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WISCONSIN FREEDOM AUDIT 2024



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Executive Summary

Wisconsin is in the middle of the pack on many measures of freedom. While Wisconsin remains far from the crowd of coastal states that have infamously cracked down on freedom generally, the state has plenty of room to increase freedom for its citizens.

We divide our analysis of freedom into three main categories:

- **#26** in Fiscal Freedoms
- **#21** in Regulatory Freedoms
- **#21** in Personal Freedoms

Fiscal freedom assesses how much money the government takes from people in order to manage systems or provide goods and services itself. Higher taxes are a component of fiscal freedom, as are the storm clouds of high deficits, high debt, and bad credit ratings—since being financially vulnerable means running the risk of having no option but to jack up taxes in the future to pay for spending or mismanagement that’s already transpired.

In Wisconsin, the government’s financial management is above average in many ways: the state’s pension is the nation’s most securely funded, while the state government ran a surplus in FY 2022. On the other hand, there

is less freedom in the share of spending decisions that the government makes: in spite of local levy limits, property tax growth and relatively high tax rates persist. As a percentage of owner-occupied housing value, Wisconsinites pay the 8th-highest percentage of property taxes in the nation.

Regulatory freedom looks at the morass of policies and regulations that the government makes Wisconsinites deal with in the course of doing their jobs or living their lives. In terms of sheer volume of regulations, Wisconsin's state regulatory code is one of the most burdensome in the country. Surveys and attempts to quantify Wisconsin's climate for businesses put Wisconsin in the middle of the pack. Emergency powers belonging to the governor are also considered here, with Wisconsin better than many states but with room to grow; for example, we currently allow a "state of emergency" to last twice as long as the typical state.

The final category, personal freedom, tries to encompass other respects in which the government makes people less free. This considers restrictions on parents being able to educate their children as they see fit and the status of the freedoms of speech and association; it also includes selective taxes or subsidies designed to encourage or discourage certain "sin" or "saint" behavior. Wisconsin varies wildly in these different metrics, sometimes according to who's doing the measuring. While Wisconsin is generally acknowledged to be the freest in the nation concerning alcohol regulations (with some important exceptions we note), we are very middle-of-the-pack on restrictions that interfere with people's right to earn a living. Measuring education freedom resulted in the widest variation anywhere in this report, with Wisconsin ranking anywhere from #24 to #7 freest in the nation depending on the methodology.

Altogether, relative to other US States, Wisconsin's freedom rankings have generally been on the upswing, but still have plenty of room for improvement. There are also some vital areas where citizens need to be alert, since Wisconsin risks slipping on measures of freedom in ways that are prohibitively difficult to recover from.

OVERALL

In a 2024 meta-ranking* of freedoms based on Wisconsin policy, where first represents the freest possible ranking and fiftieth represents the bottom ranking among the 50 states,

**WISCONSIN
RANKS:**

#26 FISCAL
FREEDOMS

#21 REGULATORY
FREEDOMS

#21 PERSONAL
FREEDOMS

* Authors' calculations.

SUCCESSSES

- Wisconsin has long been a national leader and example for education freedom and parental choice, with a long-standing voucher program and public support for homeschooling.
- Wisconsin has the nation's best-funded public pension system.
- Wisconsin is ranked the freest state in the country for consumers' ability to purchase alcohol. Wisconsin has one of the lowest tax rates on beer. Wisconsin citizens can walk into a Kwik Trip—or many other convenience stores, grocery stores, and gas stations—and purchase alcohol. And they may even do so on a Sunday.
- Wisconsin's regulation surrounding campaign speech, grassroots education, and campaign finance largely models best practices that protect individuals' freedom of speech.

FAILURES & OPPORTUNITIES

- Although Wisconsin is America's freest state when it comes to alcohol commerce, some efforts in the recent past have threatened to undermine that cherished freedom. It's a longstanding concern that certain aspects of our existing "three-tiered" system create unnecessary barrier between alcohol producers and consumers, raising prices. More alarmingly, recent legislation will, upon taking effect, squelch Wisconsin's vibrant "wedding barn" industry.
- Although Wisconsin pioneered modern parental choice systems in education, our taxpayer-funded and government-run system still has much room for improvement. More paths to teacher licensure, more transparency into school curriculum, and universal school choice are important reforms that are still needed.
- Tax rates in Wisconsin are high. The Tax Foundation's state-based Tax Freedom Day—i.e., the calendar day after which workers start earning money they actually take home, rather than pay to the government in taxes—comes 35th, nationwide (April 19th).¹ The median worker pays the state a marginal income tax rate of 6.27% (in addition to any taxes paid to the federal government).
- Wisconsin homeowners pay the 8th-highest property tax rate in the nation: an average of 1.61% of a property's value each year.
- Wisconsin has no state law to shield individuals from frivolous defamation lawsuits designed to discourage the exercise of their freedom of speech. Wisconsin should follow the example of many other states by creating a motion that defendants may invoke to make plaintiffs show that their complaint belongs in court in the first place before proceedings begin in earnest and legal bills start racking up.

AREAS FOR VIGILANCE

- Occupational licensing is one of the most famously intractable systems to undo; even many present efforts are predicated on reducing the burdensomeness of the process (e.g. automatically granting licenses for practitioners from other states) rather than rooting it out. Wisconsin needs to be alert about attempts to saddle more occupations with this burden.

TRENDS

Although we only consulted relatively recent rankings to get a meta-assessment of where Wisconsin is right now, it's natural to wonder in what direction Wisconsin is heading. One of the more comprehensive rankings we consulted was Cato's *Freedom in the 50 States* project, which has calculated 20 years of annual, state-level rankings on fiscal, regulatory, and personal freedoms. By their metrics, Wisconsin moved from:

- **38th in 2000 to 23rd in 2022** in Fiscal Freedom
- **23rd in 2000 to 9th in 2022** in Regulatory Freedom
- **44th in 2000 to 28th in 2022** in Personal Freedom

A low-angle, close-up photograph of the Statue of Liberty's head and crown against a clear blue sky. The statue's face is looking upwards and to the right. The crown's spikes are visible. The lighting is bright, suggesting a sunny day.

Introduction

INTRODUCTION

Freedom is one of America's defining characteristics. It is not only nationally cherished and a distinguishing trait, but empirically, freedom correlates positively with happiness, income, economic growth, income earned by the poor, life expectancy, and basic civil liberties.*

And yet, freedom is on the decline in the United States. Government spending and debt have ballooned to all-time highs. The Code of Federal Regulations—the accumulation of rules imposed by the departments and agencies of the federal government—now exceeds 180,000 pages. With an average reading speed of two minutes per page, the average American would need more than 250 days of consecutive non-stop 24-hour reading to read the comprehensive list of regulations set by federal government agencies.² On a personal level, America's freedom of speech is in serious trouble. One 2022 poll found that 84% of Americans expressed concern that "some Americans not exercising their freedom of speech in everyday situations due to fear of retaliation or harsh criticism is either a very (40%) or somewhat (44%) serious problem."³ Another poll found that 69% of Americans believe the country's freedom of speech is "on the wrong track."⁴

States stack on to these national restrictions by adding their own regulations, additional taxes, and prohibitions. Select states may be too far down the "road to serfdom" to turn around any time soon. Other states invite opportunity, innovation, and growth.

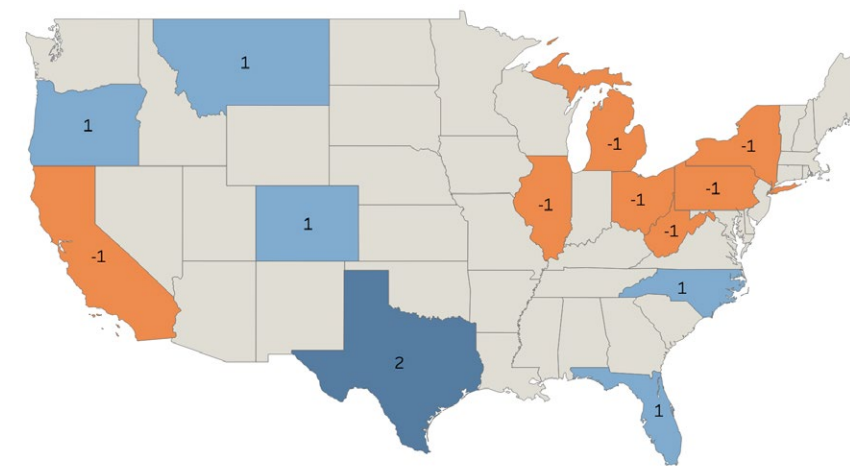
People want freedom. When asked in a recent survey, 84% of registered voters said that the government either imposes too much control (at the expense of freedom) or answered "about right/not sure" regarding the balance, indicating both Americans' preference for freedom and its precarious place today.⁵ Robust economic data shows that people reward governments who support freedom.

In addition to self-reporting, people respond with their pocketbooks and their feet. Just consider the latest round of reapportionment for congressional representation, based on states' population changes over the past 10 years. The map in Figure 1 highlights which states have added (blue) or lost (orange) congressional representation in this census based on population changes. (There was no change in Alaska or Hawaii.)

Although the picture is not black-and-white in uniformity—Oregon is not known for freedom, West Virginia is not especially unfree, and Colorado and Ohio are mixed bags—there is an unmistakable trend that free states invite and foster prosperity.

This study represents a multifaceted audit of freedom in Wisconsin. We dissect the rules, regulations, and laws used in Wisconsin and compare those policies to those of other US states. Our freedom audit has three primary pillars: fiscal freedoms, regulatory freedoms, and personal freedoms.

Figure 1. Changes to US Congressional Apportionment Based on the 2020 Census



Fiscal freedoms involve voluntary exchange, open markets, and well-enforced property rights. Fiscal freedom is diminished by taxation and government spending. Every dollar paid in tax is one less for an individual to allocate as he or she wishes. Every dollar spent by the government displaces the consumption, saving, and charitable decisions of individuals. Fiscal freedoms are assessed by considering the degree to which the government taxes people to spend on goods and services itself. Also factored in here are measures of fiscal health (like how well-funded a pension system is) and creditworthiness, since those monetary metrics are inextricably linked to a state's impending need to take more money from people in the (sometimes near) future. Worse fiscal health could impel states to make hard financial decisions not on their own timetables but as necessity requires them to, which could necessitate higher taxes or fees and thus less freedom.

Regulatory freedoms overlap with both personal and economic freedoms. Regulatory freedom generally measures the extent to which the government makes rules over minutia that interfere with people's abilities to live their lives and, especially, do their jobs. Regulations can require licenses to work, restrict an individual's decision for how to use and develop their own private land, and prohibit any number of consumption and entertainment choices.

Finally, personal freedom encompasses the other respects in which the government makes people less free to live their lives. There are different ways of summarizing this measure; Sobel and Hall outline what they call "paternalism," characterized by the government taking the role of parent over people's lives and running their lives for them, "for your own good." This is opposed to a model where government is more like a referee, empowered to use legal force to ensure "fair play" between members of a free society, protecting everyone's rights from being trampled on by others. This bucket of freedom considers restrictions on parents being able to educate their children as they see fit; protections of the freedoms of speech and association; selective taxes designed to discourage certain "sin" behaviors; selective subsidies designed to encourage certain "saintly" behaviors; and other metrics as well.

* For a more extensive review of the literature that quantifies the relationship between economic freedom and various outcome measures, we recommend the *Economic Freedom of the World Annual Report* by Gwartney et al. (2020). <https://www.fraserinstitute.org/sites/default/files/economic-freedom-of-the-world-2020.pdf>

Personal freedom is the most heterogenous of these categories: although everyone measuring regulatory freedom is trying to put a number to the same phenomena, personal freedom includes such diverse phenomenon as those listed above. A state in principle may be extremely free in some personal measures and oppressive in others. Accordingly, our discussion of personal freedoms is highly subject matter-specific.

