

FREEDOM IN THE 50 STATES

AN INDEX OF PERSONAL AND
ECONOMIC FREEDOM

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MERCATUS CENTER
GEORGE MASON UNIVERSITY

FEBRUARY 2009

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EXECUTIVE SUMMARY

THIS PAPER PRESENTS the first-ever comprehensive ranking of the American states on their public policies affecting individual freedoms in the economic, social, and personal spheres. We develop and justify our ratings and aggregation procedure on explicitly normative criteria, defining individual freedom as the ability to dispose of one's own life, liberty, and justly acquired property however one sees fit, so long as one does not coercively infringe on another individual's ability to do the same.

This study improves on prior attempts to score economic freedom for American states in three primary ways: (1) it includes measures of social and personal freedoms such as peaceable citizens' rights to educate their own children, own and carry firearms, and be free from unreasonable search and seizure; (2) it includes far more variables, even on economic policies alone, than prior studies, and there are no missing data on any variable; and (3) it uses new, more accurate measurements of key variables, particularly state fiscal policies.

We find that the freest states in the country are New Hampshire, Colorado, and South Dakota, which together achieve a virtual tie for first place. All three states feature low taxes and government spending and middling levels of regulation and paternalism. New York is the least free by a considerable margin, followed by New Jersey, Rhode Island, California, and Maryland. On personal freedom alone, Alaska is the clear winner, while Maryland brings up the rear. As for freedom in the different regions of the country, the Mountain and West North Central regions are the freest overall while the Middle Atlantic lags far behind on both economic and personal freedom. Regression analysis demonstrates that states enjoying more economic and personal freedom tend to attract substantially higher rates of internal net migration.

The data used to create the rankings are publicly available online at www.statepolicyindex.com, and we invite others to adopt their own weights to see how the overall state freedom rankings change.

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PURPOSE OF THE INDEX

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

This report can be put to a variety of uses. 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. Scholars can use the indices to model politics and policy outcomes in areas such as economic growth and migration. 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. Individuals can use the data to plan a move or retirement.

We rank all fifty states on overall respect for individual freedom and on components of freedom: “Fiscal Policy,” “Regulatory Policy,” and “Paternalism.” Our approach in this report is to weight policies according to the number of people affected by the policy, 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 that interested readers can construct their own personal freedom rankings; the spreadsheet is available at www.statepolicyindex.com.

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 property as they see fit, so long as they do not infringe on the rights of others.¹ 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.² 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—and a deep distrust of taxation, egalitarianism, compulsory welfare, and the power of the state.³

In essence, what we are attempting to measure is how well state and local public policies conform to this ideal regime of maximum, equal individual freedom.⁴ 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 non-capitalist acts between consenting adults.⁵ Should individuals desire to “tie their own hands” and require themselves to participate in social insurance, redistributive, or paternalist projects, they should form communities by contract for these purposes.

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*; John Locke, *Second Treatise of Civil Government*; Herbert Spencer, *Social Statics or, The Conditions Essential to Happiness Specified, and the First of Them Developed* (London: John Chapman, 1851).
3. Norman Barry, “The Concept of ‘Nature’ in Liberal Political Thought,” *Journal of Libertarian Studies* 8:1 (1986): 16, fn. 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, 163.

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 of violent and property crime rates.⁶ 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. On 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. On 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 own right to life, and therefore state execution of a murderer does not violate a basic right to life. Others contend that the right to life can never be forfeited or that the state should never risk taking away all the rights of innocent individuals by mistakenly executing them.⁷

COMPARISON TO PREVIOUS INDICES OF STATE-LEVEL ECONOMIC FREEDOM

NO CURRENT STUDIES exist that measure both economic and personal freedom in the fifty states. Previous studies have compared economic freedom in the states but have ignored other critical aspects of individual liberty or selectively subsumed a few non-economic issues within economic freedom concepts. For example, the Fraser Institute’s *Economic Freedom of North America 2006 Annual Report* (EFNA) index omits, among others, such interventions as gun control, homeschooling regulations, and marijuana laws.⁸ Meanwhile, the Pacific Research Institute’s *U.S. Economic Freedom Index: 2004* (USEF) oddly subsumes gun control and seat-belt laws under “Regulatory Sector” along with occupational licensing, recycling programs, and labor regulations while ignoring other personal freedom issues.⁹ To be fair, economic freedom 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 that 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” concepts) and personal freedom

6. Measuring the efficacy and justice of criminal penalties, arrest procedures, etc. 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, Mass.: Harvard University Press, 1981).

7. Of course, there are also utilitarian arguments both for and against the death penalty. Thus, even on philosophical grounds other than our own, this policy should be excluded from an index of freedom.

8. Amela Karabegovic and Fred McMahon with Christy G. Black, *Economic Freedom of North America 2006 Annual Report* (Vancouver, B.C.: Fraser Institute, 2006).

9. Ying Huang, Robert McCormick, and Lawrence J. McQuillan, *U.S. Economic Freedom Index: 2004* (San Francisco: Pacific Research Institute, 2004), http://special.pacificresearch.org/pub/sab/entrep/2004/econ_freedom/, accessed July 28, 2008.

(the “Paternalism” concept) for those who wish to maintain the distinction.¹⁰ We note improvements under the following five headings:

(1) *Number of variables.* Our database includes far more variables than the EFNA study, which uses only ten variables, 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.¹¹ We also have complete data on every variable.

(2) *Standardization of variables.* 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 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 (more free) than the mean.¹² This approach takes into account the size of differences among states on raw variables without allowing outliers to skew the standardized variables.

(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 in which state governments tend to covary on public policies, a concept that political scientists refer to as “policy ideology.”¹³ Thus, liberal states tend to have high income taxes, low sales taxes,

10. 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.

11. For a similar critique, see *Economic Freedom of North America 2006 Annual Report*, 46.

12. 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

$$STDVAR_i = \frac{RAWVAR_i - \overline{RAWVAR}}{stdev(RAWVAR)}$$

13. See Robert S. Erikson, Gerald C. Wright, Jr., and John P. McIver, *Statehouse Democracy* (Cambridge, UK: Cambridge University Press, 1993); and Jason Sorens, Fait Muedini, and William P. Ruger, “U.S. State and Local Public Policies in 2006: A New Database,” *State Politics and Policy Quarterly* 8:3 (2008): 309–26.

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.¹⁴ 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 weights its chosen policy areas equally to create the overall index of economic freedom. 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. USEF uses revenues and spending per capita, which are poor measures of government intervention, rewarding 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 the state economy. We measure taxation and spending as a percentage of the state economy, using a corrected estimate of Gross State Product (GSP) and personal income.

(5) *Variable relevancy.* USEF includes variables that might not bear a direct relationship to freedom (e.g., number of state legislators, unionization rates).¹⁵ 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, etc.).

We started by collecting data on state and local public policies affecting individual freedom as defined above.¹⁶ All of the statutory policies are coded as of December 31, 2006, and the fiscal and arrest data are coded for the entire year 2006. This lag from data to publication is comparable to that found in all economic freedom indices, because government statistics on the economy, fiscal policies, and other variables must be released to the public first. In a few areas, such as same-sex partnerships and eminent domain reform, a few states’ policies have changed in the interim period, and those changes will appear in the next iteration of this index. 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*.

In conclusion, our report not only provides a broader framework for understanding the state of freedom in the American states, but also more carefully measures the economic components of freedom.

14. 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.”

15. Especially in the context of the open shop, unionization seems to be an exercise of freedom of association.

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

TABLE I: FISCAL POLICY RANKING

STATE	FISCAL FREEDOM
1. New Hampshire	0.28
2. South Dakota	0.26
3. Tennessee	0.25
4. Texas	0.22
5. Colorado	0.21
6. Missouri	0.19
7. North Dakota	0.15
8. Montana	0.13
9. Georgia	0.13
10. Idaho	0.12
11. Oklahoma	0.11
12. Alabama	0.11
13. Nevada	0.11
14. Virginia	0.11
15. Arizona	0.09
16. Maryland	0.06
17. Wyoming	0.06
18. Illinois	0.05
19. Iowa	0.04
20. Utah	0.04
21. North Carolina	0.03
22. Mississippi	0.02
23. Massachusetts	0.02
24. Indiana	0.01
25. Florida	0.00
26. Connecticut	-0.01
27. Oregon	-0.01
28. Kansas	-0.02
29. Louisiana	-0.02
30. Delaware	-0.02
31. Michigan	-0.03
32. Pennsylvania	-0.03
33. Arkansas	-0.04
34. South Carolina	-0.04
35. Minnesota	-0.04
36. Kentucky	-0.05
37. Washington	-0.06
38. Nebraska	-0.07
39. West Virginia	-0.07
40. Ohio	-0.07
41. Rhode Island	-0.10
42. Wisconsin	-0.13
43. New Jersey	-0.17
44. California	-0.19
45. New Mexico	-0.19
46. Hawaii	-0.21
47. Vermont	-0.21
48. Maine	-0.23
49. Alaska	-0.35
50. New York	-0.44

TABLE II: REGULATORY POLICY RANKING

STATE	REGULATORY FREEDOM
1. Michigan	0.19
2. North Dakota	0.16
3. Pennsylvania	0.15
4. Kansas	0.15
5. Indiana	0.14
6. Idaho	0.14
7. Iowa	0.13
8. South Dakota	0.13
9. Utah	0.13
10. Georgia	0.13
11. Colorado	0.12
12. South Carolina	0.11
13. Nebraska	0.10
14. Arizona	0.10
15. Alabama	0.09
16. Delaware	0.07
17. Virginia	0.07
18. New Hampshire	0.06
19. Florida	0.05
20. Wyoming	0.04
21. Oklahoma	0.03
22. Missouri	0.02
23. Wisconsin	0.02
24. Alaska	0.01
25. Louisiana	0.01
26. North Carolina	0.01
27. Texas	0.00
28. Tennessee	-0.01
29. Ohio	-0.01
30. Minnesota	-0.03
31. Montana	-0.04
32. Kentucky	-0.04
33. Nevada	-0.05
34. Mississippi	-0.05
35. Illinois	-0.07
36. Hawaii	-0.09
37. New Mexico	-0.10
38. Oregon	-0.10
39. Vermont	-0.10
40. West Virginia	-0.11
41. Arkansas	-0.11
42. Connecticut	-0.14
43. Massachusetts	-0.15
44. New York	-0.16
45. Washington	-0.16
46. California	-0.16
47. Maryland	-0.17
48. Rhode Island	-0.17
49. New Jersey	-0.17
50. Maine	-0.18

TABLE III: ECONOMIC FREEDOM RANKING

STATE	ECONOMIC FREEDOM
1. South Dakota	0.385
2. New Hampshire	0.345
3. Colorado	0.337
4. North Dakota	0.315
5. Idaho	0.257
6. Georgia	0.253
7. Texas	0.225
8. Tennessee	0.225
9. Missouri	0.210
10. Alabama	0.200
11. Arizona	0.190
12. Iowa	0.177
13. Virginia	0.175
14. Utah	0.164
15. Michigan	0.161
16. Indiana	0.159
17. Oklahoma	0.144
18. Kansas	0.126
19. Pennsylvania	0.120
20. Wyoming	0.098
21. Montana	0.096
22. South Carolina	0.062
23. Nevada	0.058
24. Delaware	0.052
25. Florida	0.047
26. North Carolina	0.041
27. Nebraska	0.036
28. Louisiana	-0.012
29. Illinois	-0.025
30. Mississippi	-0.032
31. Minnesota	-0.075
32. Ohio	-0.081
33. Kentucky	-0.086
34. Maryland	-0.110
35. Wisconsin	-0.111
36. Oregon	-0.113
37. Massachusetts	-0.133
38. Connecticut	-0.142
39. Arkansas	-0.148
40. West Virginia	-0.177
41. Washington	-0.219
42. Rhode Island	-0.267
43. New Mexico	-0.288
44. Hawaii	-0.295
45. Vermont	-0.310
46. New Jersey	-0.337
47. Alaska	-0.343
48. California	-0.351
49. Maine	-0.406
50. New York	-0.596

TABLE IV: PERSONAL FREEDOM RANKING

STATE	PERSONAL FREEDOM
1. Alaska	0.272
2. Maine	0.193
3. New Mexico	0.138
4. Arkansas	0.125
5. Texas	0.121
6. Missouri	0.110
7. Oregon	0.104
8. Idaho	0.100
9. Virginia	0.100
10. Wyoming	0.095
11. Vermont	0.093
12. Arizona	0.089
13. New Hampshire	0.087
14. Utah	0.086
15. Kansas	0.085
16. Colorado	0.084
17. West Virginia	0.080
18. Tennessee	0.059
19. Indiana	0.049
20. Michigan	0.045
21. Montana	0.029
22. Mississippi	0.027
23. Florida	0.022
24. South Dakota	0.007
25. Iowa	0.006
26. Kentucky	0.003
27. Oklahoma	-0.002
28. Hawaii	-0.009
29. Pennsylvania	-0.018
30. North Carolina	-0.022
31. Minnesota	-0.036
32. Nevada	-0.045
33. North Dakota	-0.047
34. Nebraska	-0.055
35. Washington	-0.055
36. Delaware	-0.060
37. California	-0.063
38. Connecticut	-0.082
39. Wisconsin	-0.089
40. Louisiana	-0.098
41. South Carolina	-0.102
42. Georgia	-0.106
43. Alabama	-0.107
44. Massachusetts	-0.109
45. New Jersey	-0.120
46. Ohio	-0.124
47. Rhode Island	-0.163
48. New York	-0.188
49. Illinois	-0.213
50. Maryland	-0.294

FISCAL POLICY

WE DIVIDE FISCAL policy equally into spending and taxation issue categories. These categories are of course highly interdependent; we include them both as redundant measures of size of government. Redundancy in variables reduces error in measuring the underlying concept.

We rate lowest the narrow, technical categories: (1) local government budget constraints (local own-source revenues as a percentage of local spending) and (2) the weighted average of state and local government employee earnings as a percentage of private earnings, weighted by the shares of state and local employment in total government employment. Local government budget constraints, a measure of how much local governments depend on their own resources rather than grants from state and federal governments, are a prudent fiscal measure aimed at ensuring that local governments spend within their means.¹⁷ Local government wages are here considered better lower than higher, but we recognize that some government officials should be paid well in order to attract talent and discourage corruption, so we give this variable a low weighting. 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 three times as important as these two variables, and state and local government employment as a percentage of total employment (lower is better) is considered to be four times as important.

The remainder of the spending category (one-half of total) is devoted to aggregate measures of state and local spending. State and local spending as a percentage of corrected GSP and of personal income, adjusted for federal grants (lower is better), accounts for one-third of the total spending weight. Worth 50 percent less than that variable is a slightly different measure that deducts from state and local spending revenues that the state receives through “current

charges,” generally user fees and proceeds of privatizations. Our thinking is that states deserve some credit for funding some of their governmental activities through user fees rather than taxes, although we also recognize that fee-funded government programs can impair freedom by crowding out private alternatives or by enjoying a guaranteed monopoly.

Taxation is a simple category. We include debt burden here because it represents future taxation. State and local tax revenues as a percentage of corrected GSP and of personal income (lower is better) account for five-sixths of the total taxation weight, fully 10.4 percent of the total freedom score, while state and local outstanding debt as a percentage of corrected GSP and of personal income (lower is better) accounts for one-sixth of the total taxation weight.

Table I ranks the states on Fiscal Policy.

REGULATORY POLICY

FOR US, REGULATORY policy includes labor regulation, health insurance mandates, occupational licensing, eminent domain, the tort system, land and environmental regulation, and utilities. Regulations that seem to have a mainly paternalistic justification, such as home- and private- school regulations, are placed in the “Paternalism” concept.

Labor and health insurance regulation are equally weighted and comprise the two most important issue categories for this concept. Both sets of policies affect the state economy quite fundamentally. 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 can dramatically influence the cost and availability of private health

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

insurance. State health insurance regulations can increase the cost of health insurance by 50 percent or more.¹⁸ Together these categories comprise three-sevenths of the overall regulatory index.

The lion's share of labor regulation has to do with right-to-work laws, which strongly influence unionization rates, and the minimum wage, which is adjusted for median private wages. Right-to-work laws are somewhat controversial among libertarians because they override collective bargaining contracts reached between employers and employee unions, allowing employers to hire workers who do not pay agency fees to a union. However, others argue that right-to-work laws are justified as a means of employer and employee self-defense against the mechanisms of the Wagner Act (National Labor Relations Act, NLRA), which essentially allows a "union shop" or "agency shop" to form if a majority of workers vote in favor. From the libertarian point of view, the Wagner Act fundamentally violates freedom of association and basic property rights broadly understood, and right-to-work laws somewhat restore that freedom. (In an ideal world, both the NLRA and right-to-work laws would be repealed.) At much lower weights, we consider disability insurance and workers' compensation requirements, state occupational safety and health agencies, prevailing wage laws, and "smoker protection laws," in descending order.

