  
Telecom: 33.33%  
Cable: 33.33%

Paternalism: 50%, of which:

Gun control: 13.33%

Marijuana laws: 11.67%, of which:

Legal marijuana possession: 15%  
Decriminalized possession: 15%  
High-level possession misdemeanor: 15%  
Low-level cultivation misdemeanor: 15%  
Mandatory minimums: 15%  
Medical-marijuana exception: 6.25%  
Maximum possible sentence: 15%

Asset-forfeiture rules: 7.2%

Arrests for victimless crimes: 8.12%, of which:

Arrests for nondrug victimless crimes, % of population: 25%

Arrests for nondrug victimless crimes, % of all arrests: 25%

Drug law-enforcement rate: 50%

Tobacco regulations: 6%, of which:

Cigarette-tax per pack: 41.25%

Smoking ban, restaurants: 18.75%

Smoking ban, bars: 18.75%

Smoking ban, workplaces: 18.75%

Regulations, vending machines: 1.25%

Regulations, Internet purchases: 1.25%

Alcohol regulations: 4.8%, of which:

Alcohol-distribution index: 29.41%

Keg regulations: 3.92%

Server training: 3.92%

Beer taxes: 13.73%

Wine taxes: 13.73%

Spirits taxes: 13.73%

Blue laws: 17.65%

Happy-hour laws: 3.92%

Auto and road regulations: 6%, of which:

Seatbelt enforcement: 33.33%

Motorcycle-helmet laws: 8.33%

Bicycle-helmet laws: 5.56%

Cell-phone driving ban: 5.56%

Open-container law: 2.78%

Sobriety checkpoints authorized: 33.33%

Un/underinsured-motorist insurance required: 2.78%

Personal-injury insurance required: 8.33%

Gambling laws: 3.12%, of which:

Social-gaming exception: 3.33%

Gambling felony: 20%

Internet-gaming prohibition: 16.67%

Track gaming: 5%

Casino gaming: 5%

Pari-mutuel wagering: 5%

Charitable gaming: 5%

Slots gaming: 5%

Sports betting: 5%



Gaming revenues: 30%

*Mala prohibita* and civil liberties: 8.7%, of which:

- Raw-milk sales legal: 3.57%
- Fireworks ban: 7.14%
- Prostitution legal: 32.14%
- Physician-assisted suicide legal: 25%
- Religious Freedom Restoration Act: 7.14%
- DNA taken from arrestees: 10.71%
- Trans-fat bans: 7.14%
- Two-party consent for recording: 7.14%

Marriage and civil-union laws: 8.12%, of which:

- Same-sex partnerships recognized: 95.24%
- Blood test requirement: 2.38%
- Total waiting period: 2.38%

Education: 16.46%, of which:

- Tax credit/deduction: 9.09%
- Compulsory schooling years: 9.09%
- Mandatory kindergarten: 9.09%
- Private-school registration: 6.06%
- Private-school approval requirement: 12.12%
- Private-school teacher licensure: 12.12%
- Private-school curriculum control: 6.06%
- Homeschooling law: 3.03%
- Homeschooling curriculum control: 6.06%
- Homeschooling teacher licensure: 9.09%
- Homeschooling standardized testing: 9.09%
- Homeschooling notification requirements: 4.55%
- Homeschooling recordkeeping requirements: 4.55%

Campaign-finance regulation: 6.46%, of which:

- Public financing: 18.18%
- Individual contributions to candidates: 15.91%
- Individual contributions to parties: 15.91%
- Grassroots PAC contributions to candidates: 15.91%
- Grassroots PAC contributions to parties: 15.91%
- Corporate contributions to candidates: 9.09%
- Corporate contributions to parties: 9.09%

Note: Due to rounding, percentages listed do not sum to exactly 100.0%.

## About the Mercatus Center at George Mason University

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The Mercatus Center at George Mason University is a 501(c)(3) education, research, and outreach organization that works with scholars, policy experts, and government officials to bridge academic learning and real-world practice.

Our mission is to generate knowledge and understanding of how institutions affect the freedom to prosper and hold organizations accountable for their impact on that freedom. The aim of our work is to enable individuals to live free, prosperous, and peaceful lives.

The Mercatus Center is located on George Mason University's Arlington Campus, along with the George Mason University School of Law, the Law and Economics Center, and our sister organization, the Institute for Humane Studies.

