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50 WAYS JARED POLIS HAS ERODED LIBERTY

(Sung to the tune of '50 ways to leave your lover')

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This article is excerpted from the Independence Institute issue paper, *“The Tax-and-Regulate Reality behind Governor Jared Polis’s Libertarian Image.”*

Introduction

To what extent is Jared Polis a pro-liberty or libertarian governor? Here we can take “libertarian” broadly to mean support for free markets and personal liberties.

There is no precise measure of the “libertarianness” of Polis’s various policies and actions that might yield some overall objective score. What is clear is that, as a Democratic governor working with a legislature dominated by Progressive Democrats, Polis has supported a wide array of measures inimical to personal and economic liberty. Although Polis does have a libertarian side, various claims about a libertarian Polis are wildly exaggerated.

Polis never has claimed to be strictly a libertarian, so what motivates the discussion?

Colorado, where politicians still often wear cowboy hats to sell a vision of rugged individualism and frontier living, has strong libertarian roots. The Libertarian Party was founded here in 1971 in the wake of Barry Goldwater’s failed presidential run and partly in reaction to Richard Nixon’s economic meddling.¹

At times, Polis has leaned heavily into his libertarian image. In 2001, when Polis served on the Colorado Board of Education, he wrote an 18-page paper for the Independence Institute titled, “Privatizing and Eliminating the Monopoly of the United States Postal Service.”²

In 2011, Polis called Ayn Rand’s liberty-themed (and highly controversial) novel *Atlas Shrugged* “a great book.”³

In Congress, Polis joined Justin Amash and others in the libertarian-oriented Liberty Caucus. According to Amash, Polis was the eighth-most libertarian member of Congress, whereas Ron DeSantis ranked in the 200s. Amash told Polis, “You had a very outstanding voting record as someone who defends individual rights.”⁴

Polis's May 2022 remarks to *The Hill* might have been made by any Libertarian candidate: "Colorado is a very independently minded, freedom-oriented state, and they don't want Republicans or Democrats telling them what to do...[P]eople should be empowered to make their own decisions, whether that's marijuana, whether it's wearing a mask—we're a state that values freedom."⁵ (Polis's administration did impose mask mandates, just not for as long as some other states.)

Others have recently reinforced Polis's libertarian image, predominantly national figures and media outlets detached from the realities of Polis's policies in Colorado. "Polis understands the aversion to government overreach that voters feel regardless of ideology," the *Washington Post's* Jennifer Rubin writes.⁶ Polis has "established a reputation as a Democrat with a libertarian streak," former Obama advisor David Axelrod says.⁷

The 2021 "Laffer-ALEC Report on Economic Freedom: Grading America's 50 Governors" gives Polis its highest five-star ranking and puts Polis in fourth place overall.⁸ But the report attributes to Polis successes over which he had little or no control, such as economic growth, a voter-approved measure to reduce income tax rates, and TABOR-mandated restraints on government spending. The report conveniently ignores almost all the anti-liberty measures that Polis has supported.⁹

In April of this year, Nick Gillespie, an editor with *Reason*, interviewed Polis and wrote, "Colorado's Jared Polis might be the most libertarian governor in America." Gillespie points out that Polis, among other things, took a relatively light approach with pandemic restrictions, endorsed the idea of eliminating the state income tax, embraced occupational licensing reform, defended bitcoin, signed a free-range parenting bill, signed legislation guaranteeing a woman's right to choose, and defended charter schools.¹⁰

But, given that most Democrats are far less friendly to free markets and that swaths of the GOP have been taken over by Trumpism and religious conservatism, saying Polis is the most libertarian governor in America is a bit like saying he's the most sober person at a Grateful Dead concert. It's not like he faces much competition.¹¹

So although Polis has a libertarian streak on some issues, he has passed and promoted a wide range of tax hikes (usually masquerading as “fees” to evade voter approval under the Taxpayer’s Bill of Rights) and intrusive regulations. Indeed, more government control of people’s lives has been the dominant theme of the Polis administration.

Some context: I do not personally know Polis well, although we’ve met and chatted, and I like him. I have followed his career with interest. Soon after Polis was elected governor, I wrote, “Polis has a much stronger pro-liberty streak than do many Republican politicians—although Polis also has a tax-and-regulate Progressive side.” I added, “If Polis were checked by a Republican state House or Senate, he’d make an excellent governor from a liberty perspective.” But Polis had a Democratic legislature that, as I predicted, sent him “a slew of Progressive bills,” most of which he has signed.¹² My article holds up well.

