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THE TAX-AND-REGULATE REALITY BEHIND GOVERNOR POLIS'S LIBERTARIAN IMAGE

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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. Some of his policies and actions are pro-liberty, while many are anti-liberty. Some are mixed or debatable by those standards.

What is clear is that, as a Democratic governor working with a Democrat-controlled legislature, 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? Certainly Polis has leaned into the characterization that he is a libertarian-leaning progressive. Such an image undoubtedly helps him with some unaffiliated voters in the state. Although Polis has denied planning to run for U.S. president, if he did so, or if he joined a ticket as vice-president, Polis’s libertarian credentials could help with many unaffiliated voters nationally.

Polis also calls himself a progressive but does not tie his identity to that term or movement. When reporter Alex Burness mentioned to Polis in 2018 that he was “widely viewed as a progressive candidate,” Polis replied, “I’ve always defied labels. I think I’m seen as innovative, as challenging the status quo. It’s not so much a left or right thing, but it’s definitely a forward-looking, future-oriented thing.”¹

In 2019, Chase Woodruff, now a journalist with the left-leaning *Colorado Newsline*, wrote that Polis is a “Boulder liberal who campaigned on his ‘bold, progressive vision’ and whom conservatives decried as ‘the most radical and extreme governor candidate in Colorado’s history.’” Woodruff complained that, despite his progressive agenda, Polis “seems to be taking a cautious, conservative approach to bringing it into reality.”²

If to hard-core progressives Polis is too conservative or libertarian, then to conservatives and libertarians he is too progressive. Walker Stapleton, Polis’s 2018 Republican challenger, went so far as to claim that Polis brushes elbows with socialism. In response to news that Bernie Sanders would campaign with Polis, Stapleton said, “Polis couldn’t come up with one, single difference—one iota of difference—between himself and Bernie Sanders, an avowed socialist. I don’t think the state of Colorado wants to elect a socialist as their next governor.”³

So is Polis a socialist, a progressive, a conservative, or a libertarian? To a degree, Polis is a shape-shifter, happy to appear to be what the person in front of him wishes him to be (as is typical in politics). For Polis, as for nearly every politician, ideology is to a degree performative, and the show has a political purpose. Mainly Polis wishes to be seen as a pragmatist rather than as an ideologue, a practical strategy in a state where unaffiliated voters strongly outnumber those with any party.⁴

It is worth remembering that Polis has not always been the progressives’ darling. At the 2018 Democratic assembly, Cary Kennedy beat Polis badly among delegates 63–33%.⁵ Polis won largely by spending \$18.4 million of his own money through

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September of that year.⁶ Although Polis is by now well-entrenched, undoubtedly he has worried about straying too far from his party's base.

Polis's Libertarian Image

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.⁷

At times, Polis has leaned heavily into his libertarian side. 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."⁸

In 2011, Polis called Ayn Rand's liberty-themed (and highly controversial) novel *Atlas Shrugged* "a great book."⁹

In Congress, Polis joined Justin Amash and others in the libertarian-oriented Liberty Caucus. Amash told Polis, "You had a very outstanding voting record as someone who defends individual rights."¹⁰

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."¹¹ (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, detached from the political 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.¹² Polis has "established a reputation as a Democrat with a libertarian streak," former Obama advisor David Axelrod says.¹³

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.¹⁴ 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, and ignores almost all of the anti-liberty measures that Polis has supported.¹⁵

In April, 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, among other things, Polis took a relatively light approach with pandemic restrictions, endorsed the idea of eliminating the state income tax, defended bitcoin, signed a free-range parenting bill, signed legislation guaranteeing a woman's right to choose, and defended charter schools.¹⁶

But, given that most Democrats are far less friendly to free markets and that much of the Republican Party has 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.¹⁷

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Polis's Tax-and-Regulate Reality

In this report, I want to correct the simplistic view that Polis is dominantly a libertarian.

It is true that Polis has supported and signed bills that I consider favorable from a liberty perspective. For example, on criminal justice, Polis signed [SB20-217](#), a far-reaching police reform bill, as well as [HB22-1288](#) protecting sex workers from prosecution for prostitution-related offenses when they report violent crimes against themselves or others.¹⁸ Polis also signed a “[free-range kids](#)” bill,¹⁹ as well as defended the funding of charter schools on par with other public schools.

There are other examples, but they are outnumbered by the many ways Polis has undermined economic and personal liberty. To highlight a few such actions and policies, Polis (in conjunction with the legislature) has created new bureaucracies, imposed price controls in emergencies and for prescription drugs, enabled local governments to impose rent control and other controls on new construction, enabled local governments

to impose higher minimum wages than the state imposes, imposed new delivery and transportation fees, interfered with employment negotiations and contracts, imposed costly “green” mandates for new buildings, loaded down insurance premiums with costly mandates, forced many businesses into a costly and bureaucratic recycling program, and initiated what may turn out to be the largest assault on the rights of gun owners in Colorado history.

More government control of people's lives has been the dominant theme of Polis's administration.

Below I discuss Polis's anti-liberty policies and actions as governor by topic, listed alphabetically: Education, Employment Law, Energy and Industry, Gun Rights, Health Care, Pandemic, Property (Residential and Commercial), Regulations, and Taxes and Fees. I had to be selective; in a single paper I could not cover in fine detail the machinations of four years of state government

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EDUCATION

'Free' Preschool and Full-Day Kindergarten

Polis has a penchant for describing as “free” state-provided services that are funded by taxpayers. They're available to select people at no additional cost to them, granted. The term “tax-funded” is more accurate.

Polis has prioritized tax-funded preschool and full-day kindergarten. The evidence on the effectiveness of such programs is mixed.²⁰ My common-sense take is that children who get age-appropriate

early help with basic literacy and math skills do a lot better in life. Parental involvement with children, such as early reading, is far and away more impactful than institutional classrooms.²¹ Kids suffering neglect, chaos, or abuse at home will do better in any peaceful and enriched environment. Insofar as preschool and kindergarten substitute for other enriching activities—and let us not forget the importance of free play!²²—they probably are not very effective or perhaps even net negative for a child's development.

The elephant in the classroom is that “free” preschool and kindergarten (and older grades, for that matter), also are about providing parents with “free” childcare. It is not at all obvious that giving families “free” preschool and kindergarten is better for them than simply giving them cash. [HB22-1295](#), by providing tax-funded preschool, “will save Colorado parents an average of \$4,300 per year in child care costs,” the *Gazette* reports.²³ How many of the families who benefit from the program would instead, if given the choice, rather have the \$4,300 in cash?

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If the idea is that parents should spend the resources specifically on institutional education, then something like vouchers would give parents the ability to find the resources that best match their needs.