DATA: A META-MEASURE OF FREEDOM

In this report, we initially reviewed data and reports from more than 100 independent sources. Of these sources, we selected a slate of reports which rank the US states according to some combination of fiscal freedom, regulatory freedom, and personal freedom. Each of these reports makes their data publicly available to researchers for their use and often encourage as much.

From the independent rankings constructed in these reports, we construct a meta-ranking—an average ranking of the existing rankings—for Wisconsin. The original data comes from different years, consists of different measures and calculations, and includes some overlap. We recognize that our meta-ranking of freedom is not all-encompassing, but the data provides us with an unbiased measure, with a scope that is perhaps the most comprehensive ranking yet created.

The remainder of the report proceeds as follows. We dissect fiscal freedoms, followed by regulatory freedoms, and finally personal freedoms. In each section, we include detailed data that contributes to Wisconsin's rankings. Lastly, we conclude by summarizing the research data and rankings a final time and discuss areas to look for future work on policy reform.

Fiscal Freedoms



FISCAL FREEDOMS

Fiscal freedom explores the financial burden placed on individuals by the government. The more the government collects and spends, the less discretion individuals have on how their earned income and accumulated wealth directs market activity. The majority of state and local government funding come from three tax sources (burdens): income, sales, and property.

Economists have long studied the effects of taxes and government spending. Hood (2014) reviewed 115 articles published in peer-reviewed journals between 1990 and 2014* that explored how the overall tax burden affected economic performance, such as employment, job creation, income growth, population growth, business starts, or investment flows. Figure 2 summarizes the results of that academic research.⁶

The majority of peer-reviewed studies find that higher taxes suffocate economic growth and development: "Overall Tax Burden" was negatively associated with economic performance 63% of the time.[†] The rate rose to 65% for sales taxes, 67% for business and corporate income taxes, and 67% for personal income taxes.

Figure 2. Meta-Analysis of Links Between State/Local Tax Policies and Economic Performance by Hood (2014)

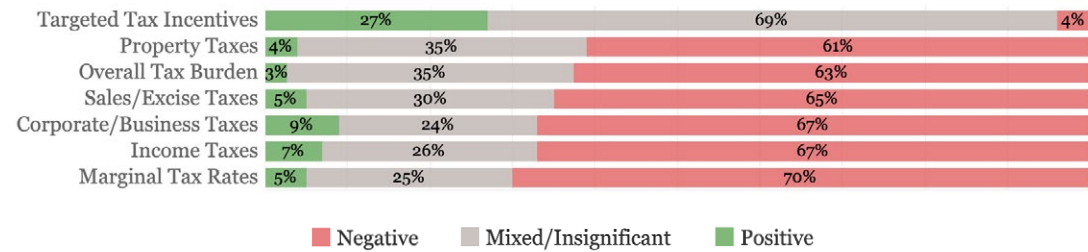
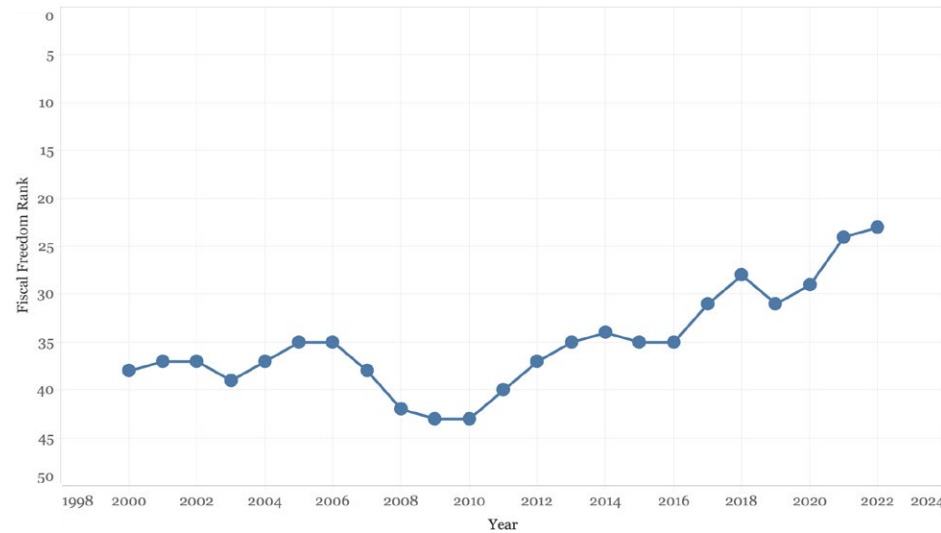


Figure 3. Fiscal Freedom in Wisconsin, from Freedom in the 50 States (Ruger and Sorens 2023)



* Hood reviewed a total of 681 journal articles published between 1990 and 2014, of which 115 examined "tax burden" generally.

† Totals may not sum to 100% due to rounding.

Figure 3 displays Ruger and Sorens' assessment of Wisconsin's Fiscal Freedom Ranking. In 2022, Wisconsin was ranked 23rd overall in Fiscal Freedom. They note that "Government share of GDP is 9.5 percent of adjusted income, below the national average and lower than it has been every year for over a decade."

The Fraser Institute's Economic Freedom ranking (as of 2021) tells a similar, middling story, ranking Wisconsin #26 on government spending but #35 on taxes. The past few decades of Wisconsin's underlying score on their metrics (as opposed to its rank relative to other states) corroborates Cato's findings, and highlights that change in Wisconsin's fiscal freedom has been driven by government spending more than by significant changes in taxes. Note that in both Figure 4 and Figure 5, a higher score means a more free state.

Figure 4. Wisconsin's "Government Spending" Score over Time per the Fraser Institute (2021)

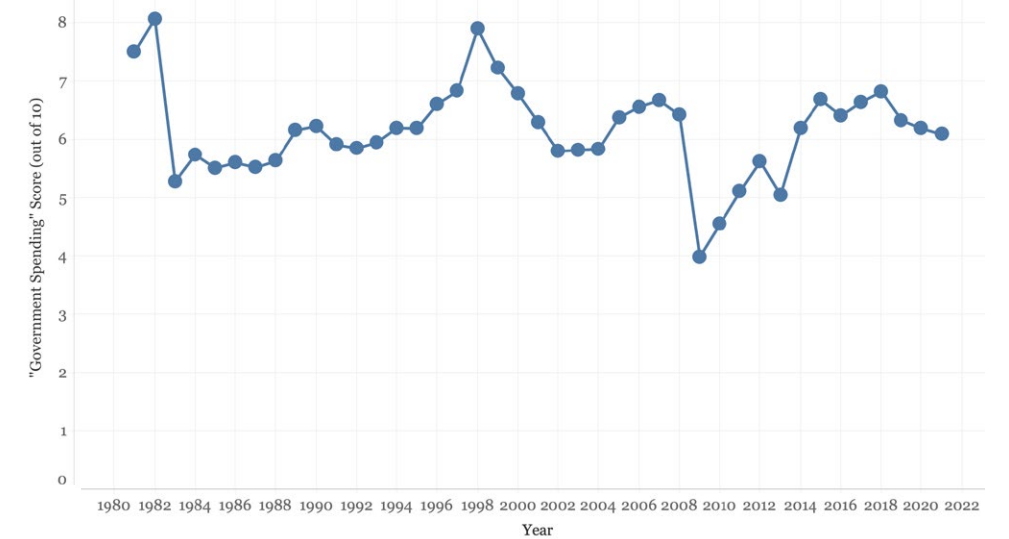
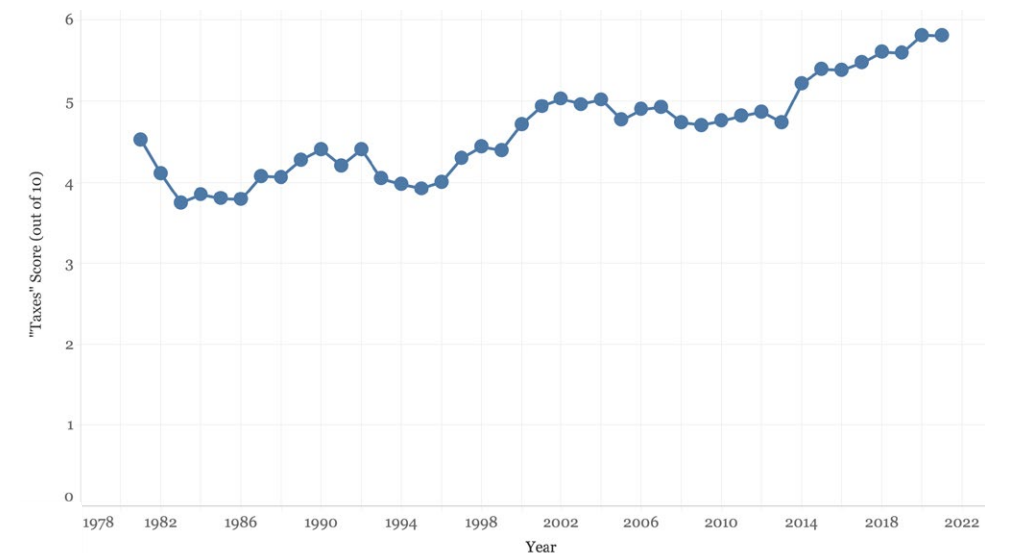


Figure 5. Wisconsin's "Taxes" Score over Time per the Fraser Institute (2021)



The Tax Foundation also finds that fiscal freedom in Wisconsin is subpar, but that high taxes are the culprit. Their “Tax Freedom Day” calculates what calendar day of the year employees begin earning money that they get to take home—instead of money that goes right to the government in taxes. The last pre-COVID year, 2019, put Tax Freedom Day for the Badger State on April 19—making it 35th in the nation. For context, Alaska at #1 and Oklahoma at #2 were March 25 and March 30; New York, the worst, was May 3.

In 2022, Wisconsin state and local governments collected \$6,231 per resident in taxes, amounting to 10.9% of income (just below the national average).⁷ That figure is the 32nd-largest among all 50 states. Alaska, Wyoming, and Tennessee all collected under \$5,000 per person, while Connecticut and New York collected nearly double Wisconsin’s figure per capita.

Wisconsin spends the money it raises in taxes, of course. One of the major problems with government consumption is that it crowds out private-sector expenditures. A rather large literature quantifies the effects of the size of government on economic growth. Bergh and Henrekson (2011) find that for every additional percentage point of GDP in government spending, annual average growth declines by at least 0.05 percentage points. This correlation is in addition to the effects of taxation.⁸

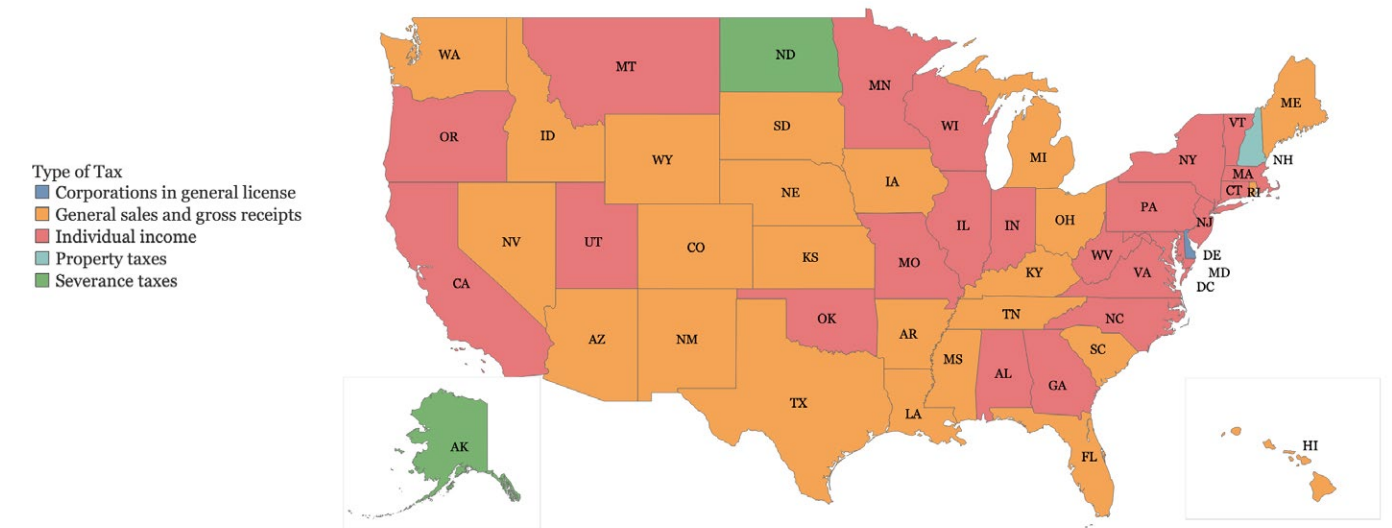
To compare government spending across states, Stansel et al. (2023) divide the per-person state and local government expenditures by the average income in the state.⁹ They find per-capita government spending in Wisconsin to be roughly equivalent to 14.9% of the average income in the state, making it the 28th-greatest among US states.