For health insurance 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 Data Appendix), is the most highly weighted variable. Second in importance is 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.

On the second tier we have placed eminent domain reform. Public takings of private property infringe on private property rights, and the violation is the 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,¹⁹ this kind of governmental overreach is so problematic that we have to rate this category highly, five-twenty-eights of the regulatory index.²⁰ While most states that have reformed eminent domain have kept a wide "blight loophole" that could still allow public takings for private interests, we have coded this index of reform to take into account blight reform as well as the incorporation of eminent domain restrictions into the state constitution (coding details in Data Appendix).²¹

On the third tier are occupational licensing and the liability system. We measure each of these straightforwardly. Occupational licensing is the number of licensed occupations, including only those occupations on which there is some variance across states. It captures guild-style rent-seeking aimed at fleecing the consumer by artificially limiting 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 two-sevenths of the overall regulatory index.

18. 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, accessed July 28, 2008.

19. See *Kelo v. City of New London*, 545 U.S. 469 (2005) and *Casino Reinvestment Development Authority v. Banin*, 727 A.2d 102 (N.J. Super. Ct. 1998).

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

21. See Ilya Somin, "The Limits of Backlash: Assessing the Political Response to *Kelo*," *Minnesota Law Review* (forthcoming).

Land and environmental regulations make up just one-fourteenth of the regulation score. We weight this category low because we recognize that there are real public goods issues with respect to 1) wild fauna and flora that do not respect property boundaries, 2) common water and air resources, and 3) nuisance-creating land uses. We would argue that property owners can solve most problems of the second and third types with various contractual arrangements, such as homeowners' associations. Additionally, some land-use planning could be seen as a legitimate response to distorted incentives created by road subsidies. However, we still include these regulations as negatives in the index because we prefer Coase-style bargaining solutions to top-down, command-and-control regulations that may not meet the real needs of local people.²²

Half of this issue category's total weight comes from a variable for overall strength of the state land-use planning role. To the extent that land-use planning is justified as a second-best solution, we believe it should be done at a very local level, with regional or statewide cooperation occurring on an ad hoc, as-needed basis. Statewide "smart growth" plans, which can be quite intrusive, make up one-sixth of the category, followed by wetland protection statutes at one-eighth, which can regulate away much of the value of one's property. At a much lower level are regulatory takings clauses (which are still caught up in court battles) state wetland programs, endangered species acts, and state wind or beach pools (which levy charges on homeowners' insurance policies to subsidize building in risky areas).²³

The least important issue category in regulatory policy is utilities: natural gas, telecommunications, and cable (electricity restructuring is excluded for 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 at all clear that "deregulation" results in a net increase in individual freedom. The utilities are all characterized by physical connections to the consumer. Because of the 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.²⁴ Utilities therefore comprise just one-twenty-eighth of the overall regulatory index, with natural gas, telecom, and cable weighted equally (variable coding descriptions in the Data Appendix).

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

Although we believe that a composite freedom index that includes both economic and personal freedom is most valuable, readers may wish to compare and contrast the states solely in terms of their overall economic freedom. Therefore, Table III provides such a ranking. For reasons stated above, 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

22. R. H. Coase, "The Problem of Social Cost," *Journal of Law and Economics* 3 (Oct. 1960): 1–44.

23. Daniel Sutter, *Ensuring Disaster: State Insurance Regulation, Coastal Development, and Hurricanes*, Mercatus Policy Series (Arlington, VA: Mercatus Center, 2007).

24. 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, accessed August 4, 2008.

the freedom we saw as least important, in terms of saliency, constitutional implications, and number of people affected, and working up to the most important. For us, gaming/gambling laws fall at the bottom. All states regulate gaming to some extent, even Nevada, and while gaming is a popular leisure activity among Americans, it is hardly critical to the foundations of the Republic. Gaming laws are worth one-thirtieth of the overall personal freedom index, and within this category, we rated all types of gaming permitted as five-ninths, whether “aggravated gambling” is a felony as two-ninths, legalization of Internet gaming as five-twenty-sevenths, and laws prohibiting social gaming—which are *prima facie* highly intrusive but we suppose almost never enforced—as one-twenty-seventh of the total.

At the next tier from the bottom, we include two other fairly low-saliency categories: alcohol regulations and sundry *mala prohibita*, each worth 50 percent more than gaming laws. We weighted regulations that make it more expensive to consume alcohol higher than gambling regulations due to the more apparent ubiquity of alcohol consumption across time and cultures.²⁵ Alcohol regulations include state control of alcohol distribution (an index of wholesale and retail control of beer, wine, and spirits), worth just over a third of the total; taxes on beer, wine, and spirits, which are together worth just over a third; “blue laws” that prohibit Sunday sales, worth just over a sixth; and keg regulations (registration/ban), mandatory server training, and happy hour laws making up the rest. The “sundry *mala prohibita*” category is a miscellany of paternalistic additions to the criminal law. More than half of the whole category has to do with the high-salience issue of physician-assisted suicide, which only Oregon permits. Over a third of this category is represented by legalized prostitution, which only Nevada has. The other two policies, worth less than a tenth together, are fireworks bans and prohibitions on raw milk sales.

Auto and road regulations are weighted one-fifteenth of the Paternalism concept. Libertarians generally support rules of the road that facilitate optimal flow of traffic and prohibit reckless and intoxicated drivers from imposing risks of harm on others, but oppose laws that punish private behavior that does not violate the rights of others. For that reason, seat belt 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). We rate regulations requiring personal injury coverage in auto insurance as three times more important than regulations requiring auto liability coverage, because the former is a paternalistic regulation, while the latter is an attempt to require drivers to prove that they can cover the costs of injuries they cause to others. However, we include auto liability insurance regulations as a net cost to freedom because some states permit proof of self-insurance, which seems like a reasonable alternative. Open-container bans are included as a minor nuisance, as are cell phone driving bans. In theory, cell phone driving bans could be justified on libertarian grounds as necessary for public safety, but recent research shows that any effect of cell phone usage on crash rates is negligible (complicating the conventional wisdom).²⁶

Campaign finance regulations are also worth one-fifteenth. 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 also consider restrictions on corporate and union contributions, but these receive half the weight of the other restrictions, for two reasons. First, we suspect that corporations and unions are often lobbying

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

26. Saurabh Bhargava and Vikram Pathania, “Driving Under the (Cellular) Influence: The Link Between Cell Phone Use and Vehicle Crashes” (AEI Center for Regulatory and Market Studies Working Paper, Washington, DC, 2007), <http://www.aei-brookings.org/publications/abstract.php?pid=1210>.

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 ever more. Finally, a public financing of elections index is worth one-eleventh of the issue category; the scope of most public campaign financing is rather small (see Data Appendix for coding details).

Tobacco taxes and regulations are also worth one-fifteenth. These 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 category, with cigarette taxes most of the rest. Regulations on vending machines and Internet purchases round out this category.

At the next level we have asset forfeiture rules, marriage and civil union laws, and arrests for “victimless crimes,” each worth one-twelfth of the total. Asset forfeiture, when perpetrated without a conviction of the owner, is an egregious violation of property rights and, in our opinion, the Fourth Amendment rightly interpreted. 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. We have measured arrests for victimless crimes in two ways, both weighted equally. Both variables use arrests of adults over 18 for drug offenses, 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?

Marriage and civil union laws are coded equally with asset forfeiture and arrests for victimless crimes because of the high salience of the issue. However, we do not consider same-sex marriage to be a freedom

concern either way. Instead, it seems to be a football in the so-called “culture wars.” Nevertheless, we do think that 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 category 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 category, although worth far less in the index, are blood test requirements and marriage license waiting periods, which libertarians would deem unnecessary for consenting adults.

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 of their choice 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 non-medical purposes.²⁷ 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

27. We do not consider laws on possession of cocaine, heroin, and other drugs, because every state criminalizes possession of those drugs; there is no variance for us to work with.

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 possible sentences for a single marijuana offense (some states allow life in prison for a single marijuana charge)—are more important.

Gun control is worth just under a seventh of the full Paternalism concept. 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.²⁸ Illinois allows municipalities to ban possession of handguns altogether, while 27 states allow anyone to wear a handgun openly on the hip without a permit of any kind.²⁹ The Data 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 issue category under the Paternalism concept, worth twice as much as marriage and civil unions, asset forfeiture, and arrests for victimless crimes, and more than three times as much as alcohol regulations. It represents 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 issue category. The reason we consider education

regulations so critically 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 concept because they are fundamentally justified on the claim that parents do not know how or where best to educate their own children. Politically, of course, the regulations probably exist to serve the interests of school administrators and teachers' unions rather than 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 category. The remainder is divided equally among availability of tax credits or deductions for private school, number of years of compulsory schooling, and mandatory kindergarten. Among homeschool 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

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

29. Three additional states allow permit-free open carry unless local ordinances prohibit it.

do think that having a law is a net benefit because it should provide some legal protection to parents.³⁰ The most egregious homeschool 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 control, which is usually broad rather than detailed, followed by indices of notification and recordkeeping requirements, which can be annoying but 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 IV 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, while 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 V. New Hampshire comes out on top as the freest state in the United States. It achieved this ranking due to its excellent fiscal policies and moderate levels of regulation and paternalism. However, as with all of the states, even New Hampshire has room for improvement, and post-2006 political changes in that state may mean that its ranking in this study will fall the next time we update the data and rankings. Colorado, South

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

TABLE V: OVERALL FREEDOM RANKING

STATE	OVERALL FREEDOM
1. New Hampshire	0.432
2. Colorado	0.421
3. South Dakota	0.392
4. Idaho	0.356
5. Texas	0.346
6. Missouri	0.320
7. Tennessee	0.284
8. Arizona	0.279
9. Virginia	0.275
10. North Dakota	0.268
11. Utah	0.250
12. Kansas	0.210
13. Indiana	0.208
14. Michigan	0.206
15. Wyoming	0.193
16. Iowa	0.183
17. Georgia	0.146
18. Oklahoma	0.143
19. Montana	0.125
20. Pennsylvania	0.102
21. Alabama	0.092
22. Florida	0.068
23. North Carolina	0.019
24. Nevada	0.013
25. Mississippi	-0.004
26. Delaware	-0.008
27. Oregon	-0.009
28. Nebraska	-0.018
29. Arkansas	-0.023
30. South Carolina	-0.040
31. Alaska	-0.071
32. Kentucky	-0.082
33. West Virginia	-0.097
34. Louisiana	-0.110
35. Minnesota	-0.111
36. New Mexico	-0.150
37. Wisconsin	-0.199
38. Ohio	-0.205
39. Maine	-0.214
40. Vermont	-0.217
41. Connecticut	-0.225
42. Illinois	-0.238
43. Massachusetts	-0.242
44. Washington	-0.275
45. Hawaii	-0.304
46. Maryland	-0.405
47. California	-0.413
48. Rhode Island	-0.430
49. New Jersey	-0.457
50. New York	-0.784

Dakota, Idaho, and Texas round out the top five. The first three states in the rankings are clumped tightly together, and thus citizens of all three states should be pleased to live in the freest states in the Union.

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, Rhode Island, California, and Maryland. Unfortunately, these states make up a substantial portion of the total American population. Moreover, these bottom five states have considerable ground to make up even to move off this ignoble list, let alone into a creditable position in the rankings. Individual state profiles below provide more information about these ten states as well as the others in between.

Figure 1 on the next page 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, California) seem to cluster much more in the bottom left where both economy and personal life are more regulated. Maine, Vermont, Oregon, New Mexico, Arkansas, West Virginia, and Alaska seem to conform more to the standard paradigm of left-liberalism (but of course, only the first three states are traditionally considered liberal). Conservative states divide by region: southern states (South Carolina, Alabama, Georgia, Louisiana) tend to score lower on personal freedom than western and midwestern states (Kansas, Missouri, Idaho, Colorado, Wyoming, Utah, Texas).

On the following pages, Figures 2–4 show the relationship between state percentage of the vote for Democratic presidential candidate John Kerry in 2004 and state scores on economic, personal, and overall freedom.³¹ Democratic 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 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 VI provides economic, personal, and overall freedom scores by census division.³² The Mountain division is overall the freest and comes first on personal freedom, while West North Central comes second overall and first 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 better the more westerly they are, particularly on personal freedom.

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, Virginia, and Tennessee stands out in stark contrast to their neighboring states.

31. The fitted lines represent the best polynomial fit in two degrees, and the shaded areas are the 95% confidence intervals.

32. For the U.S. Census divisions, see http://www.census.gov/geo/www/us_regdiv.pdf, accessed July 30, 2008.

FIGURE 1: FREEDOM IN THE STATES

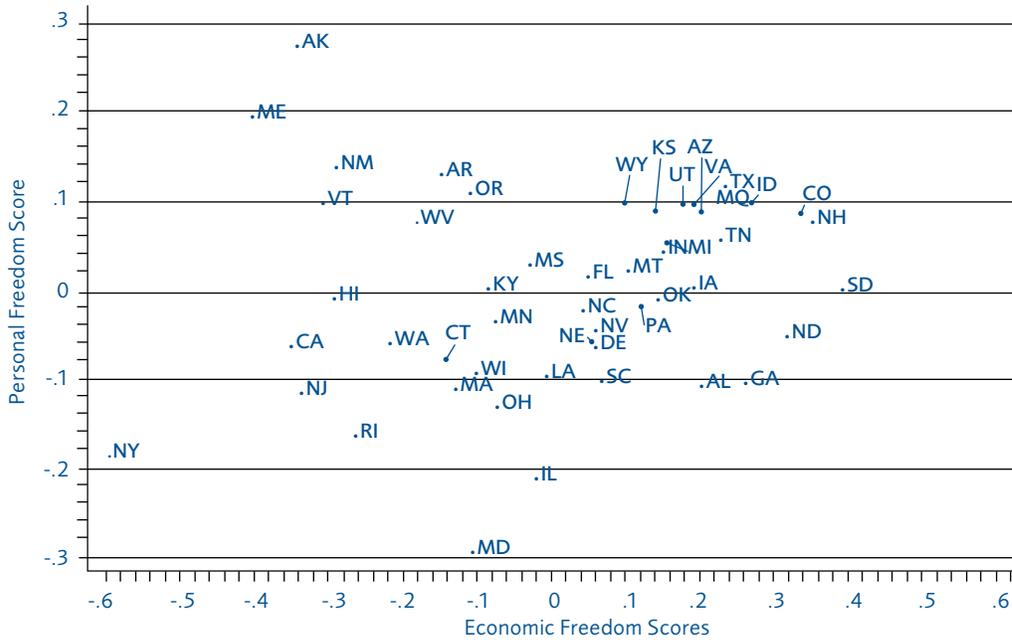
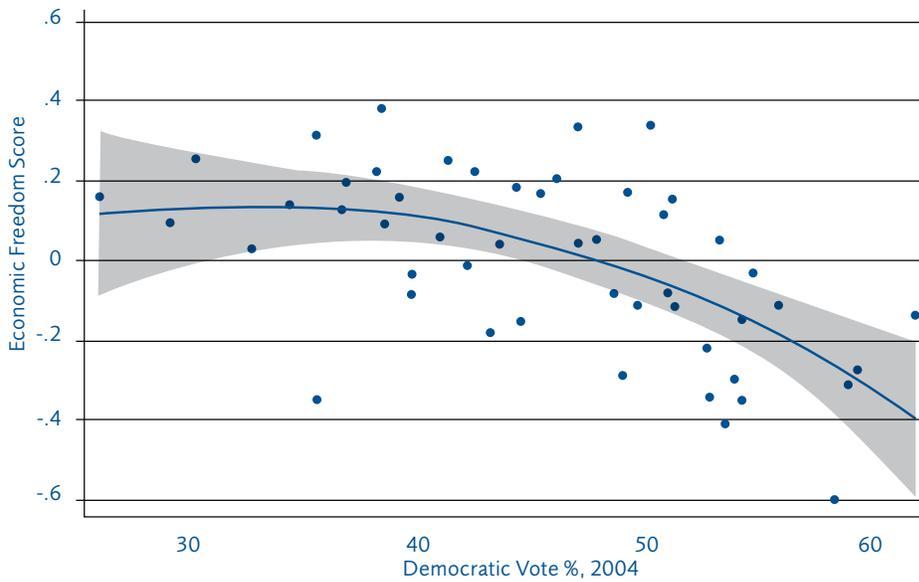


FIGURE 2: CITIZEN IDEOLOGY AND ECONOMIC FREEDOM BY STATE



We regressed net internal migration by state from 2000 to 2007 (source: Census Bureau) on total freedom scores and mean January temperature in each state's largest city (source: NOAA), to determine whether freer states tend to attract more people and less free states repel them. Both independent variables are statistically significant and positive at the 99 percent confidence level. Substantively, the results show that an increase of 0.5 points on the freedom scale, for instance from Hawaii to Kansas, increases net migration by 4.2 percentage points of 2000 population. This is about twice as large as the effect of a change in mean January temperature of 17 degrees, for instance from Chicago, Illinois to Little Rock, Arkansas. When we regress migration on January temperature, economic freedom, and personal freedom, all variables are again significant at the 95 percent level, and the positive effect of personal freedom is actually larger than that of economic freedom. A 0.25-unit increase in personal freedom increases migration by 3.0 percentage points of 2000 population, while the comparable effect for economic freedom is 1.9 percentage points. Clearly, then, Americans in general are attracted to freedom for its own sake, not just for the economic benefits.