HB-1295 establishes a new “universal preschool program” under a new bureaucracy, the Department of Early Childhood. It provides ten hours per week of tax-funded preschool, and more for select families. The program is relatively flexible in that it accommodates programs in “private settings, such as childcare centers, churches, or homes licensed to provide preschool,” *Chalkbeat*’s Erica Meltzer reports.²⁴ Much of the funding comes from “sin” taxes on nicotine approved by voters

(and endorsed by Polis) in 2020, Meltzer reports.²⁵

An aside: The bill referring the nicotine ballot measure, [HB20-1427](#), sets a price floor on a pack of cigarettes of \$7 until July 1, 2024, and \$7.50 after that. This is naked protectionism that forbids other companies to compete on price. Polis played a direct role in including these price controls, as the *Colorado Sun* reports.²⁶

Polis also signed [HB19-1262](#), which expanded tax funding from half-day to full-day kindergarten specifically at public schools.

Net Tax Hike for Education

In 2021, Polis signed [HB21-1164](#) imposing a net tax hike for education. The Common Sense Institute Finds, “HB21-1164 increases local property taxes for K–12 education by \$91.7 million in the first year and by an estimated \$288 million in full implementation.”²⁷ Colorado Children’s Campaign favors the bill on the grounds that it will “gradually equalize local school district property tax rates over the next two decades,”²⁸ but that was not accomplished in a revenue-neutral way.

EMPLOYMENT LAW

Polis has been very willing to interfere with employment contracts. I discuss employment licensure in the section on regulations.

Agriculture

Polis has angered people in the agricultural community by appointing a “vegan activist” to the State Board

of Veterinary Medicine, by promoting a “MeatOut Day,” and by failing to oppose a 2020 ballot measure forcibly reintroducing wolves.²⁹ Where Polis clearly overstepped from a liberty perspective is by signing intrusive labor legislation.

In 2021 the Democrat-controlled legislature passed, and Polis signed,

a sweeping reform of agricultural labor relations, [SB21-87](#), promoting unionization of agricultural workers, imposing wage controls, restricting the use of specific tools, and more.³⁰

The Gazette notes that “farmers and ranchers are suing to stop implementation of some of the new law’s provisions” because the measure “grants wide-ranging access to farms and ranches for not only labor organizers but also a host of other service providers.”³¹

Wage Listings

2019 legislation Polis signed, [SB19-85](#), is based on the false premise that gender and racial wage gaps are due entirely to discrimination rather than largely to the characteristics and choices of employees. Among other things, the bill forbids employers to “seek the wage rate history of a prospective employee or rely on the wage rate history of a prospective employee in determining a wage rate.” The bill also requires “an employer [to] disclose in each posting for each job opening the hourly or salary compensation, or a range of the hourly or salary compensation,” along with benefits.

A 2021 investigation by 9News found ten companies that declined to hire people in Colorado due to the reporting requirements.³²

Starting in 2021, the Colorado Department of Labor and Employment began to harass hundreds of Colorado companies over minor issues of noncompliance with the law. For example, a salary range listed as “\$70,000—\$95,000+” was deemed a violation because the plus-sign did not adequately indicate an upper range. A listing of “full benefits,” but no description as to what those benefits were also was a violation, the *Colorado Sun* reports.

Empowered by the law, the state bureaucracy fined one Colorado business \$8,000 for noncompliance, fined another \$34,500 but had not collected as of July 5, 2022, waived a \$2,000 fine after the company complied, and sent out 122 “opportunity to cure letters.”³³ An agent of the Labor Department said he “literally hired a temp to scour the internet to find these listings” and “found at the peak 900 to 1,000 postings.” As political reporter Shaun Boyd summarizes, the agency warned businesses “that if they had any presence in Colorado at all, they needed to comply with the law in all job postings or face fines of up to \$10,000 per violation.”³⁴

Ironically, in 2022, the Governor’s Office of Economic Development and International Trade posted a job listing without the required salary information.³⁵

Local Minimum Wages

Minimum wage laws are price controls on employment. In 2016 Colorado voters approved a statewide inflation-adjusted minimum wage law that currently sets the floor at \$12.56 (or \$9.54 for tipped employees).³⁶ [HB19-1210](#) allows local governments to impose more severe minimum wage laws (but not less) than the state imposes.

Government Employee Unionization

In 2022, Polis signed [SB22-230](#) forcing some county governments into “collective bargaining” by county employees. Representatives of 37 of Colorado’s 64 counties said the bill “might be the largest unfunded mandate ever considered by the Colorado General Assembly.”³⁷

True, because of push-back from Polis, SB-230 is a less-ambitious measure than what various Democrats wanted. As J. J. Ament of the Denver Metro Chamber of Commerce summarized, “Union

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advocates are proposing a state mandate to force all public employers—cities, counties, schools, public hospitals, and any other local government entity—to recognize unions and collectively bargain with them.”³⁸

Paid Sick Leave

Employers and employees should be free to negotiate their contracts consensually. In 2020, Polis signed [SB20-205](#) interfering with employment contracts by mandating paid sick leave (including family-care leave). Although such requirements might be warranted during a pandemic, this bill creates a much broader system. The bill likely will slightly depress wage increases in some industries, and it may result

in some employers not hiring people anticipated to most-use the sick time. The bill also constitutes another regulatory “straw” on the backs of employers. An important detail: Employees may “use paid sick leave in hourly increments,” which means they could take an hour off in the middle of many work days, which could be especially disruptive to the workplace.

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ENERGY AND INDUSTRY

I also discuss energy-related policies under the sections on property and taxes.

A major concern of the legislature’s policies regarding energy and industry pertain to the emissions of carbon dioxide. One may reasonably wonder why the Colorado legislature, which governs around six million of the world’s nearly eight billion people—or around 0.07% of the total³⁹—believes it can take meaningful action regarding total levels of carbon dioxide in the atmosphere. Still, legislators are reasonably concerned about global warming, and presumably many of them think Colorado needs to do its share. That said, the Democrat-led legislature under Polis has passed especially heavy-handed and bureaucrat-dense measures pertaining to carbon emissions.

Tighter Regulations of Oil and Gas

In 2019, Polis signed [SB19-181](#) granting more power to state bureaucrats to

regulate oil and gas operations. Although government plays a proper role in restricting pollution to protect people’s rights, this bill, extending previous legislation, gives bureaucrats virtually open-ended power to decide what is “reasonable” to “minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources.” The Colorado Oil and Gas Association estimates that various rules under the bill impose tens of millions of dollars per year in regulatory costs.⁴⁰

An aspect of this bill probably was warranted. A problem was that some companies would go out of business and “orphan” wells, thereby shirking their responsibilities to pay for the clean-up. SB-181 sets up a system for “increasing financial assurance for inactive wells and for wells transferred to a new owner.”⁴¹

Another bill, [SB20-204](#), imposes new fees on energy companies increasing to \$5

million per year starting in 2024, to fund an Air Quality Enterprise.