Earlier this year, Polis glibly released a list of “50 Ways the Polis Administration is Saving Coloradans Money.” In keeping with that theme, here are 50 ways Jared Polis has eroded Coloradans liberties. It is by no means an all-encompassing list, more of a small sampling.

Taxes and Fees

May 17, 2019: Polis signed **HB19-1245** increasing the amount of sales and use taxes kept by the state and using the proceeds to subsidize affordable housing.

Fall 2019: Polis endorsed Proposition CC, which would have allowed the state to keep TABOR refunds in perpetuity. Colorado voters soundly shot down the measure at the ballot

May 23, 2019: Polis signed **HB19-1240** entrenching sales tax collection on out-of-state purchases.

June 17, 2021: Polis signed **SB21-260** imposing delivery fees on a wide range of products and on ride-sharing, as well as imposing (starting in 2023) a per-gallon “fee” on gasoline eventually growing to eight cents.

June 23, 2021: Polis signed **HB21-1311** and **HB21-1312**, benefitting some people but increasing net tax burdens on others by altering deductions.

July 6, 2021: Polis signed **HB21-1208** imposing new fees on insurance companies to fund a disaster mitigation effort, rather than paying for such a program out of general funds.

July 7, 2021: Polis signed **HB21-1012** increasing licensing fees on health-care providers to fund an expanded drug monitoring program.

July 7, 2021: Polis signed **HB21-1105** imposing a charge on energy users to fund a low-income utility assistance program.

July 7, 2021: Polis signed **HB21-1321** mandating misleading ballot language regarding the impacts of tax cuts on future revenues and on particular programs.

Gun Rights

April 12, 2019: Polis signed **HB19-1177** establishing “Extreme Risk Protection Orders,” a justifiable aim, but in this case without sufficient due-process protections.

April 19, 2021: Polis signed **HB21-1106** requiring gun sellers to sell with each gun “a locking device capable of security the firearm,” regardless of whether the purchaser already has or intends to acquire other means of securing a firearm. This in effect imposes a sort of tax on gun purchases.

April 19, 2021: Polis signed **SB21-78** requiring gun owners to report to authorities the loss or theft of a gun, within five days of learning about such loss or theft. This bill foolishly puts gun owners in legal jeopardy if they report the loss or theft of a gun after that period, thereby discouraging such reporting.

June 19, 2021: Polis signed **SB21-256** unwinding decades of state preemption and enabling local governments to enact gun laws, but only so long as they are stricter than those at the state level. Depending on

how local governments and courts respond, this measure potentially constitutes the single largest rollback of the rights of gun owners in state history.

June 19, 2021: Polis signed **HB21-1298** potentially creating de facto waiting periods for gun purchases if the Colorado Bureau of Investigation cannot or will not complete a background check in a timely manner, and creating cases in which someone can be denied their right to buy a gun based on a record of an arrest for which a disposition of conviction is not found.

June 19, 2021: Polis signed **HB21-1299** establishing an “Office of Gun Violence Prevention,” a new bureaucracy that almost certainly will use tax dollars to promote more-restrictive gun laws.

Energy

April 16, 2019: Polis signed **SB19-181** granting state bureaucrats more poorly constrained powers to regulate oil and gas operations for vaguely defined goals.

May, 2019: Polis declined to pursue an EPA exemption for Denver-area ozone—some of which drifts in from elsewhere or is naturally caused—setting Colorado on course for substantially higher gasoline prices via EPA mandate. (Note: An August, 2022 action may reverse this.)

May 30, 2019: Polis signed **HB19-1261** setting goals to reduce greenhouse gas emissions via regulatory means.

July 2, 2021: Polis signed **HB21-1266** imposing tighter controls on energy and creating a massive new “environmental justice” bureaucracy.

Health Care

May 17, 2019: Polis signed **HB19-1168** authorizing fees on hospitals and insurers to help subsidize a “reinsurance” program for select health insurance plans.

June 30, 2020: Polis signed **SB20-215** imposing fees on hospitals and insurers to subsidize (among other things) a “reinsurance” program for select health insurance plans. (This modified and extended a program created by HB19-1168.)

April 1, 2020: Polis signed **HB20-1158** requiring insurance plans to cover fertility treatments.

July 13, 2020: Polis signed **HB20-1061** requiring insurance plans to cover pharmacy-prescribed HIV drugs and for related consultations.

June 16, 2021: Polis signed **HB21-1232** requiring health-insurance companies to provide highly regulated, price-controlled plans.

June 16, 2021: Polis signed **SB21-175** empowering a “prescription drug affordability review board” to impose price controls on prescription drugs.