Ruger and Sorens similarly rank states on government consumption based on spending on government operations (wages, salaries, goods and services for the state’s own use). They rank Wisconsin 28th in government consumption.

When it comes to taxes, the largest revenue source for state and local government is property taxes, making up about a third of all combined state and local tax collections, at 32.6%.¹⁰ Individual income tax collections comprise 27.4% of tax revenue; sales taxes are 20.3% of collections; all other sources (e.g. corporate income tax, utility taxes, excise taxes on tobacco and alcohol, gas taxes, and vehicle registration) make up the balance, some 19.6%* of total collections.

Drilling down, although property taxes are the biggest single burden across the state, these are disproportionately the source of local government funding; the state government primarily relies on taxes from (individual) income and sales. Data on state revenue by source are collected and published by the Census Bureau, as in the map in Figure 6, which indicates each state government’s primary source of tax revenue.¹¹ Although these top categories shift sometimes from one quarter to the next, some broad trends are stable. Wisconsin’s highest marginal income tax rate is 7.65%.¹² For instance, the Census notes that across the Midwest, property taxes account for about 1% of state government revenue, whereas sales and income taxes combine to account for 67% of revenue.¹³

Figure 6. Largest Type of Tax by State Revenue, per Census Data for 2024 Q1



Wisconsin citizens bear a heavy income tax burden. The median income earner and anyone in the state earning between \$27,630 and \$304,170 in 2020 (which is more than 70% of all income-earning households in Wisconsin*) pays a marginal income tax rate of 5.3%.¹⁴ All told, Wisconsin relies on individual income taxes for a larger share of its tax revenue than 32 other states.¹⁵

Wisconsin has a 5.0% sales tax rate¹⁶; the median state (in a multi-state tie) has a sales tax rate of 6.0%. Incorporating local sales tax rates, like the Tax Foundation has done in a national analysis, Wisconsin has an average state and local sales tax rate of 5.70%, making it one of the lowest in the country at #42.¹⁷ These rankings, displayed in Figure 7, account for sales taxes levied at the county and municipal level, with averages weighted by population. (The states that forgo sales taxes, namely Oregon, Montana, New Hampshire, and Delaware, are omitted; DC’s rank does not impact the state rankings.¹⁸) In Wisconsin’s case, nearly all counties (68 of 72) have adopted a 0.5% sales and use tax rate; one exception is Milwaukee County, which has a 0.9% rate.¹⁹ Meanwhile, the only municipal tax rate levied in Wisconsin is the city of Milwaukee’s; they were only permitted to do so in 2023, and promptly imposed a 2% sales tax.²⁰

Finally, recall that the largest component of Wisconsin residents’ tax bills come from property taxes. As a percentage of owner-occupied housing value, Wisconsin homeowners pay the 8th-highest percentage of property taxes in the nation, at an average annual rate of 1.61%.²¹ That rate is nearly double the rate of the median US state.

* Totals may not sum to 100% due to rounding.

* Author calculations based on 2017 Census American Community Survey household income data.

Figure 7. Combined Average State & Local Sales Tax Rates by State, per the Tax Foundation (2024)

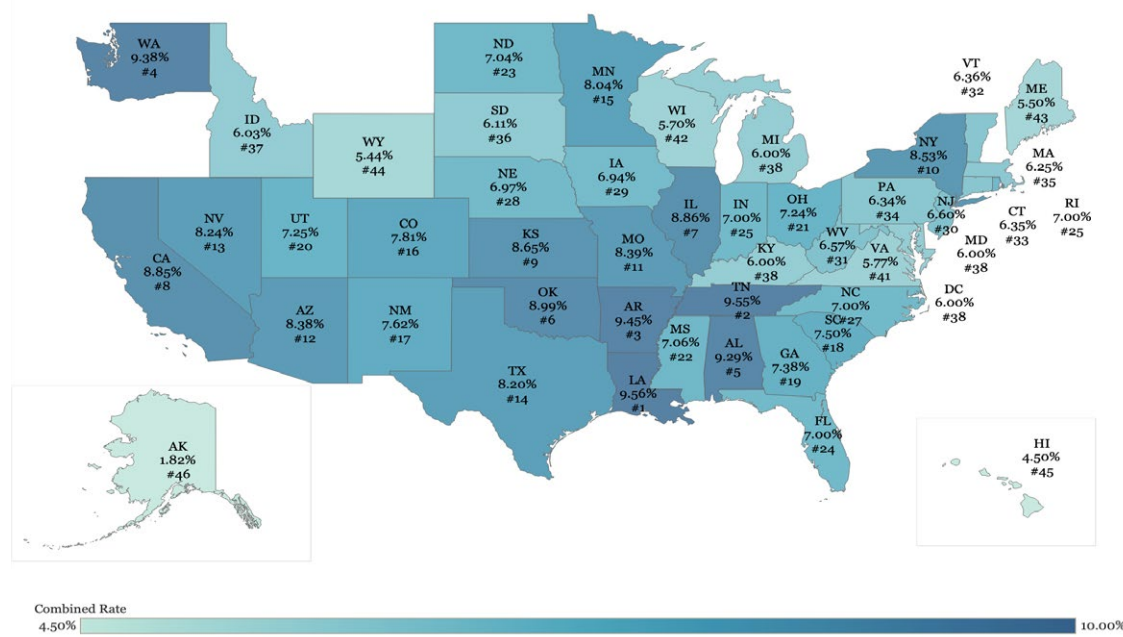
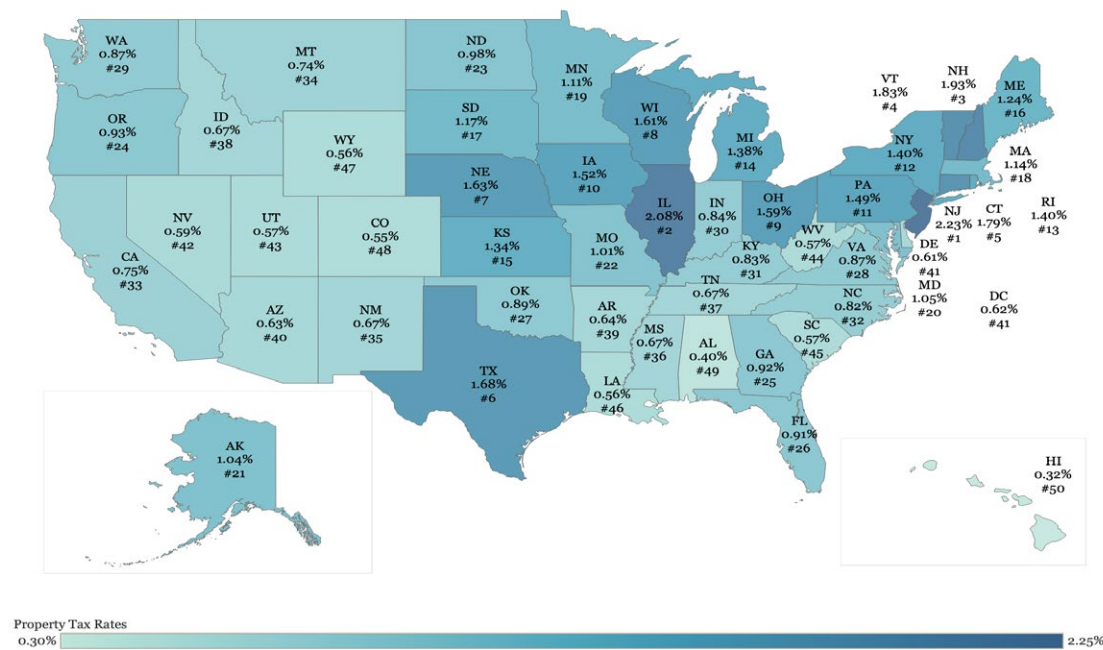


Figure 8. Property Tax Rates by State, per the Tax Foundation (2024)



To put that rate into perspective, the average Wisconsin homeowner’s annual property tax bill is equal to more than three months of mortgage payments. * An average Wisconsin homeowner will pay more in property taxes each month than she will pay in principle toward her home for the first four years of her mortgage.

Nor are property taxes escaped by people who rent instead of buying their own home. For every \$100,000 of tax-assessed property value and an average property tax rate of 1.61%, a landlord has to charge nearly \$150 per month to renters just to cover the property taxes. Research shows that roughly 80 to 90% of property tax increases are immediately passed on to renters.²²

DEBT

Data put together by the Wisconsin Policy Forum, and graphed in Figures 9 and 10, shows local government debt in Wisconsin from 2000 to 2020.²³ Municipalities’ debt has mostly accumulated year over year for the past two decades. As we rang in 2021, the debt held by local governments across Wisconsin was \$11.04 billion. The trajectory of debt is unsustainable and could have dire economic consequences if not corrected.

Still, Wisconsin is far from alone in its struggle with government debt. A report published by *Governing* magazine, including Figure 11, suggested that government debt nationwide got worse after the new millennium.²⁴

PENSION FUNDING

While the increasing debt burden of the state may seem concerning, Wisconsin has the nation’s best-funded pension system. At the end of FY 2017, only Wisconsin and South Dakota had pension systems that were fully funded—i.e., at or above 100% of assets in proportion to accrued pension liability. The Wisconsin Department of Employee Trust Funds (ETF) proudly notes that this is the result of wise structuring and realistic planning: 84% of their revenue is accounted for by investment income, such that “The cost of benefits are paid by those who receive the benefits, not passed on to the next generation.” This is in stark contrast to something like Social Security, which, as one former deputy commissioner there has noted, has “paid out more in benefits and expenses than it has collected in taxes and other non-interest income” every year since 2010, and whose trust fund days are numbered.²⁵ Estimates put the depletion of the trust fund between 2032 and 2034, after which the existing system of revenues and expenditures will not be viable.²⁶

* All calculations in this paragraph are based on a 30-year mortgage. For example, average annual property taxes on a \$100,000 property would be \$1,730. Monthly payments on a 30-year amortized \$100,000 loan at 5.0% interest would be \$537. The first month of a loan, the homeowner would pay \$120 in principle plus \$417 in interest (a \$537 mortgage payment) and an additional \$144 in property taxes.