‘Climate Action Plan’

In 2019, Polis signed [HB19-1261](#) setting “statewide goals to reduce 2025 greenhouse gas emissions by at least 26%, 2030 greenhouse gas emissions by at least 50%, and 2050 greenhouse gas emissions by at least 90% of the levels of statewide greenhouse gas emissions that existed in 2005,” and authorizing “the air quality control commission [to implement] policies and promulgat[e] rules to reduce greenhouse gas pollution,” according to the bill’s summary.

Proposed regulations related to HB-1261 concerning an intrusive, bureaucratic “Employee Traffic Reduction Program” ended up not being implemented after large-scale resistance to government control of peoples’ commutes emerged.⁴²

Regulations for ‘Environmental Justice’

In 2021, Polis signed [HB21-1266](#) “a measure strengthening regulations on greenhouse gas emissions in several key sectors and requiring a variety of new environmental-justice efforts at the Colorado Department of Public Health and Environment.”⁴³ In 2022, the Environmental Justice Action Task Force created by the bill released a draft of its recommendations.⁴⁴

The measure does a variety of other things, as Tyler Baker and Shayne Madsen of the Independence Institute summarize:

No later than January 1, 2022 they [members of the Air Quality Control Commission] must adopt and implement rules that reduce statewide greenhouse gas (GHG) emissions from oil and gas

*exploration. Then, no later than December 31, 2022 they must promulgate a list of air pollutants. No later than June 1, 2023 they must adopt rules to set a threshold of affected pollutants, and every three years they must revisit their identification of disproportionately impacted communities. And finally, no later than September 20, 2024 they must adopt rules that reduce statewide GHG emissions from industrial and manufacturing sectors.*⁴⁵

The program is funded through “fees.” The final fiscal note for the bill states:

*GHG [greenhouse gas] fee revenue to the Stationary Source Control Fund is anticipated to increase by around \$3.7million per year beginning in FY 2023-24 to cover costs associated with programs related to GHG emissions, engagement with disproportionately impacted communities, and the environmental justice ombudsperson, and is subject to TABOR [caps]...The fees will be paid by up to 18,000 regulated stationary source facilities.*⁴⁶

Ozone Regulations

In addition to emitting carbon dioxide and other pollutants, gasoline-burning automobiles also generate health-harming ozone.⁴⁷ Few liberty advocates would disagree that government has some role to play in mitigating such pollution. But Polis’s approach has problems. By declining to push for an EPA waiver for Denver-area ozone—some of which drifts in from elsewhere or is naturally caused—Polis has set Colorado on course for substantially higher gasoline prices starting in 2024.

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The *Denver Post*'s Bruce Finley reported in 2019:

*Air pollution wafting into Colorado from Asia could give the Environmental Protection Agency a basis for letting the state off the hook as a "serious" violator of federal health standards, relaxing pressure to tighten emission controls on oil and gas and other industries along the Front Range. But Gov. Jared Polis has directed state air officials not to pursue that exemption.*⁴⁸

Further, Polis promotes the adoption of electric vehicles, but it is not clear that, insofar as those are powered by electricity generated with fossil fuels, EVs produce less ozone pollution.⁴⁹

Troy Hill, who runs a petroleum marketing firm, along with Jeff Cummings, predicts that, without a waiver, the ozone regulations "will cost Colorado families \$800 million per-year more in gasoline," or at least a half-dollar more per gallon.⁵⁰

In an August 2022 letter to the EPA, the Polis administration, under heavy criticism, indicated it wanted to reverse its earlier position.

especially given other urgent priorities of government. Yet Polis signed [SB22-180](#) to, among other things, fully subsidize public transit ridership during select periods.

[SB22-193](#) offers subsidies (grants) "to help private entities, local governments, tribal governments, and public-private partnerships finance voluntary projects to reduce emissions of air pollutants from industrial and manufacturing operations," according to the bill's final fiscal note. The bill also helps "finance bike share programs and ownership programs administered by local governments or nonprofit organizations" and establishes "a rebate program for individuals, businesses, and nonprofit organizations to purchase electric bicycles" (among other things).

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Subsidies for Transit, Emissions Programs, and Ebikes

A good case can be made for government responding to ozone pollution either by limiting it directly or by requiring polluters to pay for mitigation measures. There is not a good case for forcing taxpayers to subsidize one particular sort of transportation, such as the Regional Transportation District (RTD) (which should be privatized anyway),

GUN RIGHTS

Polis claims to generally supports an individual right to keep and bear arms. Recently he said, “I support the Second Amendment, our right to bear arms. It’s in our Constitution.”⁵¹

Polis also has unleashed potentially severe restrictions of the rights of gun owners. On gun rights, his actions as governor clearly are net-negative for liberty.

It is worth remembering here that the Colorado Constitution is especially strong on the right to keep and bear arms. Section 13 of the state Bill of Rights (Article II) says, “The right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.” This clearly sets out an individual right to possess guns for self-defense. Although the state Constitution does not protect a right to carry a concealed gun, neither does it stop the legislature from recognizing such a right. Since 2003, Colorado has had a state-wide system for the issuance of permits to carry concealed handguns.⁵²

State Preemption

As governor, by signing [SB21-256](#) enabling local and county governments to impose gun controls, Polis shares responsibility for what may end up being the most dramatic rollback of the rights of gun owners in Colorado history. State government no longer “preempts” local governments regarding gun regulation, but does demand that any new local gun ordinances must be more strict than those at the state level. Within a year of the bill, dozens of local governments had

considered plans to ban both the sale and the possession of so-called “assault” guns, to restrict the concealed carry of handguns by permit holders, and to enact various other restrictions.

Notably, unlike a sales ban, a possession ban turns existing owners of affected guns and magazines immediately into criminals, unless they surrender their guns or transport them out of the affected area. Polis took action to potentially turn existing gun owners into criminals merely for the type of gun they keep stored in the privacy of their own bedrooms or basements.

In May, 2022, Denver banned “concealed carry, with small exceptions, in city and county owned or leased buildings and in city parks,” reported *Complete Colorado* reporter Sherrie Peif. One city council member warned the “ban on concealed carry in parks would open the door for racial discrimination and allow police to justify the use of excessive force,” Peif summarized.⁵³

Peif later reported on broader schemes:

At least a dozen local governments and possibly one college along the Front Range are poised to adopt new gun rights restrictions in the coming weeks and months as part of a concerted effort on the part of Everytown for Gun Safety and the Giffords Center—both out of state gun control groups—along with the City of Boulder.