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 some states enjoy a "libertarian streak," while others suffer from

a "statist mentality." Other research has shown that state politics, like federal politics in the United States, plays out largely on a single left-right ideological dimension defined by sociocultural attitudes toward equality, authority, and tradition.³³

The libertarian position simply does not show up in the data as a live political alternative. Indeed, one might well argue that throughout history, human freedom has emerged not because political leaders have consciously sought it, but as a consequence of balancing forces (church and state, king and nobles, and institutional forms) that happen to check the arbitrary exercise of power in particular times and places.

Why then do some states protect individual liberty more thoroughly than others if not because of a libertarian ideology? 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 2006, Alabama and Mississippi were the most conservative states in the country, while New York and New Jersey were the most liberal.³⁴ In our index Alabama and Mississippi fall in the middle, 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, home schoolers, motorists, or smokers, liberal states are nanny states, while conservative states are more tolerant. We should not attribute this relative freedom in conservative states to any philosophical respect for freedom inherent in contemporary political conservatism, but simply to the fact that the conservative position in the culture wars tends to require less

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

34. Sorens, Muedini, and Ruger, "U.S. State and Local Public Policies in 2006," 323.

FIGURE 3: CITIZEN IDEOLOGY AND PERSONAL FREEDOM BY STATE

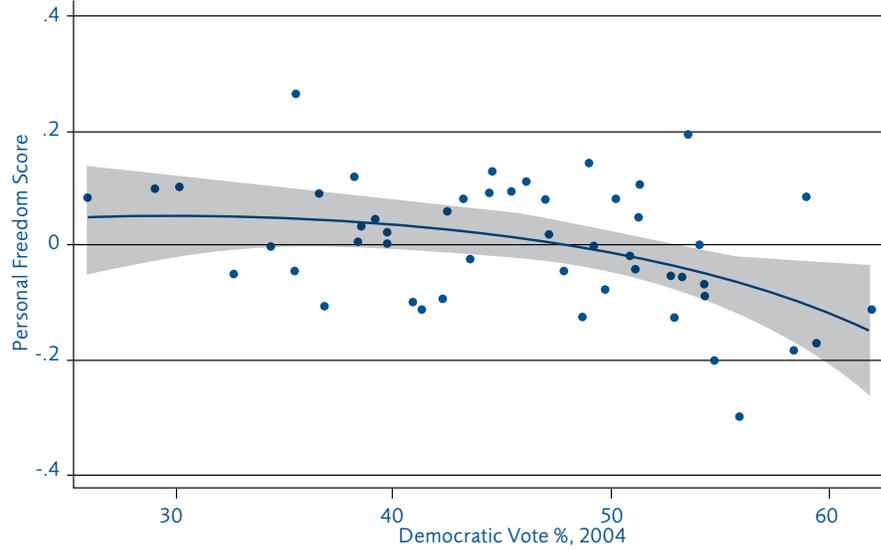


FIGURE 4: CITIZEN IDEOLOGY AND OVERALL FREEDOM BY STATE

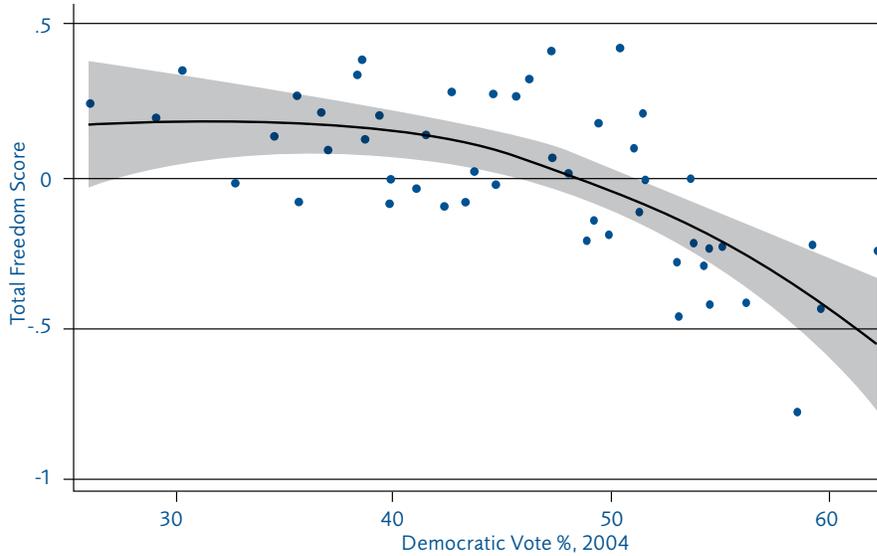
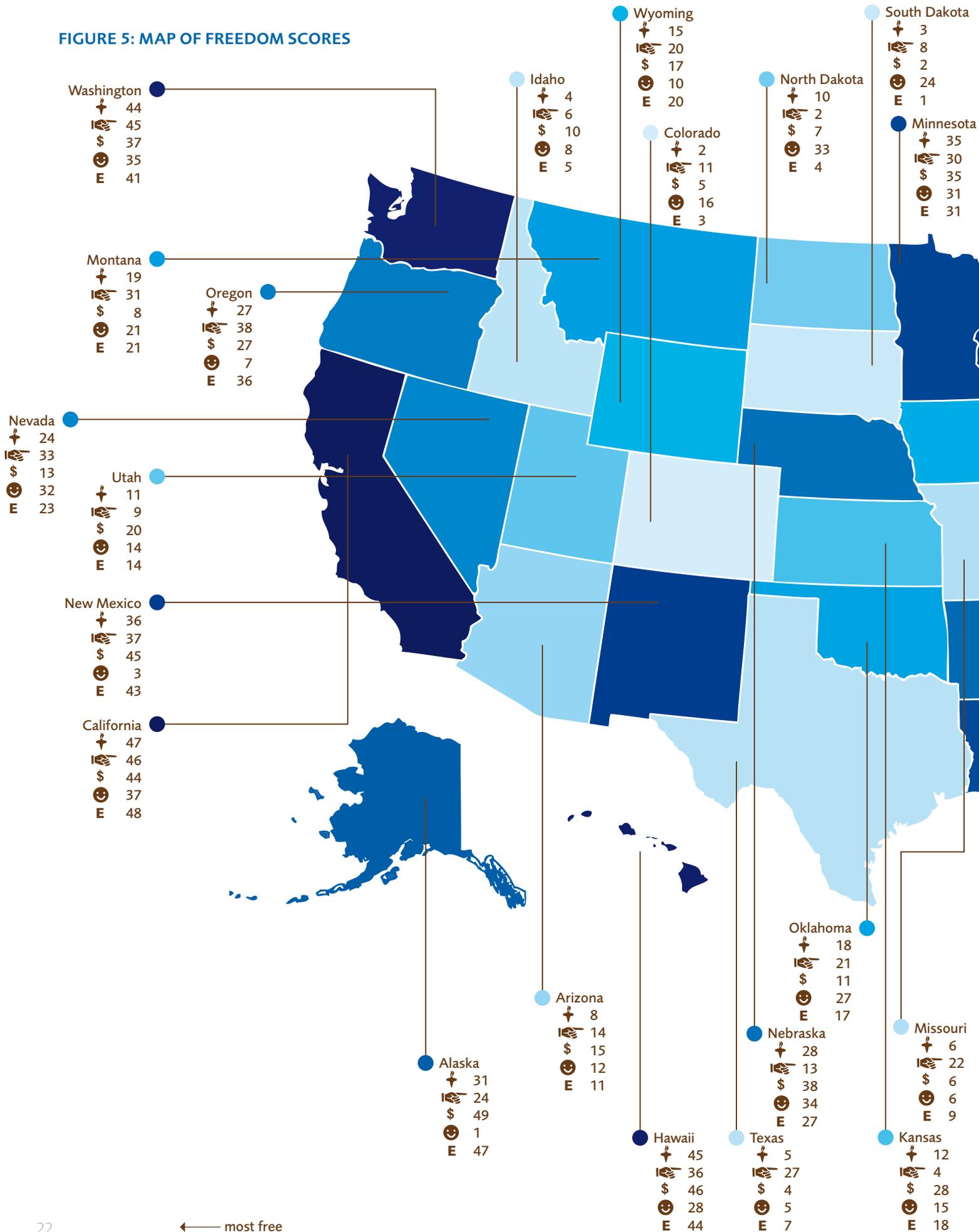
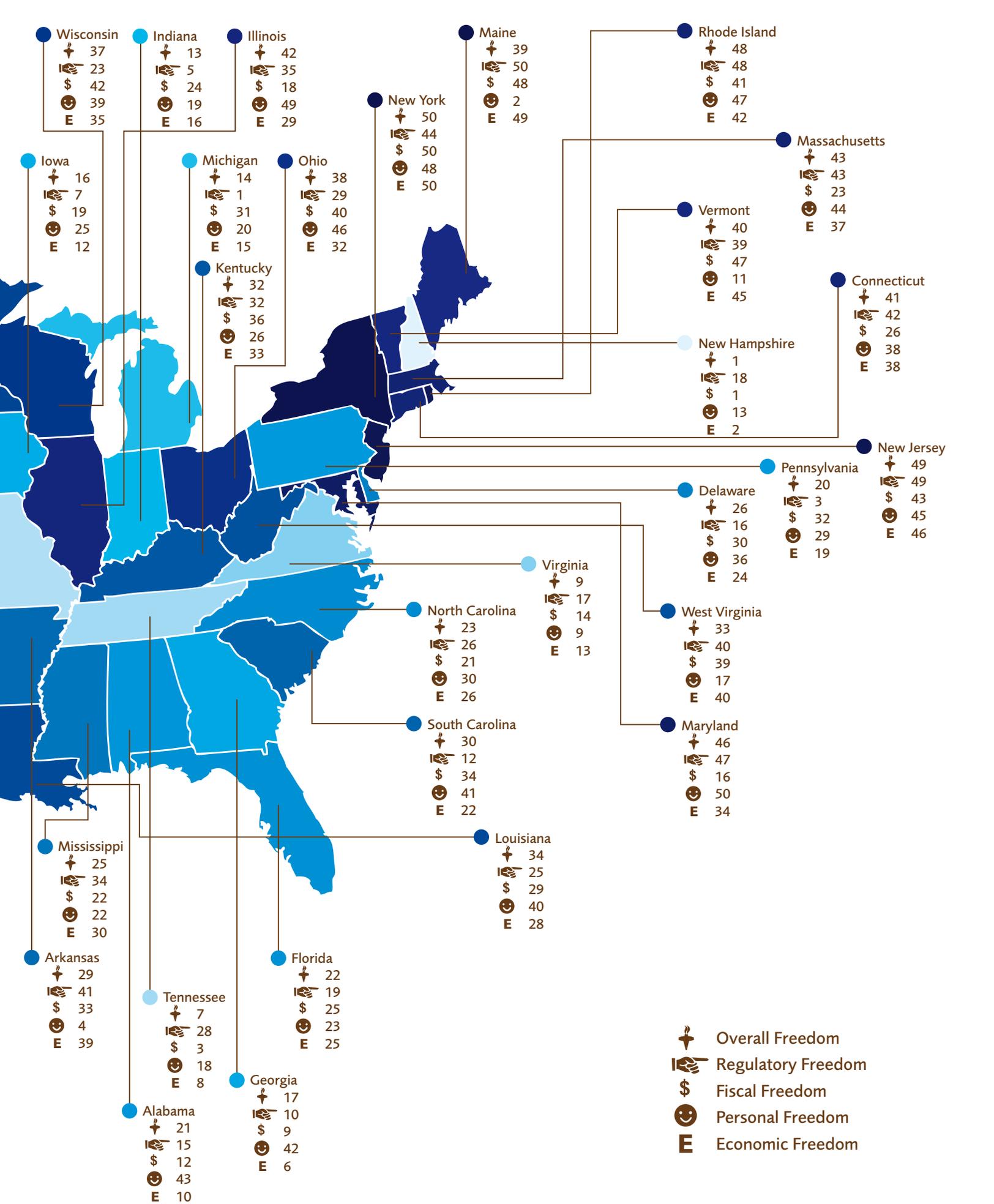


TABLE VI: ECONOMIC, PERSONAL, AND OVERALL FREEDOM SCORES BY CENSUS DIVISION

CENSUS DIVISION	ECONOMIC FREEDOM	PERSONAL FREEDOM	OVERALL FREEDOM
New England	-0.152	-0.003	-0.149
Middle Atlantic	-0.271	-0.109	-0.380
East North Central	0.021	-0.066	-0.046
West North Central	0.168	0.010	0.178
South Atlantic	0.043	-0.048	-0.005
East South Central	0.077	-0.004	0.072
West South Central	0.052	0.037	0.089
Mountain	0.114	0.072	0.186
Pacific	-0.264	0.050	-0.214

FIGURE 5: MAP OF FREEDOM SCORES





- Overall Freedom
- Regulatory Freedom
- Fiscal Freedom
- Personal Freedom
- Economic Freedom

least free →

regulation. However, extremely conservative governments do not appear to afford any more freedom overall than do moderate, centrist governments.

Another reason why freedom tends to prosper in some places and falter in others is institutional design. There has been much research on the effects of institutions on government spending across countries,³⁵ as well as on institutions and the dynamics of policy change in the American states.³⁶ Variables of interest include size of the legislature, gubernatorial power, professionalization of the legislature, fiscal decentralization, 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 (TABOR) but have also allowed massive spending increases to become law, such as Florida's 2002 initiative requiring that universal pre-kindergarten be offered throughout the state and 2000 initiative requiring construction of a high-speed rail system to connect all of Florida's five major cities. In the future, we plan to maintain and update our dataset of state and local public policies at www.statepolicyindex.com. As a time series emerges, it will become possible to do interesting research on the determinants of policy change in pro- and anti-liberty directions.

Would it be correct to say, *pace* Nick Gillespie's review of the Pacific Research Institute report in *Reason*, that "economic freedom's just another word for nothing else to do"?³⁷ It is true that so-called

"flyover country" generally 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 for people's decisions about where to live.

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 is alive and well. 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.³⁸ High-quality information on state legal environments will matter a great deal to those seeking an environment more friendly to individual liberty.

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

36. 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, 4 (2006): 825–43.

37. Nick Gillespie, "Rant: Live Free and Die of Boredom: Is 'economic freedom' just another word for nothing left to do?" *Reason* (February 2005). Available at <http://www.reason.com/news/show/36485.html>, accessed July 30, 2008.

38. 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. 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 December 31, 2006. There will have been changes since that time that do not yet show up in our data.



ALABAMA

ALABAMA SCORES AS #21 on overall freedom and 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. 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. Alabama's court system is one of the worst in the country according to the Chamber of Commerce survey. Moving from elected to appointed judges should help in this regard.³⁹



ALASKA

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 third highest debt ratio in the country and the second highest state and local government spending ratio. However, Alaska does extremely well on personal freedom, scoring 1st on our ranking. Reasons for its score include: fully legalized possession of small amounts of marijuana (accomplished through a court ruling), the best (least restrictive) gun laws in the country, recognition of same-sex domestic partnerships, and possibly the best homeschooling laws in the country. On economic regulation, Alaska could do better by reverting to the federal minimum wage, adopting right-to-work, and going much further with eminent domain reform. Alaska has done relatively well on health insurance regulation and occupational licensing.



ARIZONA

ARIZONA IS SOLID on both economic (#11) and personal (#12) freedom, ending up at #8 overall. The state does particularly well on gun laws, alcohol regulations and taxes, private- and home- school regulations, labor laws, the liability system, and smoking bans. Its marijuana laws, which are about average, could be improved by making high-level possession a misdemeanor and by decriminalizing low-level possession. Other areas for improvement include strikingly low campaign contribution limits and one of the highest cigarette tax rates in the country. Arizona and Maine are the only two states with public financing available for all elections, funded out of general revenues.



ARKANSAS

ARKANSAS IS #29 in our index, doing much better on personal than economic freedom. Arkansas does surprisingly well on fiscal policy for a poor,

39. E. Helland and A. Tabarrok, "The Effect of Electoral Institutions on Tort Awards," *American Law and Economics Review* 4, 2 (2002): 341-70.

smallish state, once one adjusts for federal grants. However, the state could stand to do much better on fiscal decentralization and local government budget constraints for a state with strong counties. Local governments should be allowed more revenue sources and state grants to local governments should be reduced. Arkansas scores high on motorist freedoms, with only secondary seat-belt enforcement, no helmet laws for adults, no open-container law, and no personal injury insurance requirement. Arkansas has virtually no regulation of private schools, and the homeschooling laws are better than average, although parental notification requirements can be 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 mandates, which add an estimated 53 percent to the cost of premiums.⁴⁰ The state licenses 30 of the occupations we track, tied for first (worst) with Maine. As of the end of 2006, the state had made no eminent domain reforms of note. On the other hand, state-level land-use planning is virtually nonexistent.