Figure 9.
Local Government Debt in Wisconsin: Total General Obligation Debt Levels Held by Counties

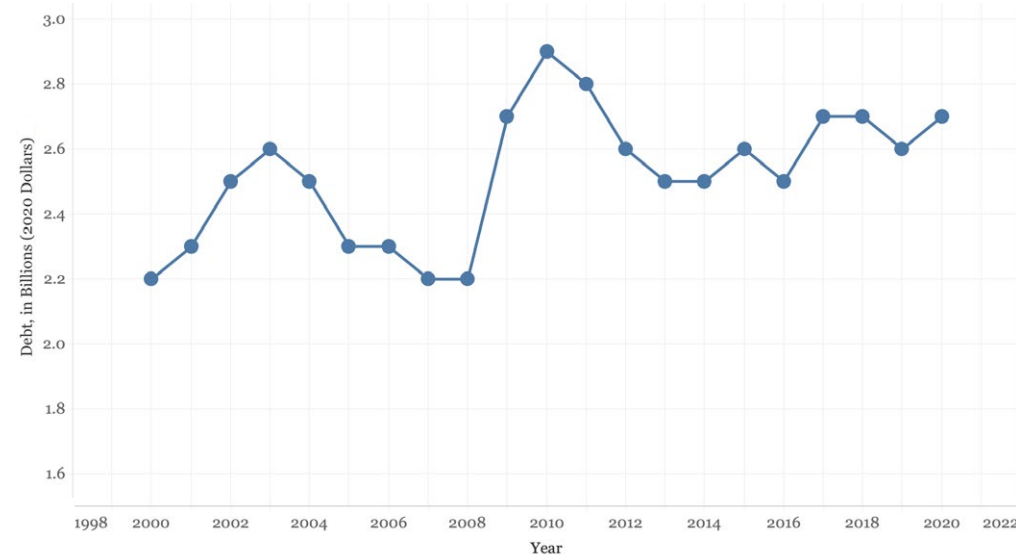


Figure 10.
Local Government Debt in Wisconsin: Total General Obligation Debt Levels Held by Municipalities

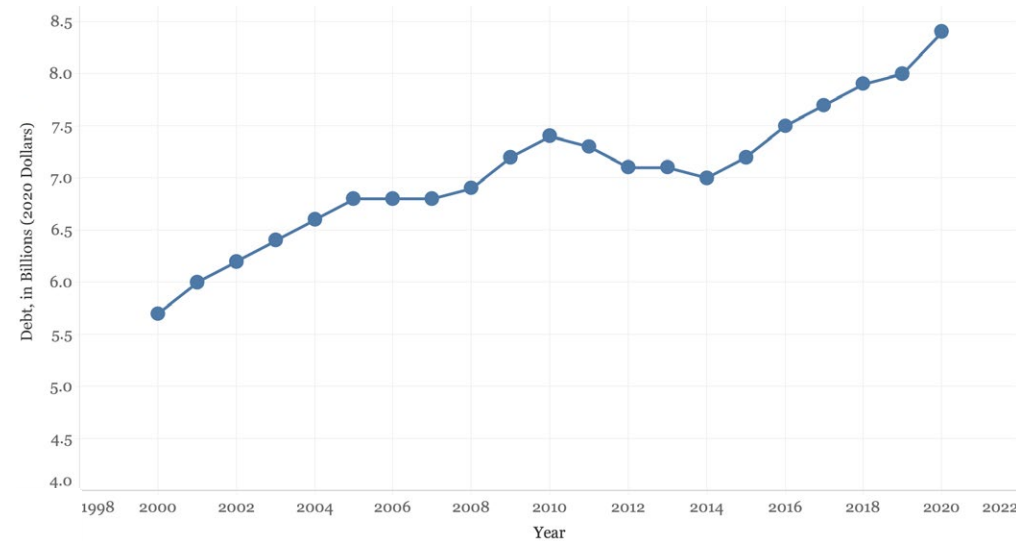
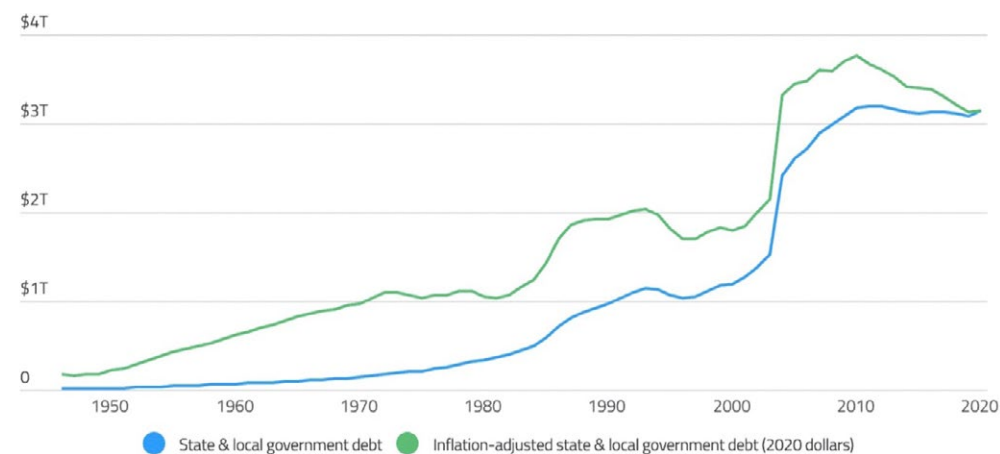


Figure 11.
State & Local Government Debt Over Time



Source: Board of Governors of the Federal Reserve System

Partly as a result of its structure, and partly because of its (again, unlike Social Security) realistic forecasting—it assumes a rate of return on investments that is lower than the national median assumption—this well-funded pension is actually not a burden on taxpayers. As the ETF notes, “Wisconsin state and local governments spend 2.12% of their budgets to fund public employee pension benefits. Nationally, this figure is 5.01%”—more than double that rate.²⁷

SOLVENCY

A fully-funded pension system does not guarantee overall state financial health, however. On other metrics, Wisconsin tends to score pretty middling. Norcross and Gonzales (2018)²⁸ ranked Wisconsin as the state with the 26th-best fiscal condition; their ranking of fiscal solvency is based on five key metrics: cash solvency, budget solvency, long-run solvency, service-level solvency, and trust fund solvency. A post-pandemic ranking, Truth in Accounting’s latest, puts Wisconsin at 18th out of 50. They note that Wisconsin is among the states that ran a surplus in the most recent fiscal year with complete data (2022), and awarded the state a grade of “B.”²⁹

Norcross and Gonzales’ sub-rankings place Wisconsin across a range of middle-of-the-pack values, from 18th to 39th, with one exception: the trust fund solvency, which considers state debt and unfunded pension liabilities (and other post-employment benefits) compared to state personal income, where Wisconsin ranks 6th. Cash solvency measures whether a state has enough cash to cover its short-term bills, including accounts payable, vouchers, and short-term debt. In cash solvency, Norcross and Gonzales ranked Wisconsin 39th; since Wisconsin ran a surplus in FY2022, having more than enough money “to pay all its bills,” as Truth in Accounting put it, Wisconsin seems to have made good use of one-time federal funds from the pandemic.³⁰ Budget solvency measures whether a state can cover its current fiscal-year expenditures using current revenues. Wisconsin ranks 18th in budget solvency. Long-run solvency measures how the state’s assets can hedge against large long-term liabilities; Wisconsin ranks 24th in long-run solvency. Service-level solvency measures how high taxes, revenues, and spending are when compared to state personal income. Wisconsin’s high levels of spending relative to the average household income earn the state a rank of 32nd.

POLICIES TO PROMOTE FISCAL FREEDOM

Wisconsin places a major fiscal burden on its citizens. The state ranks 29th in fiscal freedoms. The following policies would maintain or improve the state of Wisconsin's fiscal freedom.

1. Keep property tax levy limits in place.

Municipal levy limits were enacted in 2006 and generally have helped to slow property tax growth. According to the Wisconsin Policy Forum, property taxes between 1995 and 2005 grew 5.7% annually on average.³¹ That decreased to 3.4% annually between 2005 and 2015, largely due to the introduction of levy limits.

2. Encourage Consolidation of Local Government Services.

According to the 2017 Census of Governments, Wisconsin had 3,096 levels of government bodies, including 1,852 municipal governments and 422 school districts.³² That was the 15th-highest number of government bodies on a per-capita basis.

Greater numbers of governments facilitate service competition and allow citizens to better self-select into districts that provide services that are in-line with their preferences. Each governing body, however, carries fixed administrative costs, and smaller governing bodies cannot benefit from efficiencies associated with scale. If Wisconsin wants to lower its property tax burden moving forward, reducing excessive levels of government administration will likely need to be a part of this equation.*

3. Simplify the Income Tax.

Nine states have no income tax for wages. (New Hampshire and Washington State tax income from interest/dividends and capital gains, respectively.³³) An additional 12 states have a flat income tax—a single rate paid on all (federal adjusted gross) income. Remarkably, five states enacted legislation to transition to a flat income tax in 2021 and 2022 alone (4 of which have since completed the transition, while Iowa is still underway). Also remarkably, states with flat income taxes include neighboring Illinois (4.95% flat tax) and Michigan (4.25% flat tax). Any move toward decreasing the income tax burden will increase fiscal freedom for Wisconsin taxpayers.

* For a more thorough discussion of the issues surrounding the number of government bodies, the Wisconsin Policy Forum released a full 2019 report on the issue, <https://wispolicyforum.org/research/an-abundance-of-government/>



Regulatory Freedoms

REGULATORY FREEDOMS

Opening and operating a business is not a simple or straightforward endeavor. Starting a business requires that owners file appropriate paperwork with the state, county, and municipality in which they are going to operate. Each round of paperwork includes fees and often considerable wait times for approvals. Depending on the business, owners then need to obtain a license for operating the business, repeating the process of paperwork, fees, and waiting. That is just to get started.

Once the business is operational, each level of government and regulatory bodies creates rules and procedures for the business to follow. These rules and procedures vary significantly by industry, occupation, and government. It should come as no surprise that the greater the barriers to start and operate a business, the less business activity we observe.

STATE REGULATORY CODE

Because regulations vary so drastically, researchers have a difficult time providing comprehensive data for comparing regulations across geographic areas. To get a big-picture view of the scope of regulation issues in each state, Broughel and McLaughlin³⁴ use a natural language processing tool. They find that the Wisconsin Administrative Code (WAC) contains roughly 12 million words. At a reading speed of 300 words per minute, an individual would need about 667 hours—17 weeks—of consecutive non-stop reading in order to read the entire WAC.

In 2017, the researchers identified an aggregate of 159,253 regulatory restrictions that businesses needed to follow in order to stay in compliance with state rules. By 2020, that number grew to more than 163,305.³⁵ Alarmingly, of the 44 states* examined by this tool, only 12 had more restrictive regulatory codes than

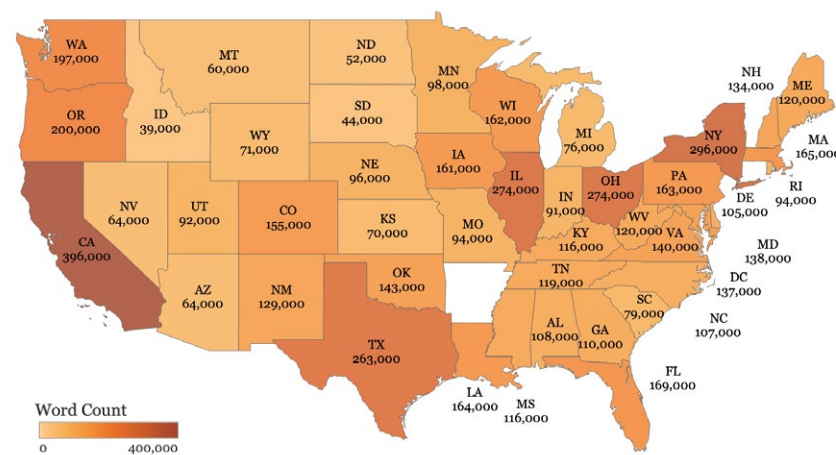


Figure 12. Word Counts of Regulatory Restrictions by State, per the Mercatus Center (2020)

* The included map provides slightly different numbers in its labels because this annual research's most recent iteration did not include a recreation of the map. That said, the overall picture is stable from year to year; note that the current number of restrictions in Wisconsin is within 1% of where it was in the previous year.

Wisconsin.³⁶ (The six states whose regulatory codes were unexamined, including Alaska and Hawaii, are omitted from Figure 12.)