A Colorado Open Records Act request for emails belonging to Boulder City Council Administrator Taylor Reimann,

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*produced an elaborate plan to enact similar restrictions on guns across Denver-metro communities on the south all the way to Larimer County on the north.*⁵⁴

As of this writing, the scope of eventual local controls unleashed by the bill that Polis signed is difficult to predict. Also hard to anticipate is how the Supreme Court's recent decision regarding New York's concealed carry law might impact policies by local Colorado governments.⁵⁵ Regardless, Polis intended to give local governments considerable power to restrict the rights of gun owners.

Red-Flag Law

Polis signed Colorado's red-flag law, officially, "Extreme Risk Protection Orders," [HB19-1177](#) in 2019.⁵⁶ Red-flag laws are potentially consistent with liberty. Government's proper job, or at least its most important job, from a liberty perspective, is to protect people from the initiation of violence, including criminal violence. Although people generally have a right to keep and bear arms, those who commit or threaten acts of violence have, in various contexts, forfeited that right.

That does not mean anything goes. A proper law pursues just ends through just means. The Independence Institute's Dave Kopel argued that an early draft of Colorado's red-flag bill substantially violated due-process rights in various ways.⁵⁷ Although the bill was amended to address some of Kopel's concerns, he notes several remaining problems: no civil remedy for malicious accusations, insufficient corroboration of accusations, insufficient protection from violent and dangerous no-knock raids, ambiguous shift in standards from "extreme risk" to "significant risk," and restricted transfer of guns to responsible private parties.⁵⁸

Background Checks with No Time Limits

Also in 2021, Polis signed [HB21-1298](#) expanding background checks for gun purchases. I have no complaint with background checks per se (although I believe they should be conducted in a different way that does not create a list of gun owners potentially accessible by government). Nor do I have a problem with the bill forbidding gun purchases by people convicted of various misdemeanor crimes. The bill as written has serious problems, though.

The bill creates potential de facto waiting periods for gun purchases, if the Colorado Bureau of Investigation (CBI) cannot or will not complete a background check in a timely manner.

A 2020 article by Fox31 explains the previous policy and what happened during a backlog:

Under federal law, the CBI has three business days to approve or deny a gun sale before a seller can exercise discretion and sell a firearm. Usually, the CBI has no problem meeting that deadline, but the COVID-19 pandemic has made the process more difficult.

*The bureau has been working nonstop to sort through a backlog of roughly 9,000 background check requests from gun dealers across the state. What usually takes eight minutes to turn around is currently taking four business days, according to CBI spokesperson Susan Medina.*⁵⁹

The bill removed the three-day time limit. Obviously, forcing someone facing an urgent need for self-defense to wait

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for days to purchase a gun constitutes a nontrivial violation of that person's rights. Compare: The Democrats who supported the legislation never would support a bill that potentially created a four-day waiting period to get an abortion.

Another problem involves incomplete records for people arrested for, but never convicted of a crime. Prior to the bill in question, the CBI had thirty days to investigate such matters, and if the agency could not find the disposition describing the legal outcome, the gun sale could proceed. Under the bill, someone can be permanently denied their constitutional right to keep and bear arms based only on an arrest record that never resulted in a conviction.⁶⁰ This is an obvious violation of due-process rights that, in other contexts, the legislators who supported this bill claim to care about.

Required Purchase of Locking Device with Gun

[HB21-1106](#), in its main provisions, imposes storage requirements for guns but not onerous ones, because it allows a person to keep a gun “on his or her person or within such close proximity thereto that the person can readily retrieve and use the firearm,” and because it triggers storage requirements only when a gun owner knows or reasonable should know that a juvenile or resident who is “ineligible to possess a firearm” might access an unsecured gun.

However, the measure also requires gun dealers to “provide with each firearm sold or otherwise transferred a locking device capable of securing the firearm.” Many gun buyers already own a gun safe or other adequate means of storage, so forcing them to purchase an additional unneeded locking device with each gun—likely one of low quality—in effect imposes a sort of tax on gun purchases.

Compare: Democrats never would support measures forcing people to purchase things they don't need when getting an abortion or when purchasing a “dangerous” book or magazine.

Criminal Penalties for Late Reporting of Gun Thefts

In principle, I have no problem with requiring gun owners to report loss or theft of guns to authorities—although I don't see much advantage to such a requirement either. The problem with [SB21-78](#) is that it creates criminal penalties for reporting the loss or theft of a firearm after a five-day period, thereby severely disincentivizing late reporting. Apparently neither Polis nor the bill's sponsors bothered to ask themselves if they prefer a sixth-day report over no report at all.

Tax-Funded Anti-Gun Activism

One measure that Polis signed, [HB21-1299](#), created a new bureaucracy, the “Office of Gun Violence Prevention.” Although this does not directly violate people's liberty, few will be surprised if this new tax-funded office actively promotes future legislation that does violate people's liberty.⁶¹ The Independence Institute's Dave Kopel reasonably anticipates the office will “weaponize the Department of Health on a permanent basis for anti-gun propaganda” and “institutionalize the war on law-abiding gun owners.”⁶²

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HEALTH CARE

Health care and health insurance do not operate in a free market, rather, governments account for half of health spending in the U.S. and subject health care and health insurance to intense political controls.⁶³ Still, vestiges of freedom in medicine remain, and state governments can, at least at the margins, make health policy more-or-less compatible with individual rights. Generally, Polis has subjected health care to more controls.

Subsidized Insurance and Health Fees

Especially since passage of the federal Affordable Care Act in 2010, health insurance companies have essentially been hyper-regulated government programs with nominally private legal structures. The main purpose of mandatory pooling requirements, along with mandated coverage of politically favored care, has been to use insurance premiums to redistribute wealth. This dynamic put extreme upward pressure on insurance costs. Governments have responded to this pressure mainly through a combination of price controls (which result in lower-quality insurance) and subsidies. This is the context in which Polis supported a “reinsurance” program in Colorado, which, through insurance premiums and direct subsidies, covers some of the most-expensive health costs, thereby allowing insurers to drop rates for many plans.

In 2019, Polis signed [HB19-1168](#) establishing a temporary reinsurance program. The bill authorizes the insurance commissioner “to assess special fees against hospitals and, under specified circumstances, against health insurers to provide funding for the program,” according to the bill’s summary.

The bill also allows for federal and state general funds to be used for the program. The next year, Polis signed [SB20-215](#) modifying and extending the program.