CALIFORNIA

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 ranks #48 on economic freedom and #37 on personal freedom. California simply needs to cut government spending. The budgetary categories most out of line with the rest of the country are public safety, natural resources and environment, and administration. The state actually does not spend more than average on education and social services. For a large state, it is also fairly centralized, with local governments receiving about half of their revenue in state grants, and almost two-

thirds of all state and local tax revenues controlled by Sacramento. Labor laws are of course extremely strict; for instance, California is one of only five states to mandate short-term disability insurance. Health insurance mandates add about 60 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. On personal freedoms, California does well of course 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. Arrests for victimless crimes are surprisingly high, with 21.6 percent of all arrests being for victimless crimes, the fifth highest in the country. Effective homeschooling regulations are about average, but the state has no statute explicitly permitting homeschooling. Fortunately, the state has a reasonable asset forfeiture regime (burden of proof on government, owner knowledge of criminal activity required).



COLORADO

OUR #2 STATE achieved its ranking through excellent fiscal numbers and above-average numbers on regulation and paternalism. TABOR, though suspended as of this writing, is surely responsible for some of Colorado's fiscal sanity. The state is the most fiscally decentralized in the country, with localities raising fully 44.5 percent of all state and local expenditures. By percentage of adjusted GSP, Colorado has the third lowest tax burden in the country, surpassed only by Tennessee and Texas. It 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 is 1 of 12 states to have decriminalized low-level marijuana possession. Colorado is 1 of 6 states to legalize for-profit casino

40. Bunce, Wieske, and Prikazsky, "Health Insurance Mandates in the States 2007."

gambling statewide. Arrests for victimless crimes 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 home school laws are only about average, with recordkeeping requirements particularly onerous. As of 2006, the state was one of only three to have a state-mandated “smart growth” plan. Health insurance mandates are rather high, but on the positive side of the ledger the state has the fewest licensed occupations (11) of those that we track. It enjoys a well-rated liability system.



CONNECTICUT

CONNECTICUT IS #38 in economic freedom, #38 in personal freedom, and #41 overall. It is fiscally healthy, with average debt and low government spending, but taxes and government employment are a bit above average. The prime areas for future improvement are gun rights, blue laws, mandatory school years (currently ages 5 to 18 are required to attend, tied for longest in the country), home school standardized testing and recordkeeping requirements, health insurance mandates, occupational licensing, eminent domain reform, campaign finance regulations, and smoking bans. On the positive side, Connecticut is one of the few states to have enacted civil unions legislatively, has fairly low victimless crime arrest rates, and enjoys one of the best tort systems in the country.



DELAWARE

DELAWARE IS RELATIVELY economically free for a “blue state,” coming in at #30 on fiscal policy and #16 on regulatory policy. However, as in many highly urbanized states, personal freedoms are more restricted (#36). On fiscal policy, the one area where

Delaware could stand to improve a great deal is local government finance. Even for its size, Delaware is fiscally centralized, and local governments are heavily dependent on grants. On regulatory policy, Delaware stands out for a relatively light hand on health insurance, and its labor laws are about as market-oriented as can be expected for a left-leaning coastal state. Delaware 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 has surprisingly light overall gun control, considering its ideology and urbanization, but it could easily stand to improve its marijuana regime (high-level possession and low-level cultivation and sale are felonies). 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. The state has better than average gambling laws and is one of the few states with legal betting on horse races.



FLORIDA

FLORIDA (#25 ECONOMIC, #23 personal) scores below average on all our fiscal indicators except fiscal decentralization and government employment. While Florida does not have a personal income tax, property and general sales taxes are higher than average. The spending categories the state could most afford to cut are transportation, public safety, and natural resources and environment. Florida’s gun laws are about average but the worst in the South (excluding Maryland and Delaware). Marijuana laws are generally quite restrictive. 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 home schools are 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. The minimum wage is remarkably high for a low-wage state, but the state does have right-to-work. To its credit, Florida has gone further than any other state in reforming eminent domain. Contribution limits on grassroots PACs are unnecessarily restrictive for such a large state. Smoking bans exist, but there is some local flexibility for bars and public places.



GEORGIA

GEORGIA IS A quintessential Deep South state, coming in at #42 on personal freedom but #6 on economic freedom. The state and local debt ratio is one of the lowest in the country. Taxes and spending are lower than average (once federal grants are corrected for), 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 seat-belt enforcement, motorcycle and bicycle helmet laws, an open-container law, sobriety checkpoints, and auto liability insurance requirements. Georgia barely regulates private schools, but its home school regulations are quite strict, including teacher qualification requirements. Asset forfeiture rules require significant improvements (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). Arrests for victimless crimes are very high, about a fifth of all arrests. On the economic regulation side, labor laws are good, and the state has gone far in reforming eminent domain. It also enjoys one of the best court systems in the South. Smoking bans have arrived, but bars are exempt.



HAWAII

HAWAII (#44 ECONOMIC, #28 personal) has much room to improve. On the spending side, the state is highly fiscally centralized, but at the same time local governments have to raise over 80 percent of their funds through own-source taxes, the highest figure in the country. Perhaps for that reason, local government debt is reasonably low. 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, relatively heavy home school 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, same-sex domestic partnerships are recognized, and victimless crimes make up just 7 percent of all arrests. On labor law the state government is highly interventionist, with an above-federal minimum wage, 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 well below average. On health insurance the state is surprisingly laissez-faire, with no community rating and fewer mandates than average. Occupational licensing is also much better than average.



IDAHO

TRUE TO ITS reputation, Idaho is among the freest states in the country (#4 overall, #8 personal, #5

economic). After Wyoming, Idaho has the lowest government debt ratio in the United States. Taxes and spending are a bit lower than average, but Idaho could presumably improve its record here, especially in cutting government payroll. Individual income taxes are actually rather high. Idaho has a very relaxed gun control regime, but it could improve its marijuana laws substantially. The state has few restrictions on motorists other than the usual trinity (secondary seat-belt enforcement, open-container, auto liability insurance). 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 home schooling other than curriculum requirements. One personal freedom Idaho needs to reform is asset forfeiture; the state has the same regime as Georgia. Labor laws are generally solid, and health insurance mandates add only 21 percent to the cost of premiums.⁴¹ Occupational licensing is rare. However, eminent domain reform has not gone as far as it should.



ILLINOIS

ILLINOIS IS ONE of the worst states to live in from a personal freedom perspective (#49). On economic freedom it is in the middle of the pack (#29). Illinois has the fourth harshest gun control laws in the country, after California, Maryland, and New York, and the state's victimless crimes arrest rates are almost unfathomable: In 2006, more than 2 percent of the state's population was arrested for a victimless crime (and that figure does not count under-18s). Nearly one-third of all arrests were for victimless crimes. On the plus side, Illinois' home school regulations were effectively as minimal as Idaho's. As of the end of 2006, smoking bans had not made much headway.

Illinois is in the middle of the pack on most economic issues, but it could certainly stand to relax its labor laws, improve the court system, and expand eminent domain reforms.



INDIANA

INDIANA IS ONE of the rare outposts of freedom in the northeastern quadrant of the country (#16 economic, #19 personal). Indiana is scored a bit oddly on government spending in 2006 because of a large high-way privatization that was counted as a deduction from spending on our second measure. We doubt, however, that state spending declined in 2007 and 2008 after that revenue windfall passed, and thus we expect the state to decline a bit on fiscal freedom in our next index. Taxes are a little higher than average, with property taxes particularly standing out. We understand that the state government is attempting to remedy the effects of a property tax reform that hiked taxes substantially. Indiana has deregulated natural gas, telecom, and cable. The state has managed to construct a relatively humane marijuana sentencing regime, although decriminalization would be even better. Indiana has possibly the best education laws in the country, with very light regulation of home and private schools. The asset forfeiture regime is one of the most draconian in the country: The burden of proof is on the government, but they only have to prove that the property was used in a crime, not whether the owner knew or could have known about the crime. Indiana has very little campaign finance regulation, except for corporate contributions. There are smoking bans across the board, but they all have meaningful exceptions.

41. Bunce, Wieske, and Prikazsky, "Health Insurance Mandates in the States 2007."



IOWA

DESPITE FREQUENTLY ELECTING politicians who do not seem very interested in preserving freedom, Iowa's policies are fairly freedom friendly (#12 economic, #25 personal, #16 overall). The state particularly stands out on economic regulation. Iowa has a light touch on land-use planning. Labor regulations are business friendly, with right-to-work, no minimum or prevailing wage laws, and a lightly regulated workers' compensation regime. Health insurance mandates are low. The court system is very good. On personal freedoms, the picture is mixed. Marijuana sentencing definitely needs reform. Private schools are highly regulated, and home school standardized testing and notification requirements are burdensome. Asset forfeiture needs reform. However, most forms of gaming are permitted, at least as a local option (oddly, social gaming is prohibited). Individual and grassroots PAC political contributions are unregulated, but corporate contributions are banned altogether. Smoking bans permit designated smoking areas and exempt bars. Sobriety checkpoints are banned.



KANSAS

WHILE KANSAS SCORES highly on freedom overall (#12), the state is mediocre on fiscal issues. The public payroll is large, although government workers seem to be paid poorly compared to private industry. The area of spending that could most stand to be cut is education, while the taxes that should have priority for cutting are individual income and property taxes. By contrast, the state does very well on economic regulation (#4) and personal freedom (#15). Marijuana sentencing laws are quite humane, home schooling is virtually unregulated, labor laws are light, cable has been deregulated, occupational licensing is low, and smoking bans have many

exemptions. In some areas, the state could improve a bit: particularly health insurance mandates and victimless crimes arrest rates.



KENTUCKY

KENTUCKY ENDS UP being a bit higher on personal freedom (#26) than economic (#33). The debt ratio is very high, and the state could probably stand to tighten the rules for bond issues. Kentucky is also highly fiscally centralized. Most states have low corporate income taxes, but Kentucky's are strikingly high (1.2 percent of corrected GSP), exceeding even Delaware's (and Delaware can afford to have high rates because of its desirable liability system and incorporation regime). Home and private school laws are fairly liberal, but home school record-keeping requirements could be reduced to those of neighboring states like Indiana and Tennessee. The state does have a prevailing wage law and banded community rating for individual health insurance plans. Occupational licensing is on the high side, as are arrests for victimless crimes. Campaign finance regulations are extremely strict. Cigarette, beer, and spirits taxes are low, but wine taxes are high. The state has no smoking bans for restaurants, bars, or private workplaces.



LOUISIANA

BESIDES WEST VIRGINIA and Maryland, Louisiana is the least free state in the South. It is better on economic (#28) than personal freedom (#40). Sales taxes are the highest in the country (as a percentage of corrected GSP). 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 gam-

bling (those two facts are surely related). Private and home schools are lightly regulated. Health insurance mandates add 53 percent to the cost of private plans.⁴² Asset forfeiture needs reform. The state has gone a long way to reform eminent domain. The liability system is among the very worst in the country. Arrest rates for victimless crimes are extremely high.



MAINE

MAINE COMES IN second worst on economic freedom and second best on personal freedom, summing to #39 overall. Its rural character has preserved its relatively free firearms regime, but it also has the second highest overall taxes in the country, after New York. Property taxes are highest in the country, and sales and individual income taxes are also high. 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. Several kinds of gaming (but not casinos) are permitted. 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 domestic partnerships. Cigarette taxes are high, and smoking bans are airtight everywhere except workplaces. The minimum wage is astonishingly high for a low-wage state. The state has adopted strict community rating for health insurance and has also 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). Occupational licensing is worst in the country (tied with Arkansas). The state does boast a good liability system, but it could stand to reform eminent domain further. Maine and Arizona are the

42. Bunce, Wieske, and Prikazsky, "Health Insurance Mandates in the States 2007."

43. Ibid.

only two states with public financing available for all elections, funded out of general revenues.



MARYLAND

MARYLAND IS THE fifth least free state in the country. The state is 34th in economic freedom but a distant 50th in personal freedom. Maryland's impositions on personal freedom include the second-strictest gun laws in the country, and marijuana laws are fairly harsh (except that the first offense of high-level possession is a misdemeanor, and there is a weak medical marijuana law), motorists' freedoms are highly restricted, gambling laws are tight, home schooling laws are burdensome (curricula must be approved by the government), centralized land-use planning is very advanced, eminent domain abuse is totally unreformed, victimless crimes arrest rates are high, and civil unions are not recognized. On the plus side, taxes on beer, wine, and spirits are fairly low, and overall Maryland has one of the least restrictive alcohol control systems in the country. Surprisingly, the state has not enacted complete smoking bans yet. On economic regulation, the state has the usual left-of-center failings on labor law, but more strikingly it has the second-most health insurance mandates in the country (they add 67 percent to the cost).⁴³



MASSACHUSETTS

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 freedom (#37) than personal freedom (#44). Tax rates are actually lower than average, and the government payroll is small. The biggest fiscal problem for Massachusetts is debt: almost a quarter of corrected GSP. Meanwhile, on personal freedoms the state has highly restrictive gun laws, bicycle and motor-

cycle helmet laws, a personal injury auto insurance mandate, fairly restrictive gambling laws, a total fireworks ban, extremely strict private and home school requirements, poor asset forfeiture rules, extremely strict campaign finance laws, high cigarette taxes, the strictest statewide smoking bans in the country, and not particularly good marijuana laws. On the positive side, arrests for victimless crimes are low as a percentage of the population (0.4%), and alcohol taxes are low. Same-sex marriage was judicially enacted. Labor laws are subpar, except on workers' compensation funding (self-insurance is allowed). Health insurance regulations are extreme (extensive community rating, guaranteed issue regulations, many mandates).



MICHIGAN

MICHIGAN SHOCKED US when it came in first on economic regulation. It ends up a very solid 14th on overall freedom (#15 economic, #20 personal). On fiscal freedom the state does not do very well; in particular, it is a fairly centralized state, and local governments depend heavily on state grants. However, the state lacks a minimum wage, permits workers' compensation self-insurance and exempts agricultural workers from the system altogether, has very little community rating for health insurance, is better than average on health insurance mandates, has deregulated natural gas and telecom, is third best in the country for fewest licensed occupations, has a good asset forfeiture regime, and has reformed eminent domain extensively. Cigarette taxes are high, but smoking bans offer many exceptions. Sobriety checkpoints are not authorized.



MINNESOTA

ON FISCAL FREEDOM Minnesota is actually about average, with the most striking flaw the dependence

of local governments on higher-level governments for about half of their revenues. However, the state ends up 31st on economic freedom, 31st on personal freedom, and 35th overall. Some striking facts about Minnesota include the following: Wine is taxed quite heavily (\$4.85 per gallon effective rate) but beer and spirits are not; 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 auto insurance coverage; labor laws are extensive; health insurance mandates are the most costly in the country; asset forfeiture does not require owner knowledge of criminal activity; and cigarette taxes are high.



MISSISSIPPI

MISSISSIPPI DEFIES SOME of the stereotypes about the Deep South. Perhaps the most conservative state in the Union, Mississippi comes out 22nd on personal freedom but 30th 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. On fiscal policy the state does not do very well, with higher taxes than average. Sales taxes are particularly high. Mississippi is one of only a few states without an open-container prohibition for car passengers. There are local-option casinos, and slots gaming is legal, but the state is one of only seven that have banned pari-mutuel wagering. Private and home school regulation is minimal. Labor laws are good, and health insurance regulations are also better than average. However, asset forfeiture does not require owner knowledge, and eminent domain abuse has not been curtailed at all. The state's liability system is of course one of the worst in the country. Cigarette taxes are very low, and smoking bans have gotten nowhere.



MISSOURI

ONE MIGHT BE forgiven for expressing surprise at Missouri's ranking in this dataset, given the way the media have covered political misdeeds in St. Louis so extensively. Apparently, St. Louis politicians do not run Missouri; otherwise, the state would probably not rank so highly! Missouri is ninth best on economic freedom and sixth best on personal freedom. Adjusted government spending and tax revenues are both nearly a full standard deviation below the national average. 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. Several types of gambling are allowed, but oddly there is no social gambling exception. Other than recordkeeping requirements, private and home schools are almost unregulated. Land-use planning is decentralized. Labor laws are generally market-friendly, but right-to-work and allowing workers' compensation self-insurance would improve Missouri's score here. Occupational licensing is less extensive than average. Asset forfeiture has been reformed, but eminent domain really has not. Cigarette taxes are low.