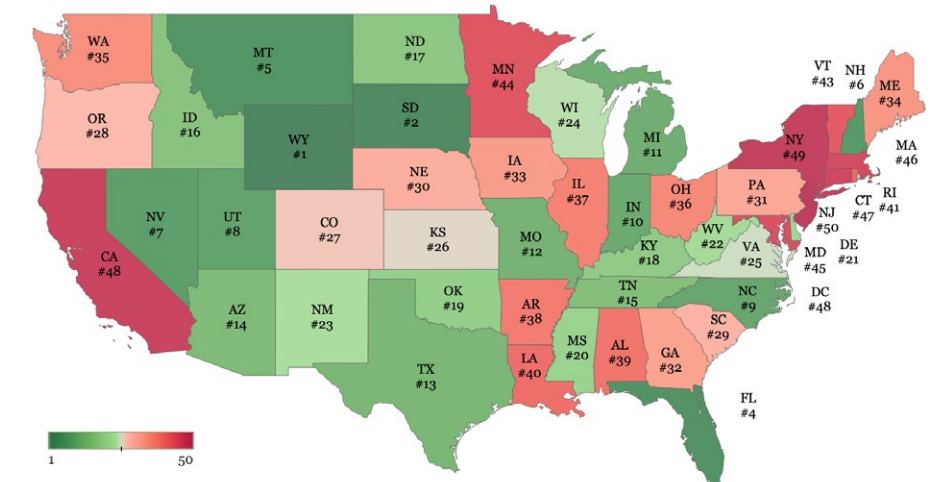
STATE BUSINESS CLIMATE

The modern business environment is as competitive and mobile as ever. Individuals (“labor”) and capital will flow to where they are most rewarded.³⁷ Businesses will locate where they have the greatest competitive advantage. The empirical research is clear on these findings. Giroud and Rauh (2019) use data on 27 million US businesses (C-corporations) with activities in more than one state. They find that a one percentage-point increase in a state’s corporate taxes decreases both employment and the number of establishments (store fronts) by 0.4%.³⁸

A simplified business-tax system encourages business and job development, while complicated and punitive business tax systems discourage business and job development. These are considered to make up a state’s business tax climate, ranked by the Tax Foundation. In 2023, Wisconsin was ranked 24th—middle of the pack.³⁹ Drilling down, the state’s corporate tax rates are higher than most, ranking 32nd out of the 50 states; the unemployment insurance tax rank is closer to median, at 28th.⁴⁰ The single worst component, though, was one that’s also immediately relevant to most Wisconsinites: the individual income tax rank, 38th.

Other sources corroborate this. *Chief Executive* magazine’s annual survey of US states ranking them from “best” to “worst for business” found Wisconsin ranked #30 in 2024, down 11 rankings from the previous year.⁴¹ That was the second-biggest drop (after Colorado) of any state. The nature of the survey, conducted across 500 “CEOs and business owners” meant that no specific reasons could be cited for the ranking—although *Milwaukee Business Journal*, writing about the story, offered some ideas: “A look at the magazine’s assessment of Wisconsin’s business climate shows no population growth, suggesting a stagnant workforce, a high top corporate income tax rate of 7.9%, and a relatively tight employment pool with a 2.9% unemployment rate. Compare that with the top state of Texas, which showed a 3% growth in population, no corporate taxes, and an unemployment rate of 4.1%.”⁴²

Figure 13. Business Tax Climate Rankings by State, per the Tax Foundation (2024)



MUNICIPAL BUSINESS CLIMATE

Many businesses, though, have to reckon more with petty local regulations than laws passed by the state at large. Here, we consider two angles: how Milwaukee compares to other major North American cities, and how the top 20 Wisconsin municipalities compare to each other.

The Doing Business in North America Index ranks large cities in terms of the difficulty in starting and operating a business and on the relative ease of business in those cities. The only Wisconsin city large enough for their ranking was Milwaukee. In 2020, out of 80 large American cities, Milwaukee ranked 14th in ease of doing business, 25th in starting a business, 44th in employing workers, 37th in getting electricity, and 6th in land and space use.

What may be surprising, though, is how Milwaukee compares to other Wisconsin municipalities. WILL looked at Wisconsin's 20 most populous municipalities* to examine ordinances that would restrict or regulate the ability for people to start and run a business out of their home. Many of the most successful businesses in the nation started out of someone's home, including Apple and Amazon. This economic outlet is central to many people's lives, not only as a source of income but as a creative outlet and a way to participate in society. WILL's research created a score based on regulations like: may anyone outside of the family and/or household be employed there? Must all sold merchandise be manufactured on the premises of the home? May there be any signage? Is additional parking totally forbidden? Are deliveries not "customary to residential purposes" banned?

On this metric, Milwaukee is relatively tame compared to some smaller municipalities. Kenosha (Wisconsin's 4th-biggest city) requires that all merchandise sold must be made on the premises, as do Sheboygan, New Berlin, and a few others. Wausau bans sales from being made on the premises; so does Oshkosh. Brookfield bans having inventory on site. Menomonee Falls enumerates the types of businesses that may be allowed in homes. West Allis requires that "five inspections must be conducted before the permit is issued: building, electrical, plumbing, health, and fire inspections." Eau Claire requires approval from the Plan Commission, and a fee of \$295. By WILL's ranking, Sheboygan is narrowly the worst—but even La Crosse, the most lenient of those assessed, still requires that only residents of the home may be employed in the business and that all products sold must be made on the premises.

The intra-state nature of these local forms of oppression mean that they do not factor into scoring Wisconsin on freedom as compared to other states in the union. Nevertheless, lovers of liberty have ample material in these regulations to cultivate freedom and unleash the prosperity of the state.†

* Nineteen cities and one village.

† For more, see: <https://will-law.org/wisconsin-a-broken-home-for-home-based-businesses/>

LABOR MARKET RESTRICTIONS

When the government isn't interfering with people's ability to start up a business, it's adding regulations to how established businesses are permitted to operate. Many of government's restrictions on businesses deal with how those businesses interact with their employees; these include things like minimum wages, restrictions on shift length, and regulations on benefits like health insurance, family medical leave, and paid time off.

The Economic Freedom of North America Report⁴³ aggregates many of these employer-side labor market regulations. Over the past forty years, the labor markets in Wisconsin have become much freer: in 2021, Wisconsin had the 11th-freest labor market. The most recent jump in labor market freedom is a result of Wisconsin's 2015 Right-to-Work law. (In 2015, Wisconsin was only ranked #25.)

In addition to employer-side regulations, states also issue several employee-side rules and restrictions. Among the most common of these restrictions around the country are occupational licensing laws.* Occupational licensing laws establish mandatory minimum entry requirements that aspiring professionals must complete in order to begin working.⁴⁴ These requirements include minimum levels of education and training, the payment of various fees, examinations, and satisfying "good moral character" requirements.

To become a barber in Wisconsin, for example, an individual must obtain a license, complete 1,000 hours of training, pass an exam, and pay a license fee of \$336.50 (and an annual renewal fee of \$82). To become an Emergency Medical Technician (EMT), one must pass an exam and pay \$80 for a license (there are no minimum hours of training specified).⁴⁵ A 2020 report from the Wisconsin Institute for Law & Liberty summarized how Wisconsin issues over one million occupational licenses for over 280 different credential types regulated by nearly a dozen state agencies.

In prosperous times, these regulations often delay people's employment and constrict supply in ways that aren't noticeable (except for the individuals hampered). But in times of crisis, these regulations can set the stage for artificial shortages. And even independent of crisis, these licensing regimes are subject to the standard failures of any government sapped of the incentive, on the ground, to provide services in a timely manner: Wisconsin, which is currently plagued by a critical shortage of mental health counselors, is still taking months to process straightforward applications from long-time practitioners in that field who recently moved here from a different state.⁴⁶

In terms of occupational freedom, Ruger and Sorens ranked Wisconsin 32nd in the country. Wisconsin has room to grow: the government levies a heavy burden in the form of governmental licensing procedures. Wisconsin lacks an independent commission to review occupational licensing legislation and affords 'no

* This subject is covered in more detail in Justice Neil Gorsuch and Janie Nitze, *Over Ruled: The Human Toll of Too Much Law*, (HarperCollins, 2024).

independent practice freedom' to nurse practitioners.⁴⁷ A 2017 Institute for Justice study estimated that Wisconsin required a license for 42% of the 102 low-income occupations examined. Licensure carried an average fee of \$259.⁴⁸

From a freedom perspective, the perennial problem with licensing regimes is that they benefit a select, interested, dedicated few, while only inconveniencing everyone else an unnoticeable amount. Only in the aggregate is the typical cost of a licensing regime countable. Those who are especially harmed, whose livelihoods and professions are held up or impaired because of licensing fees and outrageous delays, are harmed sporadically and in a way that induces no connection between the injured parties. This makes occupational licensing an important area for vigilance, since a licensing system, once introduced, is unlikely to be totally rooted out.

In the meantime, some ameliorating measures should be taken to mitigate these entrenched systems: if Massachusetts, Alabama, or Oregon has already vetted and licensed someone to be a hairdresser, for example, it is patently unreasonable to make them undergo some special Wisconsin training before being allowed to be employed and earn a living here.* This policy, known as "universal license recognition," has been gaining steam across the country; in the past couple of years alone, Vermont, Ohio, and Virginia have all adopted such policies.⁴⁹

REGULATORY SUNSET PROVISION

One of the perennial problems with regulations is their tendency to only ever multiply and increase. Once on the books, it is rare for a regulation to invite the amount of attention is disapproval necessary to remove it. Therefore, one newly popular innovation to the regulatory system is for regulations to expire or "sunset" after a given time frame if they are not actively re-upped.⁵⁰ The best practice for regulatory policy is one in which all regulations have a scheduled end date and needless laws wind up being culled, at scale, automatically. Policies that are considered to be effective and essential can be renewed, but under a sunset system all the policies that might have become obsolete, or even counterproductive, due to technological innovations and societal changes have the chance to quietly lapse. All told, sunset provisions can help keep the regulatory code from growing so voluminous that it becomes incomprehensible. Having a leaner and more relevant code will also help law enforcement triage their productivity, only enforcing the meaningful regulations that remain on the books, and cultivate more respect for the law generally.

* For more, see <https://will-law.org/occupational-licensing-in-wisconsin-a-roadmap-to-reform/>

EMERGENCY POWERS FREEDOM

The role of government's emergency powers surfaces only in times of crisis. Still, as the coronavirus pandemic reminded all of us, just because those powers aren't a feature of everyday life doesn't mean that they should be of no concern or that all the world's crises are behind us. Generally, emergency powers activated by the executive are exercised within some parameters defined by the legislature for scenarios that might arise and demand action before the legislative process would be able to act. Different states vary based on how long a state of emergency may last, whether it may be extended, and if any legislative concurrence for the state of the emergency is ever required.

Maine Policy Institute ranked the 50 states and placed Wisconsin in a tie with New Mexico for #15 (where #1 is best).⁵¹ As things stand, in Wisconsin, a state of emergency may only be declared by the governor, but the legislature must concur after 60 days to extend it. In some states, that legislative approval comes sooner; South Carolina requires it after 15 days. By contrast, New York makes no such requirement for legislative assent; neither does Vermont, although individual municipalities' legislative bodies may terminate the emergency for their own municipality.⁵² Wisconsin emergencies also default to a relatively long 60 days: a plurality of states (22) indicate that an emergency shall start off with a time limit of 30 days (some states allowing extensions), and four states make the default limit even shorter than that. Dialing Wisconsin's limit at least back to 45 days (like Virginia) would be a good safeguard for this power.

CIVIL LAWSUIT FREEDOM

For a decentralized legal system to adequately protect rights, courts must have a system that provides justice to victims of the unjust acts of others. When it comes to property rights, this means liable defendants pay costs proportional to the harms inflicted—not costs that are significantly more than or less than the harms inflicted. Thus, neither are the personal freedoms of the defendants infringed upon.