Although this “reinsurance” program is supposed to save people money on health insurance, basically it is a shell game to backfill certain health costs with various “fees,” taxes, and premium hikes. The Colorado Health Institute says bluntly that the program does not address “the root cause of [insurance] price hikes.” The organization continues, “Reinsurance does not affect the cost of care. Instead, it is a stabilization tool designed to provide temporary relief to people who need it most by reallocating dollars within the system.”⁶⁴

State Controlled Insurance Plans

In 2021, Polis signed [HB21-1232](#) requiring health-insurance companies to provide highly regulated, price-controlled plans. A phrase from the bill’s summary, a “standardized plan must” indicates the essential reliance on governmental use of force. True, the bill was a compromise that averted a “public option.”⁶⁵

Insurance Mandates

In 2019, Polis signed [HB19-1216](#) capping copayments under health insurance at \$100 per month for insulin. We can debate the causes of high insulin costs and ways to address those costs,⁶⁶ but diffusing the costs via insurance premiums just pushes the costs onto others.

A 2021 report by *Colorado Politics* summarizes Polis’s ambivalent approach to insurance mandates:

Polis has gone back and forth about his views on insurance

In 2021, Polis signed HB21-1232 requiring health-insurance companies to provide highly regulated, price-controlled plans.

*mandates. He vetoed a mandate bill in 2020, warning lawmakers to stop sending him bills that could increase health insurance premiums at a time when his administration was committed to lowering the cost of health insurance. But he's since signed several more insurance mandates into law.*⁶⁷

The 2020 bill that Polis vetoed is [HB20-1085](#), which would have required “a health benefit plan . . . to provide coverage for nonpharmacological treatment as an alternative to opioids,” according to the bill’s summary.

However, in 2021, Polis reversed course and signed [HB21-1276](#) requiring “a health benefit plan issued or renewed on or after January 1, 2023, to provide a cost-sharing benefit for nonpharmacological treatment where an opioid might be prescribed,” including for occupational therapy, chiropractic care, and acupuncture, according to the bill’s summary. And Polis endorsed changes to Colorado insurance regulations requiring many plans to provide “prescription coverage for treatments that are alternatives to opioid painkillers, including acupuncture,” the *Colorado Sun* reports.⁶⁸

Also in 2020, Polis signed [HB20-1158](#) “which requires health benefit plans . . . to cover diagnosis of infertility, treatment for infertility, and fertility preservation services,” according to the bill’s summary. Even as he signed that insurance mandate, Polis acknowledged that such mandates “can have the unintended consequence of making coverage less accessible to those who need it most.”⁶⁹

Mandated Insulin Distribution

[HB21-1307](#) constitutes naked extortion of insulin manufacturers by Polis. Whatever

is the right approach to addressing insulin costs, this is not it. In addition to slightly modifying the insurance terms of HB19-1216 (discussed elsewhere), HB-1307 orders pharmacists to provide qualified individuals with insulin for a fee “not to exceed fifty dollars for each thirty-day supply of insulin dispensed.” The bill further orders insulin manufacturers, on pain of a \$10,000 monthly fine, to “reimburse the pharmacy in an amount that covers the difference between the pharmacy’s wholesale acquisition cost for the insulin” and the fee paid to the pharmacist, or else to “send the pharmacy a replacement supply of the same insulin in an amount equal to or greater than the amount that covers the difference between the pharmacy’s wholesale acquisition cost for the insulin” and the initial fee. The rules are slightly different for an emergency supply of insulin.

Price Controls for Drugs

In 2021, Polis signed [SB21-175](#) empowering a “prescription drug affordability review board” to impose price controls on prescription drugs.

Care Share Reporting

Polis signed [HB22-1269](#) that, as the Independence Institute’s Linda Gorman reviews, “requires that health sharing groups operating in other states report to the Colorado Commissioner of Insurance even if just one Colorado resident is a member.”⁷⁰

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

PANDEMIC

Early in the pandemic, Polis faced a once-in-a-century emergency with unknown potential to do harm. Many people understandably worried that rapid spread of the disease for which, at the time, there were no vaccines and few effective treatments, would overwhelm hospitals, causing even more people to die of the virus and by other causes. Throughout the pandemic, Polis consistently said that the primary goal of emergency measures was to prevent the overwhelming of the health care system.⁷¹

As governor, Polis was severely limited in his options, given federal control in areas of testing and vaccine development. Although Polis on net handled the challenges of the pandemic sensibly, in some ways he overreached. I also discuss pandemic-related policies under the section on property.

Lockdowns

In an emergency context involving the airborne spread of a dangerous new virus, most liberty advocates will acknowledge some room for government to restrict people's activities,⁷² but that is a power easily abused. Although Polis initially resisted calls for a shelter-in-place order,⁷³ he soon relented, signing Executive Order D-2020-17 on March 25, 2020.⁷⁴ Polis signed a wide number of additional orders starting in March of 2020, including an April 1 update to Public Health Order 20-24, defining a "critical business."⁷⁵

By arbitrarily closing some businesses while leaving others open, Polis substantially damaged many people's rights to due process and equal protection of the laws. For example, liquor and firearms stores were explicitly mentioned as "critical." "Establishments engaged in

the sale of products that support working from home" were deemed critical—except "this exclusion does not include businesses that primarily sell hobby craft supplies." Independence Institute's Ben Murrey noted, "the 'essential' designation applied more often to large corporations and well-connected special interests than to independent small and local businesses."⁷⁶ "Fitness and exercise gyms" were explicitly excluded. One can reasonably wonder why liquor, which can weaken the immune system, was deemed critical, but gym exercise, which can strengthen the immune system, was not, regardless of ventilation and other mitigation measures.⁷⁷

Following up on Polis's explicit discrimination against "hobby craft" stores, in an April 1 letter the attorney general demanded that Hobby Lobby close all its Colorado stores. Further, some but not all services pertaining to real-estate were deemed critical, and some but not all dental procedures were deemed elective. The attorney general warned several dental shops about this.⁷⁸ Polis's declarations, then, put the state attorney general in the position of deciding which medical procedures were allowed and which were not.

I do not envy Polis's role as leader of Colorado's pandemic response. Early in the pandemic, Polis did not know how fast the virus would spread or how much damage it would do. In that context, taking plausibly useful steps to protect hospital capacity was sensible. However, in my view, Polis reasonably could have relied more on voluntary actions to limit viral spread, and he could have crafted restrictions more equitably.

By arbitrarily closing some businesses while leaving others open, Polis substantially damaged many people's rights to due process and equal protection of the laws.

Direct Subsidies

In December, 2020, Polis facilitated additional “stimulus” subsidies of \$375 to each of some 435,000 Coloradans already drawing unemployment benefits.⁷⁹

The next Spring, Polis facilitated \$1,600 payments to people on unemployment

to take a new job.⁸⁰ Ben Murrey argued that Polis should have instead cut people off from extra federal unemployment benefits.⁸¹

PROPERTY: RESIDENTIAL AND COMMERCIAL

Polis has substantially infringed the rights of people to contract consensually regarding the construction, sale, and rental of residential and commercial properties.