MONTANA

MONTANA HAS A reputation for being a relatively free place. As we shall see, that reputation is sometimes justified, sometimes not (21st economic, 21st personal, 19th overall). Once we control for federal grants, which Montana receives in abundance, its state government is actually fairly small. Adjusted spending is over a standard deviation below average. Its gun laws are third best in the country, after Wyoming and Alaska. However, alcohol distribution is highly state-controlled at both the wholesale

and retail levels. Marijuana sentencing is extremely harsh. The state finally caved in to the federal government on the open-container issue, but is otherwise relatively friendly to motorists. Private schools are almost unregulated, and home schools only slightly less so. Land-use planning is almost nonexistent outside the cities. Health insurance mandates are somewhat excessive, including mandatory direct access to specialists. Occupational licensing is much less prevalent than average. Asset forfeiture could use a little work; the burden of proof is on the claimant. Cigarette taxes are rather high, and the state has universal smoking bans outside the home. The state is much better than average on arrests for victimless crimes, implying that some of its harsher laws are not actually enforced strictly. Corporate contributions to candidates and parties are prohibited.



NEBRASKA

NEBRASKA FALLS A bit behind other Great Plains states (#27 economic, #34 personal, #28 overall). Government spending is very high, more than a standard deviation above average. The "other spending" category is particularly high; we will not hazard a guess as to what expenditures that category might be picking up. On the positive side, the state is highly fiscally decentralized, and local budget constraints are relatively "hard." The firearms regime is actually not very liberal, considering that Nebraska is a fairly rural state. For instance, the state government does not pre-empt local limitations on firearms carry. Local governments also have broad powers to license gun dealers, require background checks for private sales and gun shows, register firearms, license handguns, and so on. Marijuana laws are relatively liberal, except for the one-year mandatory minimum sentence for low-level cultivation or sale and the 50-year maximum penalty. Nebraska requires state approval and teacher licensure for private schools, but there are broad exemptions. Home schooling laws are liberal overall, but notification requirements are burdensome. Labor laws are very

good, and health insurance regulations are on the whole relatively reasonable. Eminent domain has not been sufficiently reformed. The state's liability system is one of the best in the country. Arrest rates for victimless crimes are extremely high (1.3% of the population, 22% of all arrests). Smoking bans have broad exceptions.



NEVADA

NEVADA HAS A reputation as a “libertarian state,” mostly because of legal prostitution and gambling, but perception does not meet reality. Nevada scores a disappointing 32nd place on personal freedom and 24th overall. On fiscal policy the state is overall about average. However, the state is about two standard deviations better than average on fiscal decentralization, one standard deviation better than average on government employment, and more than two standard deviations worse than average on government employee wages (they make 18 percent more than private industry). Gun and alcohol laws are fairly relaxed, and marijuana laws are better than average, except for the possibility of life imprisonment for a single conviction. The state falls down, however, in imposing the strictest private school regulations in the country: mandatory state approval of all schools, mandatory state licensure of all teachers, and detailed curriculum control. Home school laws are far less restrictive, but notification requirements are still somewhat onerous relative to other states. Additionally, the asset forfeiture regime is the worst in the country. The burden of proof is on the claimant, who must prove that the property was not used in a crime. Smoking bans are virtually complete in public places, restaurants, and workplaces (bars are exempted). Labor laws are relatively good, except for the prevailing wage law. Health insurance mandates are more than a standard deviation worse than average. As of 2006, Nevada had not reformed eminent domain, but they have since done so.



NEW HAMPSHIRE

NEW HAMPSHIRE IS by our count the freest state in the country. Depending on weights, however, it really shares the first, second and third slots with Colorado and South Dakota. New Hampshire does much better on economic (#2) than personal freedom (#13). Taxes and spending are among the lowest in the country, but the tax regime is highly skewed. New Hampshire has the third highest property and corporate income taxes in the United States. These should be high priorities for cutting. On the spending side, the likeliest suspect for cutting is transportation, which is higher than average once one controls for federal grants and population density (less dense states spend more on roads). Once state population is controlled for, New Hampshire is one of the most fiscally decentralized states in the country. Local governments also must raise two-thirds of what they spend with their own taxes. Gun laws are among the most liberal in the country, but the state has a weak “peaceable journey” regime (carrying a firearm in a car requires a concealed carry permit). Its alcohol regime is relatively free. Despite state control of retail distribution of wine and spirits, the effective tax rates on these products are zero, according to the Tax Foundation. Marijuana laws are middling; low-level possession could be decriminalized like Maine, while low-level cultivation could be made a misdemeanor like both Maine and Vermont. New Hampshire is the only state in the country with no seat-belt law for adults. It lacks a motorcycle helmet law but does have a bicycle helmet law and authorizes sobriety checkpoints. New Hampshire is one of three states that permit self-insurance for auto liability. Gambling is relatively controlled: Most gaming must take place under a charitable license, social gaming is prohibited, and aggravated gambling is a felony. State approval is required to open a private school. Home school laws are about average on the whole, but the standardized testing and recordkeeping requirements are more onerous than most states. Labor laws are generally market-friendly, but it is not

a right-to-work state. Occupational licensing is worse than average. Both eminent domain and asset forfeiture have been thoroughly reformed. The state's liability system is one of the best, but campaign finance regulations are quite strict. As of 2006, smoking bans allowed many exemptions, but a thoroughgoing ban has since passed (not captured by our index).



NEW JERSEY

NEW JERSEY IS a highly regulated state all around, #46 on economic freedom, #45 on personal freedom, and #49 overall. Taxes and spending are high. 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. Marijuana laws are subpar. New Jersey has primary seat-belt enforcement, motorcycle and bicycle helmet laws, a cell phone driving ban, an open-container law, sobriety checkpoints, and mandatory liability and personal injury coverage for automobiles. 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, like Nevada, casino and slots gambling are legal statewide. More importantly, private and home school regulations are surprisingly light, extending only to broad curriculum requirements. Civil unions are also recognized. On economic regulation, labor laws are predictably costly, statewide land-use planning (“smart growth”) is in force, and there is extensive community rating for private health insurance. On other issues, however, New Jersey is about average.



NEW MEXICO

NEW MEXICO (#43 economic, #3 personal, #36 overall) is the laggard of the Mountain West. Spending and taxes are high, and a quarter of the state's work-

force is on state or local government payrolls (federal workers add even more to that percentage). The state does well on personal freedoms because gun control is light, several kinds of gambling are allowed, private school regulation is light (but home school regulation is tougher), asset forfeiture has been reformed, there are no smoking bans on private property, and only 12 percent of arrests are for victimless crimes. However, marijuana laws could definitely be improved. In economic regulation, New Mexico could improve most by rolling back health insurance mandates and improving the liability system. Eminent domain was reformed in 2007, so the state should improve in our next ranking.



NEW YORK

NEW YORK IS by far the least free state in the Union (#50 economic, #48 personal). One of us lives in New York and can attest to the fact that few New Yorkers would be surprised by such a finding. Sadly, equally few New Yorkers seem to believe that anything can be done about the situation. New York has the highest taxes in the country. Property, selective sales, individual income, and corporate income taxes are particularly high. Spending on social services and “other” is well above national norms. Only Massachusetts has more government debt as a percentage of the economy. Government employment is higher than average. On personal freedoms, gun laws are extremely restrictive, but marijuana laws are better than average (while tobacco laws are extremely strict). Motorists are highly regulated, but several kinds of gambling are allowed statewide (not casinos, except on reservations). Home school regulations are burdensome, but asset forfeiture has been reformed. Along with Vermont, New York has the strictest health insurance community rating regulations. Mandated coverages are also very high. Eminent domain is totally unreformed. Perversely, the state strictly limits what grassroots PACs may

give to candidates and parties, but not what corporations and unions may give.



NORTH CAROLINA

NORTH CAROLINA (#26 economic, #30 personal, #23 overall) is right in the middle of the pack on all three of our concepts. On fiscal policy, the state could most readily improve by cutting social services spending and individual income taxes. On personal freedom, the state could improve by reducing gun control (particularly ending handgun licensing), lowering punitive taxes on beer and spirits, reforming marijuana sentencing (it is already a “decrim” state), repealing home school teacher qualifications and reducing the standardized testing requirement, and reforming asset forfeiture further. Not surprisingly, the state already does very well on tobacco taxation and regulation. On regulation, labor laws are excellent, but occupational licensing needs to be rolled back, and eminent domain reform has not gone far enough to be effective.



NORTH DAKOTA

NORTH DAKOTA IS perhaps the fourth most economically free state in the Union, but it falls to #33 on personal freedom (#10 overall). North Dakota has very low government spending, debt, and taxes, but the government payroll is larger than average. Gun laws are fairly relaxed. Tax rates on beer and wine are strangely punitive. Marijuana laws are poor. Motorists operate in relative freedom, except for (most notably) the personal injury coverage mandate. Private schools are heavily regulated, with state approval, teacher licensing, and detailed curriculum oversight required. Home schoolers are also tightly regulated. North Dakota shares with Wyoming a strange workers’ compensation funding policy: All private and self-insurance is banned, and employ-

ers are required to contribute to a state fund. Health insurance mandates are lower than average. Along with Florida, North Dakota has the most thoroughly reformed eminent domain regime in the country. Asset forfeiture rules are proper. Unfortunately, victimless crime arrest rates are disproportionate (1.1% of population, 22.7% of arrests). Smoking bans are complete except for a bars exemption.



OHIO

OHIO (#32 ECONOMIC, #46 personal, #38 overall) has much to improve. Adjusted government spending is over a standard deviation higher than average. Ohio is higher than average in every spending category except transportation. Gun control laws are relatively poor, though not in a class with Illinois, New Jersey, and others. Marijuana laws are liberal overall, but cultivation and sale sentencing could be reformed. Most gambling is illegal. Private and home school regulations are unreasonable, including teacher licensure and mandatory state approval of home school curricula. Asset forfeiture rules are appropriate. Eminent domain reform has not gone nearly far enough. Draconian smoking bans are in place.



OKLAHOMA

OKLAHOMA (#17 ECONOMIC, #27 personal, #18 overall) has an odd fiscal profile. State spending, taxation, and debt are all about a standard deviation lower than average, but the government payroll is fully 22.5% of the workforce. Surely some cuts could be made. Gun control is fairly limited, but marijuana sentencing is unreformed. Several types of gambling are legal (not casinos). Private and home schools are virtually unregulated. 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. Smoking bans generally offer a fair number of exemptions.



OREGON

OREGON (#36 ECONOMIC, #7 personal, #27 overall) is the freest Pacific state. Oddly, government spending is high but taxes are low, resulting in rather high state debt. Public safety and administration look particularly ripe for cutting. Gun control laws are about average. Marijuana possession is decriminalized below a certain level, and there is medical marijuana (cultivation and sale are felonies, though). Oregon is one of the few states to refuse to authorize sobriety checkpoints. Oregon is the only state to permit physician-assisted suicide. Private and home school regulations are quite reasonable. State land-use planning is far advanced. The minimum wage is the highest in the country when adjusted for average wages. Labor laws are generally poor. Occupational licensing is pervasive. Arrests for victimless crimes are surprisingly high (22.2% of all arrests). Smoking bans are extensive, but there are still some exemptions for bars and workplaces.



PENNSYLVANIA

AT #20, PENNSYLVANIA is freer than all six of its neighboring states. The state is not particularly good on fiscal policy, however, with a high debt ratio and government spending. For a northeastern state, its gun control laws are not awful. By our admittedly crude measures, Pennsylvania actually has the most liberal gambling laws in our dataset, being the only

state to legalize statewide all forms of gambling we track: Internet, track, casino, pari-mutuel, charitable, and slots. However, the law does not have a social gambling exception, and the government presumably tightly regulates each of these forms of gambling. Pennsylvania's home school laws are draconian, and its private school regulations are not much better. Teacher qualifications and licensing need to be repealed, and standardized testing, notification, and record-keeping requirements reduced. 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, raising the price of health insurance policies at least 46%.⁴⁴ Occupational licensing is quite rare. Smoking bans have not gone far at all.



RHODE ISLAND

RHODE ISLAND IS by our measure the third least free state in the country (#42 economic, #47 personal). Fiscal policy is a mess, with spending, taxes, and debt all very high. Oddly, however, government employment is second lowest in the country (12.7%), while government employees are paid 26% more than private sector workers in the state. Gun control is strict, but not quite at Massachusetts or Connecticut levels. The marijuana regime is extremely poor for a liberal state (life imprisonment is the maximum sentence). Auto and road freedoms are extensive compared to other northeastern states; Rhode Island does not authorize sobriety checkpoints. Private schools must obtain government approval to open. Home schoolers have to get their curricula approved by the state. 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. Occupational licensing is extensive. Asset forfeiture and eminent domain need reform. On the

44. Bunce, Wieske, and Prikazsky, "Health Insurance Mandates in the States 2007."

upside, victimless crimes arrest rates are quite low (0.5% of population, 12% of all arrests). Smoking bans and cigarette taxes are extreme.



SOUTH CAROLINA

SOUTH CAROLINA (#22 economic, #41 personal, #30 overall) is the second least free state in the Deep South, after Louisiana. Fiscal policy is a major problem. While taxes are a bit below the national average, government spending and therefore debt are high. Education and social spending are far, far above average, even when federal grants—of which South Carolina perhaps receives more than its fair share—are controlled for. Gun control laws are about average, but among the worst in the South. For instance, open carry is completely banned, and design safety standards for handguns have been imposed. Marijuana laws are unreconstructed. South Carolina has some of the worst home school laws in the country, with teacher qualifications and burdensome standardized testing, recordkeeping, and notification requirements. Labor and health insurance regulations are generally good, however, and the state has done much to reform eminent domain. Cigarette taxes are the lowest in the country, and there are no smoking bans of any kind on private property.



SOUTH DAKOTA

SOUTH DAKOTA RATES as the third freest state in the nation, although it does better on economic (#1) than personal (#24) freedoms. South Dakota is highly fiscally decentralized for its size, and it is among the best states for taxes and spending. Sales taxes are, however, rather high. Transportation spending is also a little higher than expected, even when corrected for the state's low population density. On personal freedoms, South Dakota scores well on gun control and

asset forfeiture but relatively poorly on marijuana laws. The state allows several kinds of gambling but has prohibited Internet gambling. Unfortunately, victimless crimes arrests as a percentage of all arrests are two standard deviations above the norm (24.8%). Private schools are highly controlled, with schools having to choose between a state accreditation process or detailed curricular oversight. Home school 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. The state's liability system is among the best. Land-use planning is largely local. Eminent domain has been reformed extensively, but the reforms have not yet been written into the constitution.



TENNESSEE

TENNESSEE (#8 ECONOMIC, #18 personal, #7 overall) is, along with Virginia, one of the freest states in the South. By one of our measures, Tennessee's overall tax burden is the lowest in the country (6.8% of corrected GSP). The government debt ratio is also extremely low. Along with West Virginia, Tennessee also has the best gun control laws in the South. However, taxes on alcohol—particularly wine—are quite high. The first offense of marijuana possession is always a misdemeanor, but otherwise the state has fairly harsh marijuana laws. The state is one of three not to require auto liability insurance (permitting self-insurance instead), but it has sobriety checkpoints, primary seat-belt enforcement, and helmet laws for motor- and bicyclists. Gambling is highly controlled; Tennessee is one of just three states to prohibit even charitable gaming. The state also falls somewhat short on education, with mandatory kindergarten, mandatory registration of private schools, and burdensome notification requirements for home schoolers. Labor laws are above average, but health insurance laws are mediocre. Occupational licensing has gone way too far. Eminent domain has not really been reformed. The state has low cigarette taxes and no smoking bans on private property.



TEXAS

TEXAS (#7 ECONOMIC, #5 personal, #5 overall) has one of the smallest state governments in the country. Nevertheless, as one of us who lives in Texas can testify, there are plenty of areas where improvement is needed. As a percentage of corrected GDP, Texas has the second lowest tax burden in the country and the third lowest grants-adjusted government spending. However, government employment is a standard deviation higher than the national average. 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, and taxes are low. Low-level marijuana cultivation is a misdemeanor, but otherwise marijuana laws are very harsh. Texas does not authorize sobriety checkpoints. Private and home schools are almost completely unregulated. 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 increasing the cost of premiums by more than 63%.⁴⁵ Texas is one of the leaders in telecom and cable "deregulation." Unfortunately, eminent domain has not been extensively reformed. The state's liability system is much worse than average; ending the election of judges may help here. There are no smoking bans on private property.



UTAH

UTAH (#14 ECONOMIC, #14 personal, #11 overall), as many would expect, certainly has some idiosyncrasies that come out in our data. For instance, the state has by far the tightest regulation of alcohol and gambling in the country. Utah is one of only two states with total state control of alcohol distribution, the only state to ban all beer kegs, and the only state 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. Utah is the only state to proscribe all forms of gambling, including social gambling, and Utah 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 only a bit higher than average. Other than these three areas, however, Utah is a typical Rocky Mountain state. Taxes are a bit lower than average, gun control is light, motorist restrictions are fairly light, and private and home schools operate freely under a few basic requirements. Health insurance mandates are much lower than average. Victimless crimes arrest rates are actually fairly low (perhaps because fewer people engage in these activities).