June 28, 2021: Polis signed **HB21-1276** requiring insurance plans to cover “nonpharmacological” treatments for opioid abuse, including occupational therapy, chiropractic care, and acupuncture.

July 6, 2021: Polis signed **HB21-1307** ordering insulin manufacturers to fund or replace, at no greater than wholesale costs, insulin dispersed by a pharmacy to qualifying individuals.

October 12, 2021: Polis endorsed changes to Colorado insurance regulations requiring many insurance plans to cover “gender affirming care” as well as drugs and acupuncture treatments to treat opioid abuse.

June 8, 2022: Polis signed **HB22-1269** subjecting health-care sharing plans organized in other states, but that serve Colorado residents, to state reporting requirements.

Property

May 28, 2021: Polis signed **HB21-1117** enabling local governments to impose rent control and other controls on new properties.

June 24, 2021: Polis signed **HB21-1286** imposing costly energy reporting requirements on owners of large buildings and empowering a bureaucratic body to impose energy “performance standards” on those owners.

June 25, 2021: Polis signed **HB21-1121** forbidding property owners to increase rents more often than once per year, regardless of preexisting rental contracts.

June 25, 2021: Polis signed **SB21-173** forbidding property owners to initiate evictions based solely on the nonpayment of late fees, which in effect makes late fees unenforceable and encourages chronic late payment of rents.

June 2, 2022: Polis signed **HB22-1362** imposing costly energy codes for the construction of new buildings.

Employment

May 22, 2019: Polis signed **SB19-085** forbidding employers to seek wage rate histories and requiring them to post salary ranges and benefits for prospective jobs.

May 28, 2019: Polis signed **HB19-1210** allowing local governments to impose more severe minimum wage laws (but not lower) than the state imposes.

July 14, 2020: Polis signed **SB20-205** interfering with employment contracts by mandating paid sick leave (including family-care leave).

June 25, 2021: Signed **SB21-087** interfering with agricultural labor contracts and overriding the property rights of the owners of agricultural lands.

May 27, 2022: Polis signed **SB22-230** forcing some county governments into “collective bargaining” with county employees.

Pandemic

March 25, 2020: Polis signed Executive Order D-2020-17, and on April 1, 2020, he signed a subsequent update to Public Health Order 20-24, temporarily shutting down all but “critical businesses,” a largely arbitrary categorization.

March 20, 2020: Polis signed a series of executive orders starting on that date limiting evictions for nonpayment of rent, thereby forcing one particular group of people, those with rental properties, to disproportionately shoulder the costs of the pandemic.

Regulations

May 30, 2019: Polis signed **HB19-1231** putting additional controls on water and energy appliances.

April 25, 2019: Polis signed **HB19-1106** regulating rental application fees.

May 22, 2021: Polis let become law (without his signature) **SB21-147**, extending licensure of athletic trainers, despite his denunciation of the bill.

June 30, 2021: Polis signed **HB21-1195**, requiring licensure of radon measurement and mitigation professionals on penalty of criminal prosecution, and enabling new fees for the program.

July 6, 2021: Polis signed **HB21-1162** banning plastic bags in most retail contexts, and taxing paper bags, starting in 2024.

June 3, 2022: Polis signed **HB22-1355** forcing select producers of packaging and paper products to participate in and finance a bureaucratic recycling program.

Education

May 21, 2019: Polis signed **HB19-1262** increasing tax spending for kindergarten at public schools rather than for a more-flexible direct subsidy or voucher program.

June 11, 2021: Polis signed **HB21-1164** imposing a net tax hike for education without taxpayer approval.

Price Controls

July 14, 2020: Signed **HB20-1414** imposing price controls during an emergency in the name of curbing so-called “price gouging.”