## About the Social Change Project

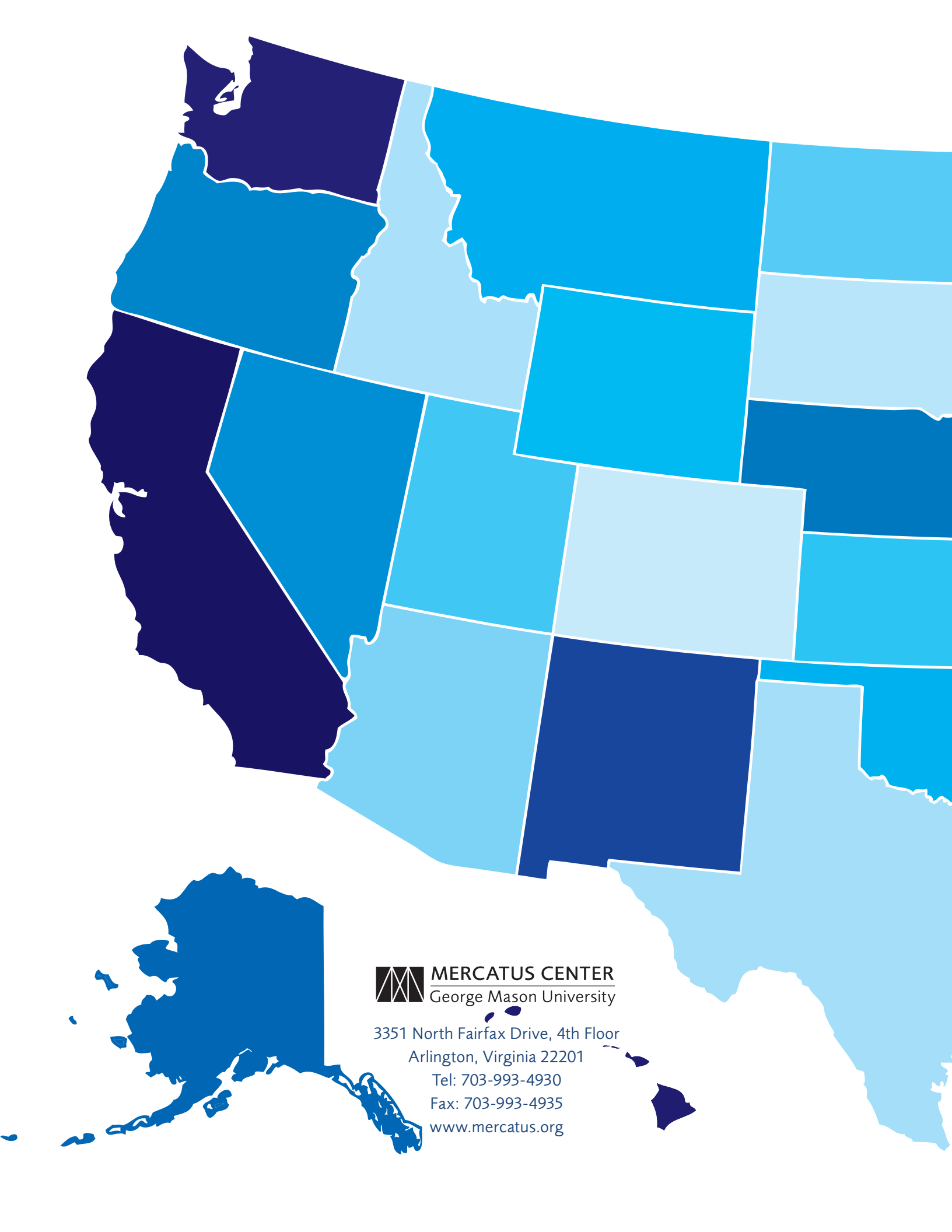
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The Social Change Project of the Mercatus Center at George Mason University supports a global network of interdisciplinary scholars whose research advances an understanding of social change. Scholars work to develop a more practical understanding of how social change occurs, particularly the “institutional choice” approach to the study of social change, and how to create a freer society.

In pursuit of this, we have organized our research agenda in order to make progress toward answering what we have identified as crucial questions of social change, such as:

- Which institutions (social, economic, and legal arrangements) underpin a free society?
- How do people make decisions about institutions?
- How do values and belief systems affect institutions and vice versa?
- How are institutions modified and/or sustained?
- How do individuals interact with institutions to affect change that persists?

Through the Social Change Project, we aim to provide social entrepreneurs with the necessary tools to shepherd a social innovation through the structure of production, from the idea stage to the implementation stage, in order to further the conditions necessary for human flourishing.



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