VERMONT

VERMONT (#45 ECONOMIC, #11 personal, #40 overall) must be considered one of the least free states in the Union, unless all one is interested in are guns

45. Bunce, Wieske, and Prikazsky, "Health Insurance Mandates in the States 2007."

and civil unions. The overall tax burden is by one measure the third highest in the country (10.6% of corrected GSP). 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 11.5% of total state and local expenditures. Local governments are dependent on state grants for over 70 % of their revenue, the highest figure in the United States. Like Utah, Vermont has full state control of beer, wine, and spirits distribution. Marijuana laws could be much better; while low-level cultivation is a misdemeanor, high-level possession is not, and low-level possession is still criminalized. However, arrests for victimless crimes are much better than the national average. Vermont requires approval for all private schools, and notification and standardized testing requirements for homeschoolers are burdensome. Labor laws are worse than average, with a very high minimum wage when adjusted for median earnings. Vermont has pure community rating for health insurance, but at least has not piled on as many coverage mandates as most other states. Eminent domain has not been effectively reformed yet. Campaign finance limits are quite strict. Smoking bans are pervasive, and cigarette taxes are high. On the positive side, the state has civil unions and some of the best overall gun laws in the country.



VIRGINIA

VIRGINIA (#13 ECONOMIC, #9 personal, #9 overall) is by our count the second freest Southern state, although it is in more or less a statistical tie with Tennessee. The tax burden, government spending, and debt are all below national averages. However, state and local government employment is well above the national average. Gun laws are about average. Marijuana laws are largely unreformed. Virginia is schizophrenic on education, requiring 13 years of mandatory schooling, including kindergarten atten-

dance, and imposing significant standardized testing and notification requirements on home schoolers, but otherwise leaving both private and home schools alone. Labor laws are solid. Like Hawaii and Pennsylvania, Virginia has no form of community rating for health insurance. However, mandates are extensive, adding over 64 percent 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. The state had not reformed eminent domain as of the end of 2006, but has since passed new reforms.



WASHINGTON

WASHINGTON SCORES #41 on economic freedoms, #35 on personal freedoms, and #44 overall. While taxes are fairly low, spending is higher than average, and accordingly government debt is quite high. The government payroll is much larger than average. For a liberal state, gun laws are quite reasonable. Alcohol is fairly tightly controlled, with taxes on spirits the highest in the country by far (effectively \$21.15 per gallon). Marijuana laws are a bit better than average, but making high-level possession and low-level cultivation misdemeanors and low-level possession a civil offense would help further. Washington does not authorize sobriety checkpoints. Educational regulation is absurdly tight, with private schools needing state approval and under certain conditions teacher licensing, and home schoolers needing to meet teacher qualifications, annual standardized testing, and extensive recordkeeping rules, along with other requirements. Land-use planning is becoming more centralized. Labor and health insurance laws are poor. Asset forfeiture has been reformed, but eminent domain has not. Cigarette taxes are high, and smoking bans are extensive.



WEST VIRGINIA

WEST VIRGINIA (#40 economic, #17 personal, #33 overall) is the least free state in the South, excluding Maryland. Taxes are rather high, and the state is fiscally centralized. Corporate income taxes are a particular problem, the second highest in the country. On the other hand, gun laws are quite liberal, and marijuana laws are fairly moderate. West Virginia imposes teacher qualifications on home schoolers, as well as annual standardized testing and extensive notification requirements. Statewide land-use planning is virtually nil. West Virginia could improve its labor laws by repealing the prevailing wage law, adopting right-to-work, and permitting private insurance for workers' compensation. The state's liability system is one of the worst in the country. Cigarette taxes are low, and there are no smoking bans on private property.



WISCONSIN

WISCONSIN (#35 ECONOMIC, #39 personal, #37 overall) could stand to become a little more like its neighbors to the southwest and northeast (Iowa and Michigan) and a little less like its neighbors to the northwest and south (Minnesota and Illinois). Government spending and taxes are high. Property and individual income taxes are both high. Government spending on education and social services is well above national norms. Alcohol laws are among the best in the country, with taxes low across the board. Wisconsin does not authorize sobriety checkpoints and is one of three states not to require auto insurance. The state has mandatory approval of private schools and extensive curriculum oversight. However, home schools are very lightly regulated. Labor laws are not very good. Wisconsin has one of

the worst asset forfeiture regimes in the country: The burden of proof is on the government, but they only need to prove that the property was used in a crime. Eminent domain reform has not gone very far. Smoking bans allow numerous exceptions.



WYOMING

WYOMING (#20 ECONOMIC, #10 personal, #15 overall) is one of the freest states in the country but could still learn a few things from its neighbor to the northeast, South Dakota, on economic matters. Adjusted government spending is the lowest in the country as a percentage of corrected GSP, even though taxes are only about average. As a result, government debt is also the lowest in the country. Property and sales taxes are rather high, even though severance taxes provide a large part of the state's revenue. Wyoming is highly fiscally decentralized. The government payroll is much too large, almost two standard deviations above the national average. Wyoming has very little gun control. Beer taxes are the lowest among the states, and effective wine and spirits taxes are also very low. Motorists' freedoms are fairly broad. Wyoming does not authorize sobriety checkpoints. Private schools are fairly regulated, but apart from heavy notification requirements, home schools are not. 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. Eminent domain had not been reformed as of 2006, but the state has since made substantial efforts in that direction, so the state should rise in our next version of this index. Victimless crimes arrests as a percentage of the population are quite high (1.2%). Cigarette taxes are low, and there are no smoking bans on private property.

CONSTRUCTION OF THE INDEX

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 2005–6 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 (BEA), law enforcement data from the FBI, health insurance policy data from the Henry J. Kaiser Family Foundation, labor market regulations data from the Department of Labor, Occupational Safety and 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 on our website 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 two variables: incidence of the burden of proof, owner or government (dichotomous), and owner liability standard (trichotomous).

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 www.statepolicyindex.com. To find the sources and formulas for constructed variables, interested readers can also download individual spreadsheets for each policy area. Readers may also apply different weights to each variable to come up with their own state freedom rankings.

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 would be the fact that the states with the most flawed tort systems, from a business perspective, have implemented the most reforms. It is possible that more talented researchers than we will find ways to circumvent these problems, but we have instead chosen to present a single variable capturing the quality of states’ tort systems: the percentage of respondents in the 2006 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 import for freedom, such as regulations on releasing helium balloons and 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.

There was one area of state and local policy we had hoped to include but could not for reasons of data availability. That area was the use of cameras for traffic surveillance, including regulations on the storage and use of data from those recordings. Unfortunately, these policies are idiosyncratic and are typically set through administrative codes rather than statutes. There are no secondary sources for these regulations, and we decided not to pore over all the state administrative codes for this single issue.

Finally, the database does not include any policies for which there was no state variation in 2006. For example, because all states license medical doctors, licensing of medical doctors was not included in the measure of occupational and professional licensing.

We introduce new ways to measure certain state policies in order to reduce measurement error. Fiscal policies are measured in several different ways in the literature. While one common approach is to use spending or tax revenue per capita, the problem with this approach is that it does not capture the tradeoffs inherent in fiscal policy: New government spending in a particular area requires removing resources from the private sector via taxation or debt.

EFNA uses gross state product (GSP) in the denominator instead of population.⁴⁶ However, this approach suffers from a problem in the way that the BEA calculates GSP. For the purpose of calculating GSP, the BEA attributes business income to the state in which the business is headquartered. Thus, states that are attractive locations for incorporation will see inflated GSP figures compared to those states' actual economic activity. This bias is particularly evident in

the case of Delaware, which enjoys by far the largest GSP per capita among the 50 states, despite the fact that its per capita personal income is roughly on par with states such as New Jersey, Connecticut, and New Hampshire.

There is another, conceptual problem with GSP in the denominator. It counts economic activity according to where it occurs, even if it is being done by people who live elsewhere. In the United States, the District of Columbia appears to have enormous gross product per capita because the number of people who work there is far larger than the number of people who live there. On the other hand, personal income is another candidate for the denominator of fiscal policy measures, but it suffers from the opposite problem, namely, that residents of one state may earn an income in another state. Commuter states such as Maryland, Virginia, and New Hampshire appear to have overly large economies when total personal income only is used. Accordingly, economists who work with regional economic data recommend using both gross product and personal income measures, as each variable makes up for the weaknesses of the other.⁴⁷ In theory, income made by businesses located in a state and by commuters who live in the state but work in another state can both be taxed, so that we need measures that can take into account both kinds of taxable economic activity.

A measure of state economy size that we have previously used is "state earnings by place of work," also from the BEA.⁴⁸ This variable measures gross wages and salaries, both private and public sector, earned within a state. This variable should correlate strongly with the actual size of a state's economy. However, it ignores income to capital and land, which we expect to be more or less constant as a percentage of the economy across most states. Only in resource-rich

46. Karabegović and McMahon, "Economic Freedom in North America 2008 Annual Report," 81–83.

47. Organization for Economic Co-operation and Development (2007), *Regions at a Glance 2007* (Public Governance and Territorial Development Directorate, Territorial Development Policy Committee); Nikos Benos and Stelios Karagiannis (2008), "Convergence and Economic Performance in Greece: Evidence at Regional and Prefecture Level," *Review of Urban and Regional Development Studies* 20 (1): . 54–55.

48. Sorens, Muedini, and Ruger, "U.S. State and Local Public Policies in 2006," 315.

states, particularly Alaska and Wyoming, does the in-state earnings variable appear to significantly underestimate the size of the state economy. We create a “corrected GSP” variable by regressing total GSP on total in-state earnings and total state revenues from mineral severance taxes, which we use as a proxy for natural resource income. The R^2 from this regression is 99 percent, indicating that these two variables explain the cross-state variance in GSP extremely well. We then take the predicted values of GSP from the regression equation as our “corrected GSP,” with the “corporate headquarters bias” factored out.

Thus, to measure state and local government spending, taxation, and debt, we divide each of these variables by corrected GSP and by personal income. Then we adjust government spending (and employment) by regressing them on federal grants to the state as a percentage of corrected GSP/personal income and taking the residuals. The adjusted variables therefore represent state and local government spending for each state *above* what we would expect simply given the amount of federal grants.

The reason we perform these adjustments is that a state government’s usage of federal grants does not directly diminish individual freedom within its jurisdiction: The federal government bears principal responsibility for the diminishment of freedom that may occur through inter-governmental grants. We cannot “blame” state governments for spending money that, from their perspective, is showered upon them like manna from Washington.⁴⁹

We have also carefully calculated the numerators of the state tax and spending ratios. For taxes, we count all tax revenues except motor fuel 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 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. There are two central problems with the second measure: (1) States may receive windfall revenues from contracting-out of 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, 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 (see weighting discussion below).

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”).⁵⁰ Another advantage of fiscal decentralization is that it allows individuals to choose to live in jurisdictions that provide a preferred mix of public goods.⁵¹ Fiscal federalism, rightly understood, can thus promote individual freedom.

49. An alternative approach would be to subtract federal grants from the numerator, rather than using a regression technique. This approach would not be fully satisfactory, because federal grants to the states often require, and thus incentivize, matching funds from the state government for particular programs legislated by Congress.

50. Yingyi Qian and Barry Weingast, “Federalism as a Commitment to Preserving Market Incentives,” *The Journal of Economic Perspectives* 11, 4 (1997): 83–92; Rodden, “Reviving Leviathan.”

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

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 among jurisdictions that citizens enjoy 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 concept focuses on regulatory policies whose justification seems to be regulation of individual choice in the alleged interests of the individual or "the public."⁵² 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. In some ways, we follow the logic of the Supreme Court decision in *United States v. Lopez* that policies like gun control, while perhaps having an indirect impact on commerce, are not a specific aspect of commerce.⁵³

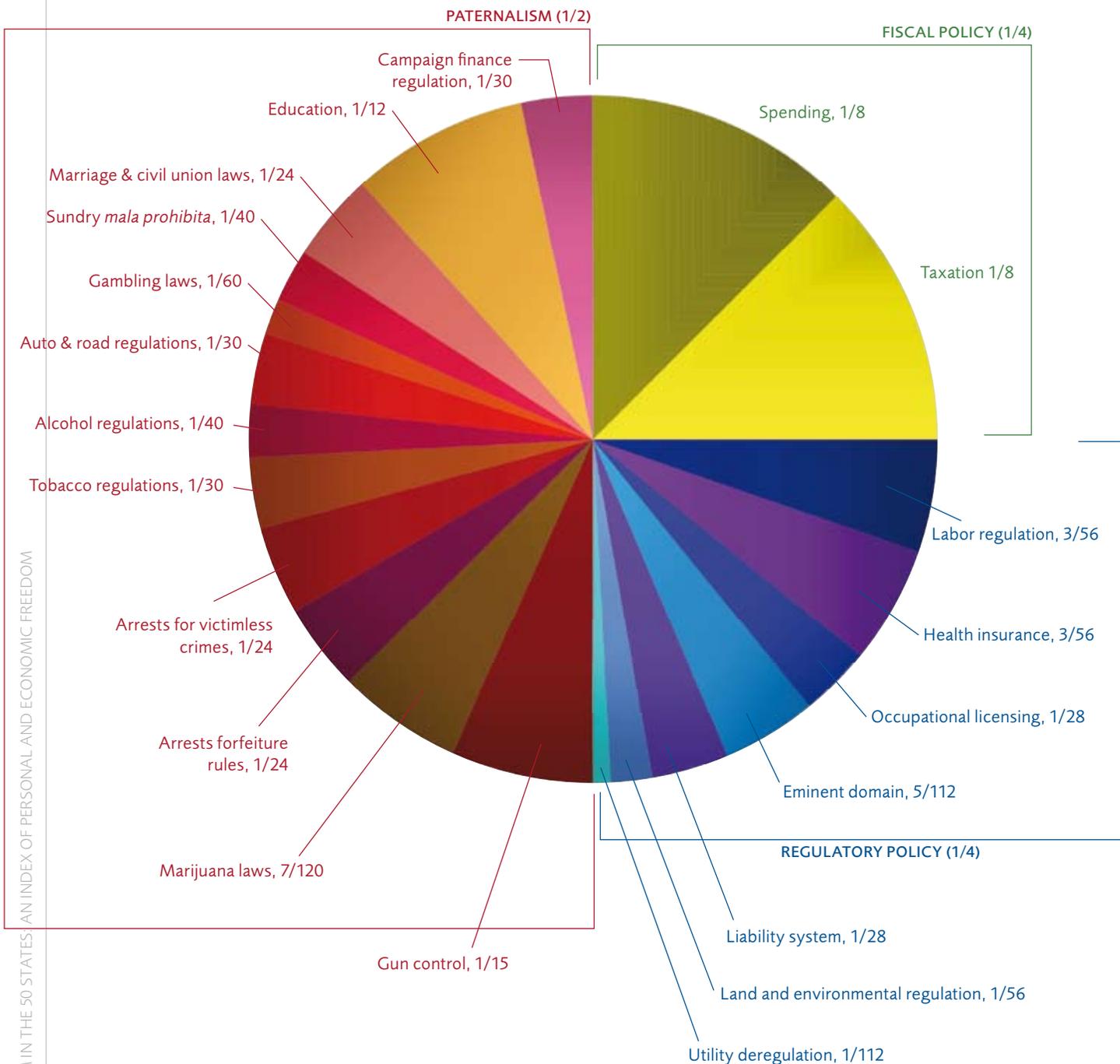
Within these three concepts—Fiscal Policy, Regulatory Policy, and Paternalism—the rule of thumb we use to weight particular issues is the salience of the issue (i.e., the substantive importance of state policy variation) and the number of people affected by it. We use the existence of explicit constitutional protections at either the federal or state level as *prima facie* evidence of high salience. 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.

The below figure gives the weights for the concepts and issue categories. For the individual variables' weights, consult the following Data Appendix.

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. *United States v. Lopez*, 514 U.S. 549 (1995).

FIGURE 6: ISSUE CATEGORY WEIGHTS



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 concept, issue category, 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 www.statepolicyindex.com.