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Endnotes

- 1 On the history of the Libertarian Party’s founding, see Ari Armstrong, “David Nolan Reflects on the Libertarian Party on its 30th Anniversary,” Colorado Freedom Report, September 2001, archived at <https://web.archive.org/web/20170630142121/http://www.freecolorado.com/colib/0111nolan.html>.
- 2 Jared Polis, “Privatizing and Eliminating the Monopoly of the United States Postal Service,” Independence Institute, August 15, 2001, issue paper no. 4–2001, <https://i2i.org/wp-content/uploads/2011/06/4-2001.pdf>.
- 3 See Polis’s April 19, 2011, Tweet, <https://twitter.com/jaredpolis/status/60573069290377216>. Although Objectivists (people who follow Rand’s philosophy) eschew libertarianism on the grounds that it endorses moral subjectivism and anarchism, Rand has inspired many libertarians. For example, Jerome Tuccille titled his exploration of libertarian history *It Usually Begins with Ayn Rand* (WinklerMedia Publishing, 2012), revised and updated edition.
- 4 Amash interviewed Polis for his podcast, July 7, 2022, episode 20, <https://www.callin.com/episode/20-gov-jared-polis-XolwVTfNdO>.
- 5 Sharon Udasin, “Polis: GOP Trying to ‘Manage Everybody’s Lives,’” *The Hill*, May 30, 2022, <https://thehill.com/homenews/campaign/3506200-polis-gop-trying-to-manage-everybodys-lives/>.
- 6 Jennifer Rubin, “Take a Lesson from Jared Polis, Democrats,” *Washington Post*, April 20, 2022, <https://www.washingtonpost.com/opinions/2022/04/20/jared-polis-democrats-can-learn-how-to-talk-about-republicans-gop-maga/>.
- 7 “Gov. Jared Polis,” *The Axe Files with David Axelrod*, July 14, 2022, ep. 498, <https://omny.fm/shows/the-axe-files-with-david-axelrod/ep-498-gov-jared-polis>.
- 8 Arthur B. Laffer, Donna Arduin, Stephen Moore, and Jonathan Williams, “Laffer-ALEC Report on Economic Freedom: Grading America’s 50 Governors,” American Legislative Exchange Council, 2001, https://alec.org/wp-content/uploads/2022/03/2021-Governor-Report_FINAL.pdf. Laffer, the lead author of the report, is a long-time personal friend, and one-time business associate, of Polis; see relevant Securities and Exchange Commission documents at <https://www.sec.gov/Archives/edgar/data/1263756/000119312504099033/ds1.htm> and <https://www.sec.gov/Archives/edgar/data/1263756/000119312503052445/dex109.htm>.

- 9 The report claims that its “rankings strive to isolate the actions and policy prescriptions of solely the governor.” I remain skeptical based on what little the report says specifically about Polis. Beyond a handful of details, the report does not discuss what specifically it reviewed, so its claims are difficult to evaluate. The report obviously does not consider all of the relevant policies and actions. Polis did express support for the 2020 income-tax measure that was promoted by the Independence Institute’s Jon Caldara, Proposition 116 (or Initiative 306); see Brian Eason, “Gov. Jared Polis Praises Republican-Backed Ballot Question to Lower Colorado Income Taxes,” *Colorado Sun*, August 24, 2020, <https://coloradosun.com/2020/08/24/polis-income-tax-initiative-306-colorado-ballot/>. For background on the measure, see “Colorado Proposition 116, Decrease Income Tax Rate from 4.63% to 4.55% Initiative (2020),” *BallotPedia*, [https://ballotpedia.org/Colorado_Proposition_116_Decrease_Income_Tax_Rate_from_4.63%25_to_4.55%25_Initiative_\(2020\)](https://ballotpedia.org/Colorado_Proposition_116_Decrease_Income_Tax_Rate_from_4.63%25_to_4.55%25_Initiative_(2020)) (accessed July 28, 2022).
- 10 Nick Gillespie, “Jared Polis: The Most Libertarian Governor in America?,” Reason, April 25, 2022, <https://reason.com/podcast/2022/04/25/jared-polis-the-most-libertarian-governor-in-america/>. I will limit my discussion of Polis’s actions on abortion to this note. Polis has taken two strong actions protecting people’s ability to get and (in a medical context) facilitate abortion in Colorado. He signed the 2022 **House Bill 1279** affirming the legality of abortion. (Notably, in the context of abortion but not in the context of rent control or gun regulations, Polis had no problem with the state “preempting” more-restrictive local measures.) And on July 6, Polis signed an executive order declaring the governor will “decline requests for the arrest, surrender, or extradition” of any person from another state seeking or obtaining an abortion in Colorado. See Kyle Cooke, “Governor Polis Signs Executive Order Strengthening Abortion Protections in Colorado,” **Rocky Mountain PBS**, July 6, 2022.. Whether one thinks that Polis’s actions further liberty or violate it depends on what one thinks about abortion.
- 11 On Twitter I asked who else might also be in the running for most libertarian governor, and others proposed Doug Ducey of Arizona, Chris Sununu of New Hampshire, Gavin Newsom of California, Larry Hogan of Maryland, and Ron DeSantis of Florida; see my July 3, 2022, Tweet, <https://twitter.com/ariarmstrong/status/1543708843321880576>.
- 12 Ari Armstrong, “Liberty Voters Can Find Silver Linings to Jared Polis’ Victory,” *Colorado Sun*, December 16, 2018, <https://coloradosun.com/2018/12/16/jared-polis-ari-armstrong-opinion/>.



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