Energy Codes

On June 2, Polis signed [HB22-1362](#), creating a new “Energy Code Board” tasked with imposing costly regulations on the construction of new buildings. The Independence Institute’s Jake Fogleman points out that the bill was amended from its original version to make it less onerous, yet it still “boosts upfront costs” of buildings:⁸²

*The bill specifies that the new code baseline must include requirements for wiring to support building electrification, whether or not a homeowner wishes to continue using natural gas; infrastructure for EV charging, whether or not a homeowner drives or plans to purchase an electric vehicle; and capacity for solar panels, whether or not on-site solar is desirable or efficient on a given build. Home builders suggest the bill will add tens of thousands to the upfront cost of building new housing.*⁸³

Estimates of the costs vary, and actual costs will vary by project. The Common

Sense Institute anticipates an “additional costs range anywhere between \$6,450 and \$22,352 per new home.”⁸⁴

The bill also subsidizes “programs to provide funding for high efficiency electric equipment,” according to the bill’s final fiscal note.

On June 7, Polis vetoed another bill, HB22-1218, that sought to mandate the availability of EV chargers for many commercial and residential buildings.⁸⁵ However, Polis achieves some of the same ends via HB-1362, and in some respects the legislation Polis signed is more far-reaching.

Generally, the amenities available with housing and with commercial buildings should be a contractual matter between the builders and the buyers or renters.

Energy Performance

In 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.

Mobile Home Parks

Although Polis gets partial credit for helping to strip price controls from a bill pertaining to mobile home parks, [HB22-1287](#), the bill in the form that Polis signed

Polis has substantially infringed the rights of people to contract consensually regarding the construction, sale, and rental of residential and commercial properties.

still forces the owner of the land of a mobile home park to sell it to a “public entity,” if that entity exercises a “right of first refusal.”

Previous legislation, [HB20-1201](#) establishes that the residents of a mobile home park have the right to offer to buy the property from the existing owner—a right they already had. However, the bill subjects the property owner to new requirements regarding the timeline and terms of offers.

Eviction Delays

Starting on March 20, 2020, Polis signed a series of pandemic-related executive orders burdening property owners who rent properties by limiting evictions for nonpayment of rent, creating a de-facto “takings” of part of the value of the affected properties. If slowing evictions served a genuine public purpose—and arguably that was the case—Polis should have restricted his actions to accessing public funds to cover the related expenses (something he also did), rather than pile many of those expenses disproportionately on property owners, which was flagrantly discriminatory. That said, Polis resisted calls from some in his party for even more far-reaching measures, including a rent freeze.⁸⁶

The March 20 order, D-2020-012, in addition to freeing up \$3 million in Disaster Emergency Funds “to provide short-term rental and mortgage assistance to low-income households facing financial hardship due to economic disruption associated with COVID-19” (among other things), directed “the Executive Director of the Department of Public Safety (DPS) to work with all Sheriffs, Mayors, and other local leaders to take similar formal actions with their law enforcement agencies to suspend residential eviction activity.”⁸⁷

On June 13, 2020, Polis signed order D-2020-101 that (among other things) extended from 10 days to 30 the time during which “the tenant has the opportunity to cure the default” and forbade property owners with rentals to charge late fees or penalties “that were incurred from May 1, 2020 until June 13, 2020.”⁸⁸

On October 21, Polis signed order D-2020-227, temporarily banning evictions “based solely upon a tenant’s default of a contractual obligation imposed by a rental agreement . . . if the tenant demonstrates financial hardship due to COVID-19.”⁸⁹

Rental Property Controls

Polis signed a couple of bills interfering with people’s rights to freely negotiate the terms of rental properties. Generally, such restrictions increase the costs of operating rental properties and thereby increase rents.

[HB21-1121](#), among other things, forbids property owners to increase rents more often than once per year, regardless of preexisting rental contracts.

[SB21-173](#), among other things, forbids property owners to initiate evictions based solely on the nonpayment of late fees. In effect, this provision makes impossible any enforcement of late fees and thereby enables tenants to perpetually pay their rents late without penalty. This increases costs for property owners.

Rent Control and Housing Regulations

On May 28, 2021, Polis signed [HB21-1117](#) enabling local governments to impose rent control and other housing controls on newly constructed properties in certain conditions.

Statute 38-12-301 states, “No county or municipality may enact any ordinance

Starting on March 20, 2020, Polis signed a series of pandemic-related executive orders burdening property owners who rent properties by limiting evictions for nonpayment of rent.

or resolution that would control rent on either private residential property or a private residential housing unit.” The bill that Polis signed adds, “The provisions of section 38-12-301 shall not apply to any land use regulation adopted pursuant to this section that restricts rents on newly constructed or redeveloped housing units as long as the regulation provides a choice of options to the property owner or land developer and creates one or more alternatives to the construction of new affordable housing units on the building site.” So, before it imposes rent control on new structures, a local government must first take some other step (as described) to increase housing, but this is not much of a barrier to a local government also imposing rent control on new structures.

The bill enabled Denver, for example, to force developers to build “income-restricted” units, which increase housing prices for everyone else.⁹⁰ Developers

rushed to submit building applications before the new rules took effect, and then applications dropped dramatically. Many builders “already complained about too much red tape and too many regulations, slow permitting times and cumbersome rules that were preventing them from building or making the process much too expensive,” reports *Denverite’s* Kyle Harris. Further, “Some developers say these new rules might be the last straw.”⁹¹

As I have argued, imposing more government controls, and thereby making housing construction even more expensive, is exactly the wrong approach, if we really care about making housing affordable. Rather, government should focus on removing existing controls that artificially reduce the stock, and drive up the price, of housing.⁹²

On May 28, 2021, Polis signed HB21-1117 enabling local governments to impose rent control and other housing controls on newly constructed properties in certain conditions.

REGULATIONS

This section discusses assorted regulations not discussed in other sections.