Variable name	Variable description	Spreadsheet
Aadjgovemp	residuals: agovempr on agspa	A_fiscal.xls
Aadjspda	residuals: aspenda on agrants	A_fiscal.xls
Aadjspdb	residuals: aspendb on agrants	A_fiscal.xls
Adebt	asldebt/agspa	A_fiscal.xls
Afdec	Fiscal decentralization: local government own-source general revenues divided by total state and local general revenues	A_fiscal.xls
Afdeca	Residuals of OLS regression of afdec on ln(apop)	A_fiscal.xls
Afgrant	State and Local Revenues from Federal Government Transfers, in Millions of Dollars	A_fiscal.xls
Agovempr	State and local government employment divided by private employment	A_fiscal.xls
Agovwagw	Weighted average of astatwgr and alocwgr (weighted by employment shares)	A_fiscal.xls
Agrants	afgrant/agspa	A_fiscal.xls
Agsp	Gross State Product, in Millions of Dollars	A_fiscal.xls
Agspa	Predicted GSP from OLS regression of agsp on api and asevt	A_fiscal.xls
Algbc	Local government budget constraints: local government own-source general revenues divided by total local government general revenues	A_fiscal.xls
Alocwgr	Local government wages divided by private industry wages	A_fiscal.xls
Api	State Earnings by Place of Work, in Millions of Dollars	A_fiscal.xls
Apop	Population estimate	A_fiscal.xls
Asevt	State and Local Revenues from Severance Taxes, in Millions of Dollars	A_fiscal.xls
Asldebt	State and Local Government Outstanding Debt, in Millions of Dollars	A_fiscal.xls
Aspenda	atotspt/agspa	A_fiscal.xls
Aspendb	atotsptb/agspa	A_fiscal.xls
Astatwgr	State government wages divided by private industry wages	A_fiscal.xls
Atax	atott/agspa	A_fiscal.xls

Atotspt	Total State and Local Government Spending, in Millions of Dollars	A_fiscal.xls
Atotsptb	Total State and Local Government Spending, Minus Current Charges, in Millions of Dollars	A_fiscal.xls
Atott	State and Local Revenues from All Taxes but not Current Charges or Gas Taxes, in Millions of Dollars	A_fiscal.xls
Basslt	Assault weapons ban? (1=yes, 0.5=locally, 0=no)	B_guns.xls
Bballist	Ballistic identification requirements? (1=yes, 0=no)	B_guns.xls
Bcci	Concealed carry index (see "Sources" page for construction)	B_guns.xls
Bconst	State constitution contains individual right to keep and bear arms? (1=yes, 0=no)	B_guns.xls
Bdealer	Licensing or regulation of gun dealers? (1=yes, 0.5=locally, 0=no)	B_guns.xls
Bdesign	Design safety standards for handguns? (1=yes, 0=no)	B_guns.xls
Bgunban	Local gun ban in place? (1=yes, 0=no)	B_guns.xls
Bguns2	First, unrotated principal component: bipc, bipt, boci, bcci, basslt, bmags, brifle, bgunban, bnpg, bminage, bwait, bmult, bdealer, bpriv, bshows, blicens, bregis, bdesign, blocks, bballist, bretent, bpurge, bconst	B_guns.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.xls
Bipt	Initial permit term (0 if no permits issued, 100 if permits not required)	B_guns.xls
Blicens	Licensing of gun owners? (1=all guns, 0.5=handguns only, 0=no; multiplied by 0.5 if locally only)	B_guns.xls
Blocks	Locking devices required? (1=yes, 0=no)	B_guns.xls
Bmags	Large capacity ammunition magazines ban? (1=yes, 0.5=locally, 0=no)	B_guns.xls
Bminage	Stricter minimum age to purchase or possess firearms than federal standard? (1=yes, 0=no)	B_guns.xls
Bmult	Restrictions on multiple purchases or sales of firearms? (1=yes, 0.5=locally, 0=no)	B_guns.xls
Bnpg	Non powder guns' use or possession regulated? (1=yes, 0.5=locally, 0=no)	B_guns.xls
Boci	Open carry index (see "Sources" page for construction)	B_guns.xls
Bpriv	Background checks required at private sales or gun shows? (1=yes, 0.5=locally, 0=no)	B_guns.xls
Bpurge	State government required to purge background check records? (1=yes, 0=no)	B_guns.xls
Bregis	Registration of firearms? (1=all firearms, 0.5=some firearms, 0=no – multiplied by 0.5 if locally only)	B_guns.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.xls
Brifle	50 caliber rifles banned or regulated? (1=banned, 0.5=regulated, 0=no)	B_guns.xls
Bshows	Gun shows regulated? (1=yes, 0.5=locally, 0=no)	B_guns.xls
Bwait	Waiting period on firearms purchases? (1=all firearms, 0.5=some firearms, 0=no)	B_guns.xls
Calcdist	Sum of 6 alcohol distribution variables	C_drugs.xls

Cbeert	Beer tax rates (dollars per gallon, ad valorem rates added under assumption of 10 per gallon)	C_drugs.xls
Cblue	Bans on off-premises Sunday sales of alcohol	C_drugs.xls
Cblue2	Bans on off-premises Sunday sales of alcohol, with local option	C_drugs.xls
Cbluelaw	Cblue-0.5*Cblue2	C_drugs.xls
Cbret	Exclusive state control of retail sales of some types of beer (1=yes, 0=no)	C_drugs.xls
Cbwhol	Exclusive state control of wholesale sales of some types of beer (1=yes, 0=no)	C_drugs.xls
Chappy	Happy hour law? (1=yes, 0.5=locally, 0=no)	C_drugs.xls
Ckeg	Statewide beer keg registration requirement, or kegs banned (1=yes, 0=no, 2=all kegs banned)	C_drugs.xls
Cmcmisd	"Low-level" cultivation a misdemeanor? (1=yes, 0=no)	C_drugs.xls
Cmedmj	Medical marijuana exception? (1=yes, 0.5=partial, 0=no)	C_drugs.xls
Cmmxpen	Maximum possible prison term for any single marijuana offense, in years	C_drugs.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.xls
Cmpdecr	First offense of "low-level" marijuana possession decriminalized? (1=yes, 0=misdemeanor, 2=fully legal)	C_drugs.xls
Cmpleg	"Low-level" marijuana possession legal? (1=yes, 0=no)	C_drugs.xls
Cmpmisd	First offense of "high-level" marijuana possession a misdemeanor? (1=yes, 0=no)	C_drugs.xls
Cspirt	Spirits tax rate (dollars per gallon of spirits, ad valorem rates added under assumption of 50 per gallon)	C_drugs.xls
Csret	Exclusive state control of retail sale of some types of spirits (1=yes, 0=no)	C_drugs.xls
Cswhol	Exclusive state control of wholesale sale of some types of spirits (1=yes, 0=no)	C_drugs.xls
Ctrain	Mandatory alcoholic beverage server training law (1=yes, 0=no)	C_drugs.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.xls
Cwret	Exclusive state control of retail sales of some types of wine (1=yes, 0=no)	C_drugs.xls
Cwwhol	Exclusive state control of wholesale sale of some types of wine (1=yes, 0=no)	C_drugs.xls
Dautopip	Personal injury protection (auto insurance) required? (1=yes, 0=no)	D_mala.xls
Dbelt	Dbeltlaw+dbeltenf	D_mala.xls
Dbeltenf	Standard enforcement of belt use for adults? (1=yes, 0=no)	D_mala.xls
Dbeltlaw	Seat belt law for adults? (1=yes, 0=no)	D_mala.xls
Dbike	Bicycle helmet law exists? (1=yes, 0=no)	D_mala.xls
Dcamera	Video surveillance prohibited without consent of at least 1 party (=1 if yes, =0 if no)	D_mala.xls
Dcasino	Casino gambling legalized? (=1 if statewide, =0.5 if local option, =0 if none: note that only state law is coded, not law applicable to sovereign Indian tribes)	D_mala.xls
Dcell	Statewide ban on handheld cell phones? (1=yes, 0=no)	D_mala.xls
Dchargam	Charitable gaming permitted? (=1 if yes, =0 if no)	D_mala.xls

Dfirewks	Dfwks1+Dfwks2	D_mala.xls
Dfwks1	Most fireworks legal (1=yes, 0=no)	D_mala.xls
Dfwks2	Novelty fireworks legal (1=yes, 0=no)	D_mala.xls
Dgamfel	Aggravated gambling is a felony (1=yes, 0=no)	D_mala.xls
Dhmall	Motorcycle helmet law covering all drivers? (1=yes, 0=no)	D_mala.xls
Dintgam	Express prohibition on Internet gambling? (1=yes, 0=no)	D_mala.xls
Dliab	Auto liability insurance required? (1=yes, 0=no)	D_mala.xls
Docont	Open-container law for automobile drivers or passengers? (1=yes, 0=no)	D_mala.xls
Dparimut	Pari-mutuel wagering legalized? (=1 if yes, =0 if no)	D_mala.xls
Dpas	Physician-assisted suicide legalized? (=1 if yes, =0 if no)	D_mala.xls
Dprost	Prostitution legalization local option? (1=yes, 0=no)	D_mala.xls
Drawmilk	Raw milk sales legal for human consumption? (1=yes, 0=no)	D_mala.xls
Dslots	Slot games legal? (=1 if yes, =0 if no)	D_mala.xls
Dsobchk	Sobriety checkpoints authorized? (1=yes, 0=no)	D_mala.xls
Dsocgam	Social gambling allowed? (1=yes, 0=no)	D_mala.xls
Dtrack	Betting on greyhound or horse racing legalized? (=1 if statewide, =0.5 if local option, =0 if no)	D_mala.xls
ecsalb	Compulsory school age, lower bound	E_educ.xls
ecsaub	Compulsory school age, upper bound	E_educ.xls
ehscurr	Required subjects/curriculum for homeschoolers? (=2 if curriculum must be approved, =1 if subjects required, =0 if none)	E_educ.xls
ehslaw	Homeschooling explicitly permitted by statute? (=1 if yes, =0 if no, must use alternative options)	E_educ.xls
ehsnote	Extent of homeschooling notice required (=2 if curriculum, qualifications, or other info must be submitted, =1.5 if curriculum and similar info must be submitted only once, =1 if only basic identifying or attendance info must be submitted, =0 if none)	E_educ.xls
ehsnotf	Frequency of homeschooling notice required (=2 if annually, =1 if once, =0 if never)	E_educ.xls
Ehsnoti	Homeschooling notification index (ehsnotf*ehsnote)	E_educ.xls
ehsrkr	Extent of homeschool recordkeeping requirements (=2 if teaching materials/record of instruction, =1 if attendance, =0 if none)	E_educ.xls
ehsst	Standardized testing or other official evaluation required? (=2 if annual, =1 if periodic, =0 if none)	E_educ.xls
ehstq	Teacher qualifications required? (=1 if some qualifications required under all homeschooling options, =0 if some homeschooling options do not require teaching qualifications)	E_educ.xls
ekind	Kindergarten attendance required? (=1 if yes, =0 if no)	E_educ.xls
emaps	Mandatory state approval or accreditation of private schools? (=1 if yes, =0.5 if yes with broad exemptions, =0 if no)	E_educ.xls
emplpst	Mandatory state licensure of private school teachers? (=1 if yes, =0.5 if yes with broad exemptions, =0 if no)	E_educ.xls

emrps	Mandatory registration of private schools? (=1 if yes, =0.5 if yes with broad exemptions, =0 if no)	E_educ.xls
Epcurr	Extent of private school curriculum control (=2 if detailed, =1 if general, =0 if none)	E_educ.xls
etcd	Tax credit/deduction law? (=2 if for parents, =1 if for donations to scholarship funds only, =0 if none)	E_educ.xls
Fesasap	Endangered Species Act Statutes Animals Plants (=0 if no act or statute, =1 if act or statute, but only in regard to animals, =2 if act or statute in regard to both animals and plants)	F_land.xls
Frtp	Regulatory Takings Prohibitions (=1 if yes)	F_land.xls
Fsmgrwth	Smart Growth Plan (=1 if yes)	F_land.xls
Fsspr	Strength of State Planning Role (=1 if weak, =2 if significant, =3 if substantial)	F_land.xls
fswbip	Existence of state-mandated wind or beach insurance pool (1=yes, 0=no)	
Fswp	State Wetland Program (=1 if yes)	F_land.xls
Fwtldrps	State Wetland Regulatory Protection Statutes (=1 if yes)	F_land.xls
Gagexem	Workers' compensation optional for certain agricultural workers? 1=yes, 0=no	G_labor.xls
Gcompcov	Gcompman-0.1*Gsbexem-0.1*Gagexem (except Texas: '0')	G_labor.xls
Gcompfnd	1+gprivins+gselfins-gsfund	G_labor.xls
Gcompman	Employer-provided workers' compensation mandated? 1=yes, 0=no	G_labor.xls
Gdisab	Short-term disability insurance required? 1=yes, 0=no	G_labor.xls
Gearnpc	Annual private earnings by place of work per capita, in thousands of dollars (2004)	G_labor.xls
Gminraw	Minimum wage rate (\$5.15 if none or same as federal), December 31, 2006	G_labor.xls
Gminwag	For states with higher than federal minimum wage: (Gminraw/Gearnpc)*10; '0' otherwise	G_labor.xls
Gosh	Does state have its own occupational safety and health agency? (1=yes, 0.5=for public employees only, 0=no)	G_labor.xls
Gprev	Prevailing wage law? 1=yes, 0=no	G_labor.xls
Gprivins	Private workers' compensation insurers permitted? 1=yes, 0=no	G_labor.xls
Grtw	General right-to-work law? 1=yes, 0=no	G_labor.xls
Gsbexem	Workers' compensation optional for certain small businesses? 1=yes, 0=no	G_labor.xls
Gselfins	Employer self-insurance for workers' compensation permitted? 1=yes, 0=no	G_labor.xls
Gsfund	State funds offer workers' compensation insurance? 1=yes, 0=no	G_labor.xls
Hbfip	Bans on financial incentives to providers to withhold covered care? (=1 if yes, =0 if no)	H_health.xls
Hcsf	COBRA continuation coverage expanded to firms with less than twenty employees? (=1 if yes, =0.5 if employers have option of continuation or conversion, =0 if no)	H_health.xls
Hgccsf	Mandatory group conversion coverage for small firm employees? (=2 if yes and rating limits, =1 if yes and no rating limits, =0.5 if either continuation or conversion coverage must be offered, =0 if no)	H_health.xls

Hgii	Individual market guaranteed issue? (2=all products, 1=some products/individuals/companies (insurer of last resort), 0=no)	H_health.xls
Hgiself	Guaranteed issue of health plans for self-employed or groups of one? (1=yes, 0=no)	H_health.xls
Hhrhip	High-risk health insurance pool? (=1 if yes, =0.5 if only for HIPAA-qualified, =0 if no)	H_health.xls
Hierb	Individual health insurance: elimination riders banned? (1=yes, 0=no)	H_health.xls
hindgii	hgiself+hgii	H_health.xls
Hirate	Individual market rate restrictions (3=pure community rating, 2.5=community rating with exceptions for some plans, 2=adjusted community rating, 1=age or health rating bands, 0.5=other rating bands, 0=none)	H_health.xls
Hlhpm	Licensing of Health Plan Medical Directors (=1 if yes, =0 if no)	H_health.xls
hmbindex	Health insurance mandated benefits index (each mandate weighted by added cost to health insurance, according to Coalition for Affordable Health Insurance)	H_health.xls
hmdindex	Health insurance mandated dependent coverage index (each variable weighted by its contribution to health insurance costs, according to Coalition for Affordable Health Insurance)	H_health.xls
Hmer	Mandated external review for certain types of grievances? (=1 if yes, =0 if no)	H_health.xls
hmindex	Health insurance mandates index (hmdindex+hmpindex+hmbindex)	H_health.xls
hmpindex	Health insurance mandated providers index (each variable weighted according to its contribution to health insurance costs, according to Council for Affordable Health Insurance)	H_health.xls
hmspec	Mandates direct access to providers? (=1 if yes, =0 if no)	H_health.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.xls
Hsrp	Standing referrals to specialists mandated? (=1 if yes, =0 if no)	H_health.xls
ibanbar	Smoking Ban - Bars (=1 if total or near-total, =0.5 if designated areas or local option or standalone bars only exempt, =0 if generally not banned, =0.75 for VA: no smoking areas are allowed in bars with 75+ capacity)	I_smoking.xls
ibanpub	Smoking Ban - Public Places (=1 if total or near-total, =0.5 if numerous exceptions/designated areas/local option, =0 if few or none)	I_smoking.xls
ibanrest	Smoking Ban - Restaurants (=1 if total or near-total, =0.5 if segregated areas sometimes required or local option, =0 if no or few regulations, =0.75 for VA: no smoking areas allowed in restaurants with at least 50-person capacity, =0.25 for PA: non-smoking areas required only for restaurants with at least 75-person capacity)	I_smoking.xls
ibanwork	Smoking Ban - Private Workplaces (=1 if total, =0.75 if few exceptions, =0.5 if numerous exceptions/designated areas/local option, =0.25 if minimal regulation, =0 if no regulation)	I_smoking.xls
icigtax	Cigarette tax per pack of 20, including maximum local taxes, in dollars	I_smoking.xls
inetpurc	Regulations on Internet purchases? (=1 if yes, =0 if no or minimal)	I_smoking.xls
ismplaw	Regulations for "smoker protection" in employment? (=1 if yes and insurance discrimination banned, =0.5 if yes but insurance discrimination or incentives to stop smoking allowed, =0 if no)	I_smoking.xls

ivend	Regulations on vending machines (=1 if banned, =0.5 if location restrictions, =0 if age restrictions only)	I_smoking.xls
Jccr	Cable Channel Requirement(=1 if state requires new companies to supply the same amount of channels (or more) than incumbent franchise)	J_util.xls
Jcdi	Cable Deregulation Index (1-0.5*jccr)*(jclsifc-0.1*jcpbsr)	J_util.xls
Jclsifc	Cable Legislation for State Issued Franchise Companies(=1 if yes, state has "enacted legislation to promote effective competition among cable service providers")	J_util.xls
Jcpbsr	Cable Public Building Services Requirement (=1 if state law requires cable companies to service public buildings for free)	J_util.xls
Jdrsng	Deregulation Retail Sales of Natural Gas(=0 if no unbundling, =1 if partial unbundling, =2 if unbundling)	J_util.xls
Jtdereg	Telecommunication Deregulation (=1 if deregulation legislation passed and signed)	J_util.xls
Kacup	Acupuncturist	K_lic.xls
Kagrinsp	Agriculture inspector	K_lic.xls
Kauct	Auctioneer	K_lic.xls
Kconald	Counselor, Alcohol & Drug	K_lic.xls
Kconpast	Counselor, Pastoral	K_lic.xls
Kconsp	Counselor, professional	K_lic.xls
Kconsuba	Counselor, Substance Abuse	K_lic.xls
Kdentast	Dental Assistant	K_lic.xls
Kdentur	Denturist	K_lic.xls
Kdiet	Dietitian	K_lic.xls
Kembalm	Embalmer	K_lic.xls
Kespt	Environmental Science & Protection Technician	K_lic.xls
Kforest	Forester	K_lic.xls
Kfuneral	Funeral Director	K_lic.xls
Kgeol	Geologist	K_lic.xls
Khazmrw	Hazardous Materials Removal Worker	K_lic.xls
Khomepth	Homeopath	K_lic.xls
Kinsur	Insurance Broker	K_lic.xls
Klandscp	Landscape Architect	K_lic.xls
Klicind	Licensing Index (sum of all variables)	K_lic.xls
Kmassthr	Massage Therapist	K_lic.xls
Knrsp	Nurse, practitioner	K_lic.xls
Koccther	Occupational Therapist	K_lic.xls
Kocthast	Occupational Therapy Assistant	K_lic.xls
Koptcian	Optician	K_lic.xls