Similarly, liability insurance costs that businesses incur should reflect the likelihood and magnitude of the harms that the business may create. In the US, the civil liability system imposes costs that are greater on everyone than do the systems in any other developed country.⁵³ States vary widely in their application and design of laws surrounding civil liberties. Ruger and Sorens summarize, "In fact, it is more appropriate to think of there being 50 separate civil liability systems in the US than one national system, and 'bad' state systems can impose significant costs above those necessary to remedy wrongs. That is especially the case when defendants are from another state."

Tort-related expenses (insurance costs, claims, etc.) are passed on to consumers. According to McQuillan et al. (2007), the annual nationwide "tort tax" amounts to \$328 billion annually in direct costs, and \$537 billion annually in indirect costs.⁵⁴

Ruger and Sorens' civil liability score (which they call "lawsuit freedom") captures risks and costs to property and contract freedoms that businesses must pass on to consumers as prices increase. In that index, Wisconsin ranks 20th-best in the country.⁵⁵

MISCELLANEOUS REGULATIONS

Ruger and Sorens also construct a Miscellaneous Regulatory Freedom Index and ranking. The index includes (in declining order of weight in the index) certificate-of-need ("CON") requirements for new hospital construction,* auto insurance rate filing requirements, homeowner's insurance rate filing requirements, general unfair-pricing and sales-below-cost laws, so-called "price-gouging" laws, rate classification prohibitions for some classes of insurance, membership in the Interstate Insurance Product Regulation Compact, direct-to-consumer auto sales, minimum markup and sales-below-cost laws for gasoline, moving company entry regulations, and mandatory product labeling laws. For this category, Wisconsin ranks as the 9th-best state.

POLICIES TO PROMOTE REGULATORY FREEDOM

1. All regulations should include sunset provisions.

The best practice for regulatory policy is one in which all regulations have a scheduled end date—sunset—and these sunsets should not be routinely extended or renewed. Policies that are considered to be effective and essential can be renewed, but many policies may become obsolete or even counterproductive due to innovations and changes in society. Sunset provisions can also help keep the regulatory code from growing so voluminous that it becomes incomprehensible.[†]

2. Eliminate minimum markup laws and price floors.

Minimum markups and price floors artificially increase the prices of goods and services. Wisconsin's minimum markup law represents an antiquated, Depression-era attempt to fight the specter of monopoly. Flanders and Brennon (2017)⁵⁶ studied the history and effects of Wisconsin's minimum markup law. They found that minimum markup laws have no significant effect on (protecting) the small businesses they are designed to aid. Instead, the laws exclusively increased prices.

3. Reform occupational licensing by implementing the Right to Earn a Living Act and Universal License Recognition.

Passed in Tennessee in 2016 and Arizona in 2017, the Right to Earn a Living Act establishes a legal framework to ensure that citizens have a fundamental right to earn a living through lawful work. That right to earn a living takes precedence over existing occupational licensing laws.

Reciprocal agreements allow states to recognize licenses from other states. Under a reciprocal agreement, a physical therapy assistant who is licensed in Illinois, Minnesota, or any other state, could legally practice in Wisconsin without going through the entire licensure process again in Wisconsin. More expansively, universal license recognition would recognize occupational licenses first earned in other states regardless of any protectionist licensing regimes conducted by those states within their own borders. To date, 20 states have enacted a universal license recognition law.⁵⁷

* CON laws require that any organization wishing to increase service—build a new hospital, for example—must demonstrate a "need" and receive approval from a state health planning agency.

† For more, read here: <https://will-law.org/six-reforms-to-improve-wisconsins-regulatory-climate/>



Personal Freedom

PERSONAL FREEDOMS

Of the freedoms covered in this report, personal freedom is the least well-defined. Both political philosophers and the public divide sharply and in many directions over the very definition of personal freedom as it pertains to several particulars—drugs, sex, gambling, free speech, selling raw milk, etc.

A lot of contentious edge cases seem to pit freedom against itself. Should people be “free” to use drugs, for example, given their proclivity to functionally enslave people on a biochemical level? Do people addicted to drugs or to gambling come across as especially “free” individuals? If so, should there be age restrictions, or any effective way at keeping drug sellers from turning teenagers into addicted customers? And should alcohol be treated differently? In the context of incarceration, are higher incarceration rates per se (as some suppose) a detraction from freedom, or does lax law enforcement infringe on the freedom of law-abiding citizens to go about living their lives?

One very rough idea of personal freedom is that individuals should be empowered to make their own decisions so long as their choices do no positive harm to others; the opposite end of this spectrum is a regime where select experts, knowing best, dictate the specifics of a top-down, centrally-planned society to reap the best societal results. Yet another is that the government should act more like a “referee” between free individuals, enforcing rules that respect choice but seek to facilitate decision-making by setting rules regarding when and under what circumstances an individual can make decisions (e.g., age limits on the use of alcohol), mandating the provision of information (warning on cigarette packages), or otherwise limiting risk.

Our intent is not to resolve this debate but to assess what how restrictive Wisconsin is in areas where there is substantial public support for some level of personal freedom.

Ruger and Sorens' *Freedom in the 50 States* report⁵⁸ tracks more than 100 separate measures of personal freedoms. In their overall personal freedom metric, Wisconsin has improved from a bottom-quintile state in personal freedom in 2000 to slightly below average in 2022. (The single biggest driver of that improvement was an improvement in gun freedom.) In addition to major categories, like gun rights and educational freedom, Ruger and Sorens⁵⁹ include a grab bag of *mala prohibita*—acts “defined as criminal in statute, even though they are not harms in common law (*mala in se*).” These include policies such as raw milk laws, firework bans, trans-fat bans, and mixed martial arts restrictions. Ruger and Sorens' weighted scores give Wisconsin a rank of 28th.

Hall and Sobel (2018) created a “Paternalism Index,” ranking all 50 states in terms of their degree of policy paternalism. Overall, Wisconsin ranks 23rd among all US states in their use of paternalistic state policies. Wisconsin's highest rank comes from the lack of “Saint Subsidies”—handing out subsidies for “good behavior” such as property tax deductions for wind energy systems and “bottle bills” that require refundable deposits on drink bottles.

These two summary rankings paint a picture of a state with a lot of room to grow. Because of the heterogeneous nature of “personal freedom,” the rest of this section deals with different specific topics.

EDUCATION FREEDOM

Education is one of the cruxes of freedom. It is a basic human right to educate your own children; government systems that have been put in place to ensure that education is universal, meanwhile, are costly, powerful, and threaten to override parents' authority in directing their own children's upbringing. No one is free who is mandated to send their child to 40-hour-per-week instruction at someone else's hands within a cumbersome, bureaucratic system—a system financed by everyone's tax dollars—and who has no alternative. The modern school choice movement has arisen to address this injustice: if the priority is the education of all children,* then the government should, so far as practicable, provide funding for that to take the form that parents see fit.

Wisconsin's education system is unique. On one hand, Wisconsin pioneered the modern school-choice program, and has some of the broadest educational options for students in the country. These systems are designed to allow parents to choose the school their children attend, as opposed to school enrollment decisions being based entirely on the location of the parents' residence. The state also offers charter schools and open enrollment into other districts. Taken together, more than 155,000 students in Wisconsin participate in one of these forms of school choice. On the other hand, the implementation and limits of these choice systems highlight significant room for improvement and indicate just how restrictive the education system nationwide is.

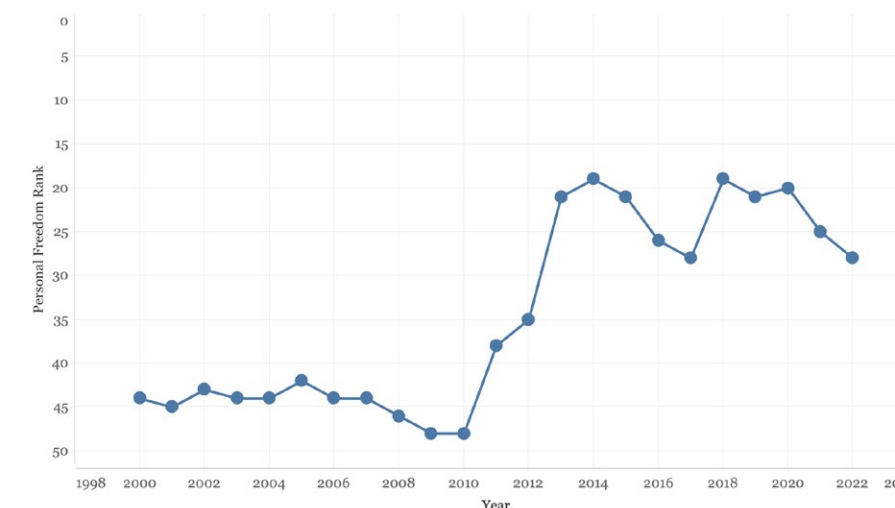
By Ruger and Sorens' reckoning, Wisconsin is the 7th-freest state for education in the country; that said, their assessment notes the dual nature of Wisconsin's education freedom: "Educational freedom grew significantly in 2013/14 with the expansion of vouchers. However, private schools are relatively tightly regulated." The Heritage Foundation, which published rankings of sub-components of educational freedom, had a similar diagnosis: Wisconsin ranked #24 in the nation overall. Drilling down, that's the compromise score of very good ROI (#14) and school choice (#18) rankings with a starkly unfree transparency rating within our public schools (#47).⁶⁰

While school choice programs in the state are relatively broad, there are several issues with the programs that prevent them from fully reaching their potential. One of the biggest impediments is the regulatory environment that schools face. According to research from EdChoice,⁶¹ Wisconsin is among the most regulated school choice programs in the country. Across areas such as accreditation, testing and financial reporting, Wisconsin's programs include onerous requirements.

Despite the positive track record of school choice in the state, evidence shows that placing a tremendous regulatory burden on private schools to enter school choice programs alters the composition of schools that participate. Schools that are on a solid financial and enrollment footing are less likely to enter

* As opposed to, for instance, cultivating a patronage system for their own employees, or indoctrinating students into a certain collection of politically correct beliefs.

Figure 14.
Personal Freedom in Wisconsin,
from *Freedom in the 50 States*
(Ruger and Sorens 2023)



programs that would place large burdens on them. Consequently, heavy regulation leads to lower participation rates by high-quality schools.⁶²

There are a number of meaningful limitations from the perspective of families as well. Income limits on the state's school choice programs mean that many families are unable to utilize vouchers. Currently, only those earning less than 300% of the federal poverty level can participate in Milwaukee and Racine, while only those earning less than 220% of the federal poverty level can participate in the statewide program.⁶³ (This means, for example, that a family of 4 that makes more than \$90,000 a year cannot participate in Milwaukee's choice program.) Enrollment caps on the statewide choice program limit the ability for schools to open with a primary focus on serving students who utilize the voucher, something that is quite common in Milwaukee.

Things don't get much better when we look at other forms of school choice. Wisconsin's charter school law is ranked 39th in the nation due to factors such as lacking a clear process for renewal of charters and for failing to equitably provide funding to charters. While authorizers other than the school district are ostensibly available, some authorizers have become reticent to offer charters, making it challenging for new schools to open.

Problems continue when freedom-oriented questions are asked of Wisconsin's establishment of government-funded schools. Although not all questions of freedom are appropriate in an educational context (it being a workplace, with specific responsibilities, inhabited by children, etc.), there are plenty of freedom questions that may be reasonably asked—including the questions of occupational licensure, for example. That figures prominently in the sub-component of educational freedom that Heritage calls teacher freedom (different from EdChoice's regulatory criticism), where Heritage ranks Wisconsin #34. Heritage notes, "Just 8 percent of K-12 teachers [in Wisconsin] made their way to the classroom through alternative certification routes, and the Badger State does not have full reciprocity of teacher licensure with other states."⁶⁴ This deserves especial attention considering chronic issues with teacher shortages.