Price Controls in Emergencies

The Libertarian Party was founded in Colorado partly as a reaction to the wage and price controls of Republican President Richard Nixon. In 2020, following Nixon’s lead (although with less-severe consequences), Polis signed a price control law for Colorado. The bill, [HB20-1414](#), cracks down on so-called emergency “price gouging,” an inherently arbitrary category. Price controls, particularly during an emergency, by forbidding “capitalist acts between consenting adults,” promote hoarding, discourage the economic distribution of goods, and

discourage people from increasing the supply of needed goods and services.⁹³

Ban on Plastic Bags and Taxes on Paper Bags

In 2021, Polis signed [HB21-1162](#) that:

- forbids most stores to provide customers a “single-use plastic carryout bag” starting in 2024;
- Imposes a ten-cent “fee” (i.e., tax) on “recycled paper carryout bags,” “or a higher fee” if a local government says so, excepting people on food assistance, 60% of which goes to the local city or county;
- forbids these stores to refund, or say they will refund, any portion of the fee;

- compels these stores' speech by requiring them to "conspicuously display a sign" about the "fee";
 - bans in retail contexts "expanded polystyrene products for use as a container for ready-to-eat food";
 - gives local governments virtually unlimited powers to enforce the prohibitions and "fees" and to pass even more-stringent (but not less-stringent) controls; and
 - does all of this on based on the lie that the bill addresses an emergency based on the "safety clause," thereby violating the rights of voters under the state Constitution to subject the bill to voter approval.⁹⁴
- out-of-state producers for materials used in state;
 - imposes a new tax without voter approval under the euphemism "producer responsibility dues";
 - creates a new 15-member bureaucracy, plus "administrative support," to oversee the program;
 - establishes daily penalties of \$5,000 for violations of the bill, and more for subsequent violations;
 - exempts actions authorized by the bill from the state's antitrust and unfair trade statutes;
 - exempts additional politically favored producers including those in agriculture, retail food, and construction.⁹⁵

Mandatory Recycling Program

This year, Polis signed the hyper-legalistic, 51-page [HB22-1355](#). The bill, in a flagrantly discriminatory manner, forces select producers of consumer packaging and paper products to participate in and finance a highly bureaucratic recycling program. The bill also:

- contains a 44-part section of Byzantine definitions;
- defines "packaging material" broadly to include "paper, plastic, glass, metal, cartons, flexible foam, rigid packaging, or other materials or combination of these materials";
- defines "covered materials" as "packaging material" and "paper products," except by those politically favored producers covered by a fifteen-part list of exemptions, including those who print government forms, newspapers, and anyone else the governing bureaucracy sees fit to exempt;
- seeks to regulate the activities of, and impose financial burdens on, even

The bill pretends that economic benefits to some from recycling programs are not more than offset by losses to others, an economic fallacy that Frédéric Bastiat exploded in 1850 but that economically illiterate Colorado politicians still commit over a century and a half later.⁹⁶

Water and Energy Appliance Regulation

In 2019, Polis signed [HB19-1231](#) "requiring certain appliances, plumbing fixtures, and other products sold for residential or commercial use to meet energy efficiency and water efficiency standards," according to the bill's summary. Consumers should be free to weigh performance, purchase price, and cost of use of these items and make their own decisions in conjunction with willing providers. "The sale of a noncomplying product after the effective date of the applicable standard is punishable through a civil enforcement action by the attorney general, with penalties of up to \$2,000 per violation or, in the case of the sale of a noncomplying product to an elderly person, \$10,000 per violation," the summary continues.

[HB22-1355], in a flagrantly discriminatory manner, forces select producers of consumer packaging and paper products to participate in and finance a highly bureaucratic recycling program.

'Right' to Repair

Polis signed [HB22-1031](#) interfering with the contract rights of producers of wheelchairs and forcing them to provide materials and support to other repair businesses.⁹⁷

Licensing of Radon Professionals

In 2021, after vetoing previous attempts to impose new professional licensure, Polis signed [HB21-1195](#) outlawing unlicensed “individuals practicing as radon measurement professionals or radon mitigation professionals,” according to the bill’s summary. The bill imposes misdemeanor-level criminal penalties for violations and allows for fees to finance the program. This bill is a classic case of “bootleggers and baptists” protectionism limiting competition.⁹⁸

TAXES AND FEES

Attempted Retention of TABOR Refunds

In 2019, Polis endorsed Proposition CC, which would have allowed the state to increase net taxes by keeping and spending TABOR refunds in perpetuity, supposedly for transportation and education.¹⁰⁰ The spending promise was hollow as the funds are fungible. Voters handily defeated the measure at the ballot.

Delivery and Transportation Fees

In 2021 Polis signed the 163-page monstrosity [SB21-260](#) imposing new “fees”—i.e., taxes mislabeled to evade the requirements of the Taxpayer’s Bill of Rights—on the delivery of a wide range of products and on ride-sharing.¹⁰¹ In part these “fees” go to subsidize the users of

Licensing of Athletic Trainers

Remarkably, in a scathing letter criticizing licensure of athletic trainers, Polis allowed the continuation of such licensure by letting [SB21-147](#) become law without his signature.⁹⁹

Rental Application Regulations

[HB19-1106](#) regulates rental application fees and wraps property owners in more red tape. Again, the central problem is that government artificially restricts the supply of housing.

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electric vehicles. The “fees” are imposed by a new bureaucracy created by the bill. In addition to raising costs directly for consumers, the “fees” also impose more paperwork and reporting requirements on businesses.¹⁰²

Road Usage Fees

SB-260 also created a “road usage fee” charged per gallon of gasoline. Polis subsequently signed [HB22-1351](#) delaying the implementation of the “fee” until April 1, 2023. However, as *Colorado Sun* reporter Jesse Paul explained, “The legislature is essentially using House Bill 1351 to decide how to spend the \$63 million instead of it being sent back to taxpayers through the TABOR [Taxpayer’s Bill of Rights] refund process.”¹⁰³ Hilariously, Polis cited the delay of the fee that he imposed and that comes at the

expense of some TABOR refunds as an example of him “saving people money.”¹⁰⁴

Misleading Ballot Language on Tax Measures

[HB21-1321](#) requires ballot measures regarding tax changes to misleadingly tell voters that a tax rate cut reduces revenues, which is true only in a relative sense given revenues might still increase over time, and that a tax cut affects certain programs, when in reality funds are usually fungible.¹⁰⁵

Various New Fees

In addition to the fee-increasing bills previously discussed, Polis signed various other bills raising net state revenues without voter approval, some of which are listed here.¹⁰⁶

[HB21-1012](#) imposes a “surcharge on license renewal fees” on some “45,700 practitioners, including dentists, doctors, nurses, optometrists, podiatrists, and veterinarians” to pay for an expanded drug monitoring program, according to the bill’s final fiscal note.

[HB21-1105](#) imposes a charge on energy users to fund a low-income utility assistance program.

[HB21-1208](#) imposes new fees on insurance companies to fund a disaster mitigation program. These fees are passed on to buyers of insurance either as higher premiums or as reduced quality of service.

Housing Subsidies

Rather than focus on removing government controls that restrict housing and drive up its price, Polis signed [SB22-146](#) forcing taxpayers to subsidize housing. (That the bill is “bipartisan,” as Polis brags, does not justify it.)¹⁰⁷

[HB22-1282](#) subsidizes manufactured housing.