Kphthast	Physical Therapy Assistant	K_lic.xls
Kphysast	Physician Assistant	K_lic.xls
Kpolygph	Polygraph Examiner	K_lic.xls
Kradther	Radiation Therapist	K_lic.xls
Krespth	Respiratory Therapist	K_lic.xls
Krtt	Radiologic Technologist Technician	K_lic.xls
Ksanit	Sanitarian	K_lic.xls
Ksocwrkr	Social Worker	K_lic.xls
Kspclpth	Speech Language Pathologist	K_lic.xls
Kthrmfam	Therapist, Marriage & Family	K_lic.xls
Kvettech	Veterinary Technician	K_lic.xls
Kwlwtpso	Water & Liquid Waste Treatment Plant Systems Operator	K_lic.xls
Lforf	Difficulty of asset forfeiture index: =5 if Lproof=0 & lliable=2; =4 if lproof=0 & lliable=1; =3 if lproof=1 & lliable=2; =2 if lproof=1 & lliable=1; =1 if lproof=0 & lliable=0; =0 if lproof=1 & lliable=0	L_forf.xls
Mblight	blight (=1 if implemented stricter definition either explicitly or implicitly, =0.5 if retained vague definition but required higher standard of proof, =0 if otherwise)	M_ed.xls
Mconst	Constitution enshrines all additional restrictions on eminent domain (=1 if yes, =0 if no, =0.5 if only some restrictions on ED have been codified constitutionally)	M_ed.xls
mindex	Eminent domain reform index ((mreform+mprivate+mblight)*(1+(0.5*mconst)))	M_ed.xls
Mprivate	private property (=1 if prohibits private property taking for any private use, regardless of alleged public benefit, =0.5 if prohibits only some private-to-private transfers, =0 if no effective restrictions on this type of eminent domain use)	M_ed.xls
Mreform	enacted eminent domain reform, through either legislative or judicial action (=1 if yes, 0 otherwise)	M_ed.xls
Oliabrck	Ranking of State Liability Systems: "SCORE" (see source; higher scores indicate less tortious systems)	O_courts.xls
Rarrests	Arrests for victimless crimes (age 18 and over) as ratio of all arrests	R_enfor.xls
Rincarc	Number of inmates in state prisons and local jails per 100,000 residents, June 30, 2005	R_enfor.xls
Rincarcr	Residuals of OLS regression of rincarc on rviol and rprop (Stata 9.0)	R_enfor.xls
Rpolice	Number of full-time law enforcement officers per 100,000 residents, October 2006	R_enfor.xls
Rpolicer	Residuals of OLS regression of rpolice on rviol (Stata 9.0)	R_enfor.xls
Rprop	Property crime rate per 100,000 residents	R_enfor.xls
Rvcarrst	Arrests for victimless crimes per 100,000 population, age 18 and over	R_enfor.xls
Rviol	Violent crime rate per 100,000 residents	R_enfor.xls
Sbldtest	Blood Test Required (=1 if yes, 0 if no)	S_marr.xls
Slwp	Waiting period between applying for and receiving license, in days	S_marr.xls
Slwp2	Waiting period between receipt of license and ability to marry	S_marr.xls

Ssame	Same-sex civil union, marriage, or domestic partnership (=1 if sstmrrge>0)	Normative.xls
Sstmrrge	State Marriage Laws (0=no domestic partnerships, civil unions, or same sex marriage,=1 if limited domestic partnerships only, =2 if civil unions or equivalent,=3 if same-sex marriage)	S_marr.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	VARIABLE WEIGHT
Fiscal Policy - 1/4, of which:			
Spending - 1/2, of which:			
		Adjusted total gov't spending, GSP measure - 1/6	= 2.1%
		Adj. total gov't spending, pers. income measure - 1/6	= 2.1%
		Adjusted spending minus charges, GSP - 1/12	= 1.0%
		Adj. spending minus charges, pers. income - 1/12	= 1.0%
		Adjusted fiscal decentralization - 1/6	= 2.1%
		Local government budget constraints - 1/18	= 0.7%
		Adjusted government employment - 2/9	= 2.8%
		Weighted average of local & state wages - 1/18	= 0.7%
Taxation - 1/2, of which:			
		State & local debt, GSP measure - 1/12	= 1.0%
		State & local debt, personal income measure - 1/12	= 1.0%
		Adjusted state & local tax revenues, GSP - 5/12	= 5.2%
		Adjusted state & local tax revenues, PI - 5/12	= 5.2%
Regulatory Policy - 1/4, of which:			
Labor regulation - 3/14, of which:			
		Minimum wage - 6/19	= 1.7%
		Right to work - 7/19	= 2.0%
		Disability insurance - 2/19	= 0.6%
		State OSHA - 1/19	= 0.3%
		Prevailing wage law - 3/76	= 0.2%
		Workers' compensation coverage regs - 1/19	= 0.3%
		Workers' compensation funding regs - 1/19	= 0.3%
		Smoker protection laws - 1/76	= 0.1%
Health insurance - 3/14, of which:			
		Individual guaranteed issue - 1/13	= 0.4%
		Community rating: small groups - 2/13	= 0.8%
		Community rating: individuals - 2/13	= 0.8%
		Individual policies: elimination riders banned - 1/52	= 0.1%
		COBRA continuation, small firms - 1/52	= 0.1%
		Mandatory group conversion coverage, small firms - 1/52	= 0.1%

Mandated external grievance review - 1/52	=	0.1%
Financial incentives to providers banned - 1/26	=	0.2%
Direct access to specialists mandated - 1/26	=	0.2%
High-risk health insurance pool - 1/52	=	0.1%
Standing referrals mandated - 1/26	=	0.2%
Licensing of health plan medical directors - 1/52	=	0.1%
Health insurance mandates index - 5/13	=	2.1%
Occupational licensing - 1/7, of which:		
Occupational licensing - 1	=	3.6%
Eminent domain - 5/28, of which:		
Eminent domain reform index - 1	=	4.5%
Liability system - 1/7, of which:		
Liability system ranking - 1	=	3.6%
Land & environment regulation - 1/14, of which:		
Strength of state planning role - 1/2	=	0.9%
State wind or beach pool - 1/24	=	0.1%
Endangered species acts - 1/24	=	0.1%
State wetland program - 1/24	=	0.1%
State wetland protection statutes - 1/8	=	0.2%
Smart growth - 1/6	=	0.3%
Regulatory takings clause - 1/12	=	0.2%
Utility deregulation - 1/28, of which:		
Natural gas - 1/3	=	0.3%
Telecom - 1/3	=	0.3%
Cable - 1/3	=	0.3%
Paternalism - 1/2, of which:		
Gun control - 2/15, of which:		
Gun control index - 1	=	6.7%
Marijuana laws - 7/60, of which:		
Legal marijuana possession - 4/25	=	0.9%
Decriminalized possession - 4/25	=	0.9%
High-level possession misdemeanor - 4/25	=	0.9%
Low-level cultivation misdemeanor - 4/25	=	0.9%
Mandatory minimums, low-level cultivation/sale - 4/25	=	0.9%
Medical marijuana exception - 1/25	=	0.2%
Maximum possible sentence - 4/25	=	0.9%
Asset forfeiture rules - 1/12, of which:		

Asset forfeiture index - 1	=	4.2%
Arrests for victimless crimes - 1/12, of which:		
Arrests for victimless crimes per 100,000 - 1/2	=	2.1%
Arrests for victimless crimes, % of all arrests - 1/2	=	2.1%
Tobacco regs - 1/15, of which:		
Cigarette tax per pack - 9/20	=	1.5%
Smoking ban, public places - 3/40	=	0.3%
Smoking ban, restaurants - 3/20	=	0.5%
Smoking ban, bars - 3/20	=	0.5%
Smoking ban, workplaces - 3/20	=	0.5%
Regulations, vending machines - 1/80	=	0.0%
Regulations, Internet purchases - 1/80	=	0.0%
Alcohol regs - 1/20, of which:		
Alcohol distribution index - 6/17	=	0.9%
Keg regs - 2/51	=	0.1%
Server training - 2/51	=	0.1%
Beer taxes - 2/17	=	0.3%
Wine taxes - 2/17	=	0.3%
Spirits taxes - 2/17	=	0.3%
Blue laws - 3/17	=	0.4%
Happy hour laws - 2/51	=	0.1%
Auto and road regs - 1/15, of which:		
Seat belt enforcement - 1/3	=	1.1%
Motorcycle helmet laws - 1/12	=	0.3%
Bicycle helmet laws - 1/18	=	0.2%
Cell phone driving ban - 1/18	=	0.2%
Open-container law - 1/36	=	0.1%
Sobriety checkpoints authorized - 1/3	=	1.1%
Auto liability insurance required - 1/36	=	0.1%
Auto personal injury insurance required - 1/12	=	0.3%
Gambling laws - 1/30, of which:		
Social gaming exception - 1/27	=	0.1%
Gambling felony - 2/9	=	0.4%
Internet gaming prohibition - 5/27	=	0.3%
Track gaming permitted - 1/9	=	0.2%
Casino gaming permitted - 1/9	=	0.2%

Pari-mutuel wagering permitted - 1/9	=	0.2%
Charitable gaming permitted - 1/9	=	0.2%
Slots gaming permitted - 1/9	=	0.2%
Sundry mala prohibita - 1/20, of which:		
Raw milk sales legal - 2/55	=	0.1%
Fireworks ban - 3/55	=	0.1%
Prostitution legal - 4/11	=	0.9%
Physician-assisted suicide legal - 6/11	=	1.4%
Marriage & civil union laws - 1/12, of which:		
Same-sex partnerships recognized - 20/21	=	4.0%
Blood test requirement - 1/42	=	0.1%
Total waiting period - 1/42	=	0.1%
Education - 1/6, of which:		
Tax credit/deduction - 1/11	=	0.8%
Compulsory schooling years - 1/11	=	0.8%
Mandatory kindergarten - 1/11	=	0.8%
Private school registration - 2/33	=	0.5%
Private school approval req. - 4/33	=	1.0%
Private school teacher licensure - 4/33	=	1.0%
Private school curriculum control - 2/33	=	0.5%
Homeschooling law - 1/33	=	0.3%
Homeschooling curriculum control - 2/33	=	0.5%
Homeschooling teacher licensure - 1/11	=	0.8%
Homeschooling standardized testing - 1/11	=	0.8%
Homeschooling notification reqs. - 1/22	=	0.4%
Homeschooling recordkeeping reqs. - 1/22	=	0.4%
Campaign finance regulation - 1/15, of which:		
Public financing - 1/11	=	0.3%
Individual contributions to candidates - 2/11	=	0.6%
Individual contributions to parties - 2/11	=	0.6%
Grassroots PAC contributions to candidates - 2/11	=	0.6%
Grassroots PAC contributions to parties - 2/11	=	0.6%
Corporate contributions to candidates - 1/11	=	0.3%
Corporate contributions to parties - 1/11	=	0.3%

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

About the Mercatus Center at George Mason University

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.

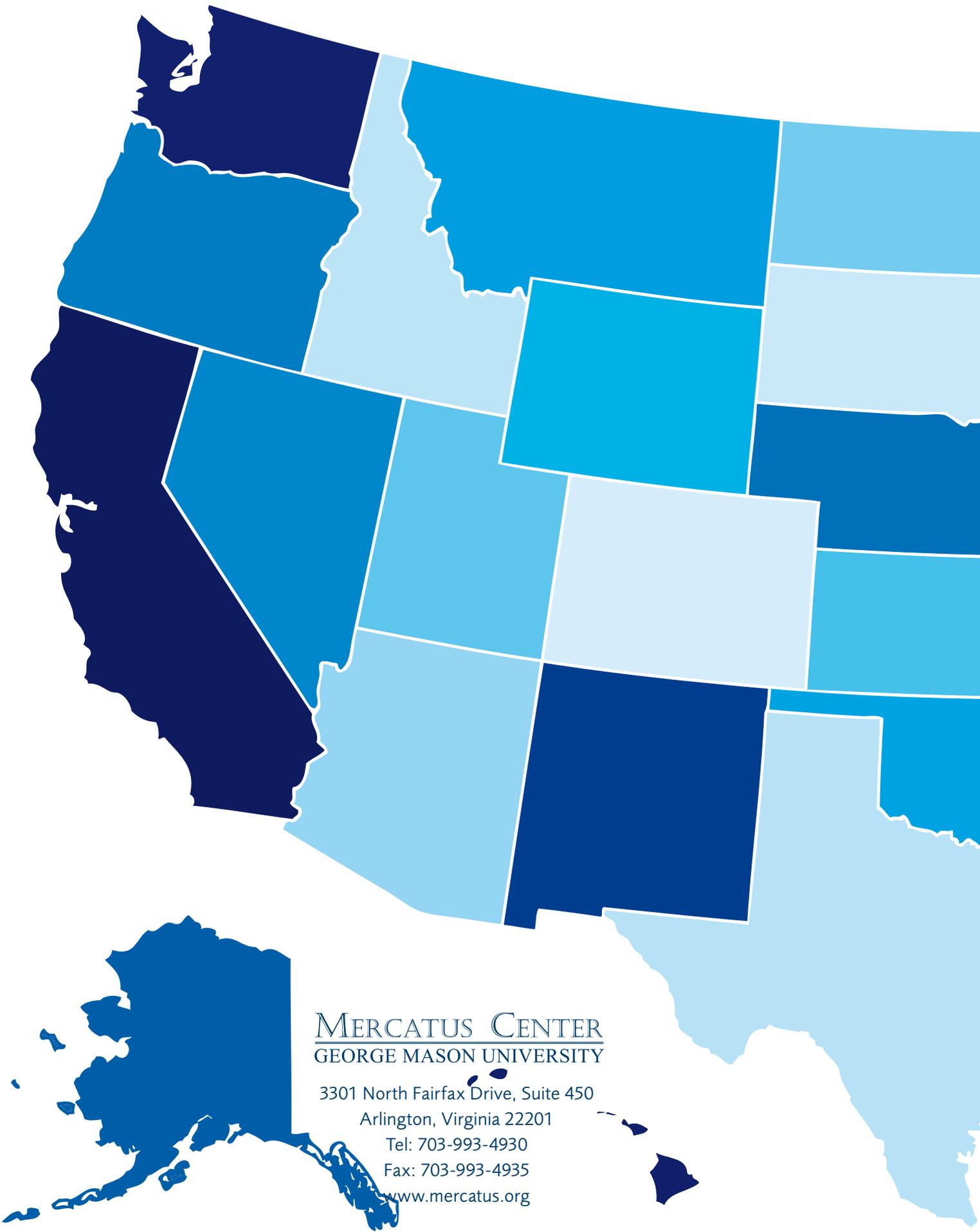
About the Social Change Project

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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