According to the National School Boards Association, e.g., 44% of teachers leave the profession within the first five years, while the average teacher has only one to three years of classroom experience (and these stats are from just before the pandemic).⁶⁵

Wisconsin is similarly dismal on Heritage's component of "transparency," where we are ranked #48 out of 50. Heritage cites Governor Tony Evers' 2021 veto of a statewide bill that would have guaranteed that parents could see the curriculum being taught in public school classrooms.⁶⁶ WILL supported this legislation, after noting the incessant creep of political material into classrooms and the obstruction with which government employees kept this material from parents' view. A 2022 WILL report uncovered a number of instances where school districts were teaching anti-conservative and arguably anti-American topics via open records requests—things families likely wouldn't know about with curriculum transparency.⁶⁷ At a time when state-level attempts to regulate public school curriculum are meeting values-oriented resistance from some and encountering implementation or definition difficulties elsewhere, this curriculum transparency policy remains a good idea for cultivating educational freedom.

FREEDOM OF SPEECH

The freedom of speech is one of America's defining freedoms. It was enshrined in our First Amendment; attempts by President John Adams to abridge it with his Sedition Acts made him our first one-term president. Tragically, like freedom in many other respects, Americans are alarmed at the way that culture is losing its love for the freedom of speech and institutions are endangering it.

The right is promised in the First Amendment, but that may not always be honored in practice. For instance, on Valentine's Day, 2018, a student named Polly Olsen, who was enrolled in Northeast Wisconsin Technical College, was handing out free religiously-themed valentines with messages like "Jesus loves you! Romans 5:8."⁶⁸ Campus Security responded to a "suspicious activity and/or person" report by bringing Polly to the security office and telling her that "some people may ..find the message written on the card offensive." After litigation by WILL, a US District Court ruled that the university had violated Polly's First Amendment rights.⁶⁹

Measuring the freedom of speech, especially at scale, is difficult, but we have some metrics that attempt to capture it. Examining its protection on college campuses, the Foundation for Individual Rights and Expression (FIRE) conducted a review of 248 American colleges and universities (some public, some private) studying their commitment to free speech. Each school received a score, and subsequently a ranking, based on factors like attempts to deplatform speakers, attempts to disinvite speakers, and surveys of student views.

Three Wisconsin schools were included: the Madison, Milwaukee, and Eau Claire campuses of the Universities of Wisconsin. Madison ranked the best, at #60; Milwaukee was #99, and Eau Claire was #201. Madison did well thanks to the administration's support, in the face of antagonistic calls and vandalism, of Greek life systems and also an event featuring commentator Matt Walsh.

Eau Claire, on the other hand, registered poorly; that said, subsequent developments and clarifications have modified the understanding of the demeriting events.* In particular, three scholars of UW-Eau Claire had undertaken to conduct their own survey of attitudes towards free speech at the University of Wisconsin. The UW system's chancellors met and, over concerns that the results "could be politicized,"⁷⁰ one interim chancellor resigned in protest and the survey was successfully delayed by almost a year.⁷¹ All told, although the Eau Claire university was merely the site of suppression and not the culprit, the whole kerfuffle still reflects poorly on the state. If there's a subject whose academic research should not be stifled by academia, it is the freedom of speech.

For a statewide look, the 248 schools surveyed by FIRE were filtered down to the 146 public ones. Then, the scores they had been assigned were averaged for a state-level score. Here, Wisconsin ranks #32 out of 49, which can be normalized (i.e. to "out of 50") and rounded to #33. (South Dakota had no public schools represented.) We can't be sure about how representative the sampled schools are of each state's general campus climate for free speech,[†] but Wisconsin finds itself on the wrong half of the rankings. Again, note that even the updated understanding of the Eau Claire incident is still a demerit on a statewide level. Although this ranking may not capture the climate of free speech throughout the state, it does describe a factor that is within the purview of public policy.

Other rankings attempt to capture the protection of the freedom of speech outside of college life. The Institute for Free Speech (IFS) conducted a 2022 survey looking at the exercise of speech in another important arena: politics. Specifically, IFS examined ways in which the governments of some states might chill political speech with burdensome laws surrounding political donations and communications. Here, Wisconsin ranked first out of all 50 states.⁷² Wisconsin state law is clear about what constitutes a campaign "expenditure" (Minnesota law, by contrast, is unclear). Non-political committees in Wisconsin do not have donor reporting requirements (in Minnesota, they do). Groups that advocate only to the public are not regulated (in Minnesota, they are). Speech near an election is not regulated by state law (in Minnesota, it isn't, either, although in Illinois it is).

One of the only major free speech shortcomings detected by IFS, noted in a different report, is Wisconsin's lack of "anti-SLAPP" laws. "SLAPP," short for "strategic lawsuit against public participation," refers to litigation where one party brings another to court on charges of defamation as part of a strategy to discourage that other party from exercising the freedom of speech. These can be effective given that fighting even bogus charges in a court of law can be expensive; the IFS estimates that "the median cost of defeating a typical *meritless* defamation lawsuit in court is \$39,000" (emphasis added).⁷³ Some states have enacted carefully crafted laws to forestall this abuse of the legal system. Wisconsin lands in the lowest tier of 17 states that have no such legislation on the books.⁷⁴

* Researchers have said that this will be reflected in future versions of FIRE's free speech ratings.

† Whether the sampling consistently picked out freer schools, consistently picked out more repressive schools, or had randomly distributed slants in each direction, it's a significant finding that Wisconsin is ranked so low—assuming, of course, that the Wisconsin sample wasn't slanted, and we can visually inspect at least that the state's two most momentous public universities, UW-Madison and UW-Milwaukee, were included.

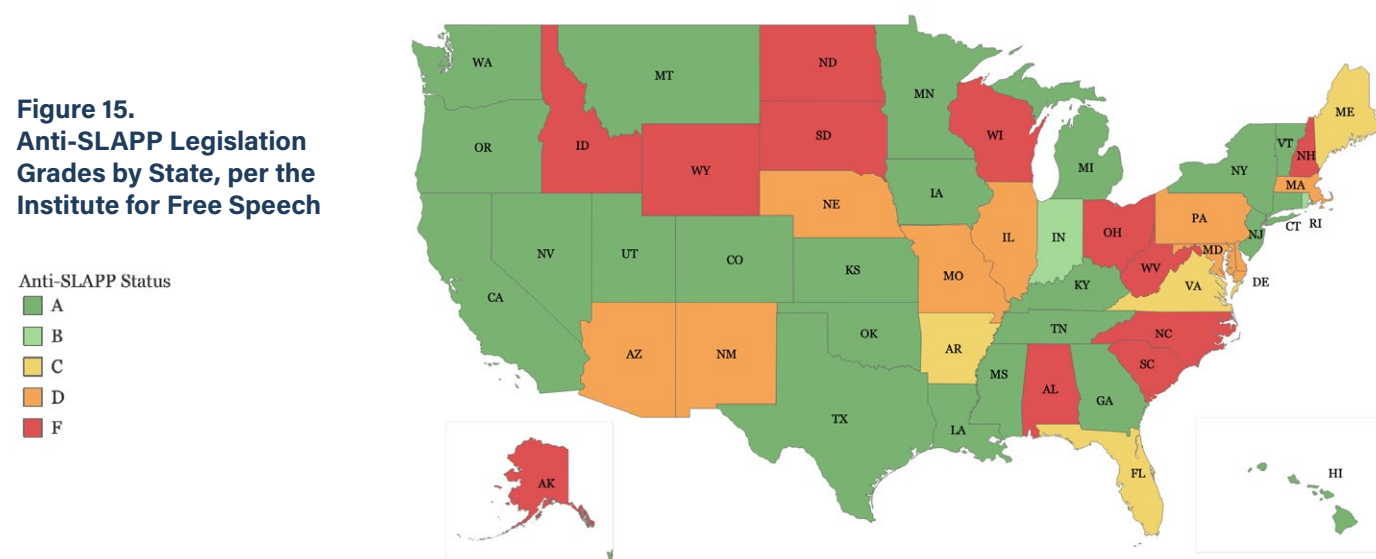
A well-crafted anti-SLAPP law would preserve Americans' freedom of speech while also preventing the expensive and drawn-out legal system from being used as a weapon where people are manifestly within their rights exercising that freedom. Without such a law, for example, there are cases like that of Scarlett Johnson, a parents' rights activist who criticized her school district for paying for a "social justice coordinator." Ms. Johnson took to social media to censure the decision, opining "What does skilled in 'equity promotion' and 'social justice' even mean?" and characterizing such consultants as "white savior[s]" with a "god complex" (Ms. Johnson herself is of Puerto Rican descent) and of "bullying you into silence and compliance."⁷⁵ The social justice coordinator responded by suing Ms. Johnson for defamation. The resulting litigation is being handled by WILL pro bono; if not for that, the costs merely to fight this charge in court would be enormous and unrecoverable, to say nothing of the cash being sought by the social justice coordinator for compensatory and punitive damages.

Good anti-SLAPP legislation would permit someone hit with a meritless defamation lawsuit to file an anti-SLAPP motion, which would suspend the main defamation proceedings and only permit them to move forward if the plaintiff (who shoulders the burden of proof) brings evidence and specificity to show that their case belongs in court. All kinds of states have been graded an "A" on this measure by IFS, among them New Jersey, Kentucky, California, Texas, Vermont, and Louisiana.

RELIGIOUS FREEDOM

Religious freedom is patently one of America's central freedoms, dating back to the religious practices of the emigrants who founded this country and wrote its founding documents. Although the First Amendment

Figure 15.
Anti-SLAPP Legislation
Grades by State, per the
Institute for Free Speech



and the incorporation doctrine have issued a guarantee of the free exercise of religion, as people are surely aware, the "devil is in the details." Scrutinizing different states' specific laws, the Religious Liberty in the States project has documented the 50 states' performances across 14 "safeguard areas" of relevance. They note that their methodology, rather than making priorities of certain policies for religious reasons *per se*, begins with the consideration of what laws are on the books in some states to indicate where the fault lines of religious liberty are in America today. Their results allow a ranking of all 50 states, from the nationwide leaders of Illinois, South Carolina, and New Mexico to the bottom-ranked California, New Hampshire, and West Virginia. According to their documentation, Wisconsin ranks #25, in the dead middle of the pack.

According to these safeguards, Wisconsin is duly circumspect and generally guarantees freedom when it comes to abortion refusal, sterilization refusal, and absentee voting (which implicates religious freedom in the event that an election day conflicts with a religious observance on the calendar). On the other hand, there are gaps in what is provided for regarding contraception refusal and marriage solemnizations.

Contraception refusal implicates religious freedom because of the understanding of some churches, such as the Roman Catholic one, that contraception is a sin and so is providing it. This implicates public policy because some states protect individual practitioners, private hospitals, and public hospitals from liability and discrimination for refusing those services when it "is contrary to the conscience of such physician or health care personnel," as Illinois' state law on the subject puts it.⁷⁶ There are a variety of different positions on this subject: Illinois and Mississippi protect individual practitioners, private hospitals, and public hospitals; Maine and Tennessee protect individual practitioners and private hospitals; Florida and California protect just individual practitioners.⁷⁷

Also implicated are certain individuals' and establishments' views on marriage. Since the Supreme Court's recent national revision of what the government considers to be marriage or not, many state laws have not been updated to protect the free exercise of religiously grounded attitudes: in particular, for members of the clergy to be authorized to solemnize a marriage, must they recognize all of the same human relationships so recognized by the government, or may they abide by a religiously informed definition whose transmission is bound up in their church's existence? Freedom means that the government does not have the right to dictate redefinitions for something that thus touches their conscience, and some states have been quick to ensure that.