Various Other Subsidies

Polis signed [SB21-229](#) offering subsidies to businesses that operate in select rural areas. Corporate favoritism is bad. And, not that the governor or most legislators care, but business subsidies expressly violate Article XI, Section 2 of the Colorado Constitution, which states, “Neither the state, nor any county, city, town, township, or school district shall make any donation or grant to, or in aid of . . . any corporation or company.”

[SB21-027](#) spends millions of federal and state tax funds specifically for a bureaucracy-heavy diaper distribution program. Such a program might seem appealing to those who ignore opportunity costs, as progressives are prone to do. If you want to use tax money to help the poor, usually the most cost-effective way to do that is provide direct cash subsidies or something like vouchers (like food stamps or cards). Such transfers cost relatively little to administer, and recipients can well-match the resources to their needs.

[HB21-1264](#) funds a bureaucratic work-training program.

[HB21-1289](#) subsidizes broadband, which, except for governmental purposes (which the bill also covers), is just not a proper governmental function (especially given robust market developments in fiber optics, cell services, and satellite internet services).

[HB22-1364](#) extends a grant program for food banks, with an emphasis on Colorado and regional products rather than the most economical products. If helping the poor get more food was the priority, increasing direct transfers to

Rather than focus on removing government controls that restrict housing and drive up its price, Polis signed SB22-146 forcing taxpayers to subsidize housing.

people already in assistance programs probably would have been a more efficient way to help them.¹⁰⁸

Income Taxes

Polis has said he'd like to eliminate the state income tax in a revenue-neutral way, but he has not offered any realistic pathway to make that happen.¹⁰⁹ Indeed, the legislature has had an opportunity to reduce income tax rates, as with [HB22-1021](#), yet Polis sat on his hands while his Democratic allies in the legislature sent such efforts to a "kill committee."¹¹⁰

Temporary Shift of Fees

One of the ways that Polis bragged that he was saving people money was by temporarily reducing business filing fees with [HB22-1001](#). But this wasn't a real cut in government burdens; it was a temporary shifting of expenses. The bill directs the state treasurer to transfer \$8,435,000 "from the general fund to the Department of State cash fund for use by the department for the fiscal year commencing on July 1, 2022, to establish a credit program to reduce certain business fees." The program ends June 30, 2023.

Similarly, [HB22-1004](#) uses general funds to temporarily prevent an increase in driver license fees.

[HB22-1298](#) also shifts fees onto taxpayers generally. The bill's summary states:

The bill directs the state treasurer to transfer \$11,720,278 from the general fund to the division of professions and occupations cash fund for use beginning in the 2022-23 state fiscal year and until fully expended to fund the expenses of the state board of nursing in order to facilitate fee relief for nurses, nurse aides, and psychiatric technicians.

The same goes for [HB22-1299](#). The bill's final fiscal note states:

The bill transfers \$3,698,586 from the General Fund to the Division of Professions and Occupations Cash Fund in the Department of Regulatory Agencies (DORA) on July 1, 2022. The funds must be used to cover the cost of the state boards of psychologist examiners, social work examiners, marriage and family therapist examiners, professional counselor examiners, unlicensed psychotherapists, and addiction counselor examiners, beginning with the FY 2022-23 fiscal year until fully expended.

These bills are more election-year gimmicks than meaningful reforms.¹¹¹

Polis has said he'd like to eliminate the state income tax in a revenue-neutral way, but he has not offered any realistic pathway to make that happen.

CONCLUSION

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.¹¹²

Based on the findings of this paper, my article holds up well.

ENDNOTES

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- 2 Chase Woodruff, "Activists Wonder Where the 'Bold, Progressive' Jared Polis Went," *Westword*, May 15, 2019, <https://www.westword.com/news/activists-wonder-where-the-bold-progressive-jared-polis-went-11343776>. Polis's 2018 Republican challenger, Walker Stapleton, is the one who called him "radical and extreme"; see Anna Staver, "From Gun Control to Health Care: What Democratic Control of Statehouse Would Mean for Colorado," *Denver Post*, November 1, 2018, <https://www.denverpost.com/2018/11/01/democratic-control-colorado-election/>.
- 3 John Frank and Jesse Paul, "Walker Stapleton Suggests Jared Polis Is a Socialist Ahead of Bernie Sanders' Visit," *Colorado Sun*, October 22, 2018, <https://coloradosun.com/2018/10/22/jared-polis-bernie-sanders-socialist/>.
- 4 As of a July 1, 2022, report from the Secretary of State's office, there were 1,715,211 active unaffiliated voters, compared to 1,069,070 Democrats and 957,063 Republicans; see <https://www.sos.state.co.us/pubs/elections/VoterRegNumbers/2022/June/VotersByPartyStatus.pdf>.
- 5 Jesse Paul and John Aguilar, "Democrats Cary Kennedy and Jared Polis Make Primary Ballot for Governor, with Kennedy Winning Nearly Double the Delegate Votes," *Denver Post*, April 14, 2018, <https://www.denverpost.com/2018/04/14/democrats-cary-kennedy-jared-polis-make-primary-ballot-for-governor/>.
- 6 Sandra Fish, "Jared Polis Spent \$39.79 Per Vote in the Primaries; That's Nothing Compared to Other Self-Funded Candidates," *Colorado Sun*, September 14, 2018, <https://coloradosun.com/2018/09/14/jared-polis-campaign-spending-governor-race-2018/>.
- 7 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/011Nolan.html>.
- 8 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>.
- 9 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.
- 10 Amash interviewed Polis for his podcast, July 7, 2022, episode 20, <https://www.callin.com/episode/20-gov-jared-polis-XolwVTfNdQ>.
- 11 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/>.
- 12 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/>.
- 13 "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>.
- 14 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>.
- 15 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.
- 16 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 (<https://leg.colorado.gov/bills/hb22-1279>) 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, <https://www.rmpbs.org/blogs/news/jared-polis-executive-order-abortion-colorado/>. Whether one thinks that Polis's actions further liberty or violate it depends on what one thinks about abortion.
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Revolution, September 13, 2021, <https://marginalrevolution.com/marginalrevolution/2021/09/why-i-am-reluctant-to-endorse-preschool.html>. The Learning Policy Institute is more bullish on such programs but concedes the type of program and the students involved matter a lot; see its “What Does the Research Really Say About Preschool Effectiveness?,” January 13, 2019, <https://learningpolicyinstitute.org/press-release/what-does-research-really-say-about-preschool-effectiveness>. A full evaluation of the relevant “literature” is far beyond the scope of this paper.

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