For instance, Delaware, when they enacted their "Civil Marriage Equality and Religious Freedom Act of 2013" permitting civil marriages between two individuals of the same gender, included a provision that "Other than as provided in this subsection, nothing in this section shall be construed to require any person (including any clergyperson or minister of any religion) authorized to solemnize a marriage to solemnize any marriage, and no such authorized person who fails or refuses for any reason to solemnize a marriage shall be subject to any fine or other penalty for such failure or refusal."⁷⁸ The wording has changed slightly since 2013 but the protection remains intact.⁷⁹ Many states that currently have such a protection enacted it upon first legalizing same-sex marriage, including California, Connecticut, Illinois, Maryland, Minnesota, and New York.⁸⁰ Other states, such as Florida, have enacted religious freedom protections since the 2015

SCOTUS case *Obergefell v. Hodges*.⁸¹ Wisconsin remains one of several that has not, along with Wyoming, West Virginia, Missouri, Kansas, and Arizona.

In addition, one surprising oversight involves the consumption of alcohol in a religious ceremony, for instance as the Christian practice of communion is commonly observed. Wisconsin state law already permits the knowing consumption of alcohol by underage persons if they are “accompanied by his or her parent, guardian or spouse who has attained the legal drinking age”⁸²; there is no exemption articulated, however, for religious ceremony. Thus, practically speaking, those whom state law has overlooked are underage Wisconsinites who attend church without their parents, for instance while living away from home and at college. It would not be hard for the legislature to incorporate into the state code’s sections 125.07 (1) and (4) exemptions with, for instance, the language of “except in the performance of a religious ceremony or service,” which is the wording used by the state of Illinois to protect religious freedom in this scenario.⁸³

ALCOHOL FREEDOM

Wisconsin consumers enjoy the most freedom in the nation when it comes to the purchase of alcohol. Ruger and Sorens rank Wisconsin first in the nation, due in large part to low tax rates, lack of keg-sale restrictions, no happy-hour bans, and the ability for wine and spirits to be sold in grocery stores. Based purely on tax rates, Sobel and Hall⁸⁴ rank Wisconsin 2nd for beer, 4th for wine, and 12th for spirits, coming out to a mean ranking of 6th between the three categories. These rankings do have shortcomings, as they do not quantify many of the nuanced regulations that contribute to the alcohol industry’s problem with regulatory capture.

While alcohol freedom is quite high on the consumer side, several restrictions on suppliers prevent Wisconsin citizens from realizing even greater freedom. Under the state’s antiquated three-tiered system, a brewer must use an unconnected distributor to sell their product anywhere other than on premise, with a few exceptions. While the goal of this law, passed in the aftermath of prohibition, was to prevent the formation of monopolies, in practice it serves as a limitation on the growing craft beer and spirit industry. Attempts to change the system are met with strong opposition from distributors seeking to protect their income stream.

One of the main areas of concern, though, is with Wisconsin’s “wedding barn” industry. Essentially, these and many other event venues have long operated under a model that welcomes the people renting the venue to bring alcohol. This is in contrast to the model of “public places” in Wisconsin, where the government requires liquor licenses (of which only a set number exist) to first be obtained before alcohol can be sold or served. The Department of Revenue has long corroborated the understanding that renting out an event venue (such as a barn, to hold a wedding reception in) means that it is not a “public place” for these purposes. This resonates with common sense, that says that an event venue rented out for someone’s wedding reception is not a public place that anyone may welcome themselves into and that accordingly requires the same state-level regulation as actual public places.

But a wide swath of this industry has been sentenced to near extinction. Legislation⁸⁵ passed in 2023 will give all such event venues only one of two choices.⁸⁶ Such venues would either have to limit themselves to hosting six such events per year, which is unsustainable for any such business model. Any that want to keep operating would be subject to the burdensome and complicated tiered system that was constructed to regulate taverns.

All told, for sure, Wisconsinites enjoy a lot of freedom with their alcohol. Tobacco, on the other hand, is a heavily discouraged “vice” in the state, for some pretty obvious reasons: although alcohol use may involve some potential indirect externalities (someone could be hit by a drunk driver), tobacco use anywhere near other people means exposing them, whether they are willing or unwilling, to cancer-causing chemicals.⁸⁷ In July 2010, Wisconsin completed an indoor smoking ban, including all bars, restaurants, and workplaces.

LAND-USE

One of the more beleaguered realms of freedom in the US is the ability for a property owner to use that property as he or she sees fit. Ever since the Supreme Court sanctioned the practice of zoning to specify the only uses that land throughout a jurisdiction could be put to in *Euclid v. Ambler* in 1926, municipalities have taken a top-down approach to land policy. Rather than intervening when necessary to redress positive harm caused under the common-law category of “nuisance,” the government took an approach that pre-emptively forbade everything except for specially authorized uses.

People were suddenly not allowed to build a duplex if the city had decreed that their land was only for standalone single-family buildings. People were generally banned from building out mixed-use development, for instance by setting up a café or shop on the ground floor of a structure and living or renting out a living space above. People were forced to set structures back a minimum distance from the road and to have lots that were at least as large as some square footage. In Brookfield, WI, no lot in the city may be platted* to be smaller than 22,500 sq. ft.⁸⁸

All of this means enormous restrictions on the supply of housing, which have been felt frequently in the rise of housing prices, in addition to restrictions of personal freedom. Wisconsin is below the national average in freedom from land use and environmental policy regulation: Wisconsin ranked 26th in 2019 according to Ruger and Sorens. The main components of this score are the implementation of rent control (on which Wisconsin scores well), the mentions of “land use” in court, and the Wharton Land Use Regulatory Index, which is most relevant to the discussion of land use above.⁸⁹ Wisconsin is a median state in their eminent domain index, showing that Wisconsin does not have the strongest private property rights protections. In order to seize property for public use, Wisconsin does not require economic

* Lots that had been platted in 1989 or earlier were grandfathered in.

assessment or compensation beyond what federal requirements mandate. In other words, even if Wisconsin does not stand out for being unfree compared to the rest of the country, there is still enormous room for growth and freedom in this area.*

GUN RIGHTS

Gun rights have been noted as one of the policy areas most susceptible to conservative change.⁹⁰ Whereas many aspects of large government involve entrenched systems that are hard to root out, gun policy typically begins and ends with individual pieces of legislation to remove specific prohibitions. This is reflected in Ruger and Sorens' ranking of Wisconsin on this metric, where Wisconsin was ranked #48 in their dataset from 2000 until 2010—then in 2011, Wisconsin leapt all the way up to #17, where it has hung around ever since. Today, they rank Wisconsin as 19th in gun rights.

The right to keep and bear arms was enshrined in Wisconsin's constitution in 1998, specifying that, "The people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose."⁹¹ This attitude is enshrined in a lot of specific guaranteed freedoms: adults are free to open-carry, while the government "shall issue" permits to applicants to concealed carry.⁹² Wisconsin does not place many restrictions on weapon outfitting categories such as suppressers, barrels, magazines, and ammo types.

PERSONAL FREEDOM-PROMOTING POLICIES

1. Remove regulations on the state's choice programs that impede growth.

Private school choice programs in the state already have the most direct form of accountability possible—to the parents that utilize the schools. Removing some of the regulatory burden on these schools will encourage greater participation and increase the overall quality of participating schools.

2. Create funding parity between choice, charter, and public schools.

It is fundamentally unfair that the value of a child varies depending on which school door they walk through. As much as possible, funding should be equalized so that students are funded the same across the board. This change will make movement between schools easier, as well as increase the funding for choice and charter schools, which struggle to compete with public schools on issues such as teacher pay.

* For more, see <https://will-law.org/housing/>

3. Remove land-use regulations and oppressive residential zoning ordinances.

A land-use schema that forbids owners from using their personal property to build anything other than single-occupancy, standalone residential houses on artificially large pieces of land are to blame for housing shortages and high prices in much of the state. These private property-restricting laws should be peeled back wherever possible.

4. Exempt religious ceremonies from underage prohibitions on alcohol.

In what must surely be an oversight, our state does not exempt religious ceremonies from bans on underage consumption of alcohol. While our state does provide an exception for when the underage are accompanied by a parent, which doubtless covers most instances that would otherwise be a problem, there is no strong reason not to give full legal sanction to the use of alcohol in religious ceremonies. Wisconsin should ensure the free exercise of religion by joining the many states, including Illinois, that provide for this with their state law.

5. Reinstate the legal recognition of wedding barns.

Society has room for venues that may be rented out to private parties, wedding receptions for instance, who can provide or sell their own alcohol. The government quashing this type of activity is anti-liberty and un-American. If this sounds like a petty cause to champion, the flip side of the coin is that it was a petty and grossly unjust initiative of the state government to undertake. The state government should undo the damage it did to our freedom to use alcohol in this culturally cherished capacity.

Conclusion

What policies would it take to make Wisconsin the freest state in the country? With hundreds of different policy tools used by government, a near endless supply of possible policy combinations would result in Wisconsin being ranked the freest state. Ignoring the political feasibility of such proposals, consider scenarios based on existing policies in other states.

Wisconsin cannot rank first in freedom without fiscal reform. To become the freest state, Wisconsin must combine at least one of the fiscal reforms with one or more of the regulatory and personal reforms.

1. Fiscal Freedom Reforms: Adopt Florida's Fiscal Policies.

Florida residents enjoy the most fiscal freedom, according to the Ruger and Sorens ranking. Florida is one of the nine states* with no income tax and its levels of government consumption, government employment, and local taxation are all low.

To move towards Florida's level would require Wisconsin to do the following:

- Reduce its public consumption and investment as a fraction of total private income from 10.9% to 8.6%
- Abolish or flatten the state income tax
- Reduce tax rates of local governments
- Reduce government workforce as a percentage of private workforce from 10% to 9%

2. Regulatory Freedom Reform: Join the Trend of States Guaranteeing Universal License Recognition.

One of the most needless restrictions on someone's right to earn a living is the requirement of a license process that is specific to Wisconsin. Many states license the same professions, and there is no reason to expect Wisconsin licensure in particular to be unique and necessary for a person's becoming a known quantity in performing a specific job. This is only more obvious when it comes to the professions where requiring a government license is questionable in the first place (even if rooting those licenses out altogether isn't viable, due to dedicated interest groups).

The number of states therefore recognizing licenses from any other state is now 19.⁹³ This is an increasing trend, with most universal recognition states having become so recently. This is also common-sense enough that it crosses the aisle, including states like Vermont and Virginia as well as states like Ohio.

This is a no-brainer of a policy that would expand freedom and, to boot, remove a potential obstacle to people's ability to move here.

3. Personal Freedom Reform: Expand School Choice.

One of the biggest facets of a person's life is their freedom to educate their children as they see fit. Unfortunately, the implementation of government-run schools has a lot of shortcomings. Although some efforts have been made to loosen the ironclad restraints of trapping children in failing schools based purely on their home address, there are some obvious improvements to be made. Wisconsin's school choice program should not only have enrollment limits lifted, but funding should be made equal for all Wisconsin students.

FINAL TAKEAWAYS

Wisconsin is middle-of-the-pack when it comes to creating policies that promote freedom. In this freedom audit, we explored three pillars of freedom—Economic Freedom, Regulatory Freedom, and Personal Freedom. In our meta-ranking, Wisconsin ranked 26th in Fiscal Freedom, 21st in Regulatory Freedom, and 21st in Personal Freedoms.

As we look forward and consider policy with the goal of creating the best Wisconsin for our friends, family, and children, we ask: is this good enough? Is average okay when it comes to freedom? Or can we do better?

Policy changes are hard, but Wisconsin citizens have shown resilience and a willingness to make reforms that are difficult at first but help the state prosper in the future. We can think of no better rule of thumb to follow than that which Adam Smith outlined more than 250 years ago,

"Little else is requisite to carry a state to the highest degree of opulence from the lowest barbarism, but peace, easy taxes, and a tolerable administration of justice; all the rest being brought about by the natural course of things. All governments which thwart this natural course, which force things into another channel, or which endeavor to arrest the progress of society at a particular point, are unnatural, and to support themselves are obliged to be oppressive and tyrannical."

* Eight states have zero income tax; since New Hampshire taxes interest and dividend income but not earned wages, they are commonly included as the 9th "no income tax" state.

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