Abstract: The existence of federal oversight of charitable organizations in the United States implies a degree of uniformity to US charity regulation. However, charity regulation is far from uniform across the country. States differ significantly in their adoption or non-adoption of various state-level regulatory requirements, creating not one but many different regulatory environments for charities. The complexity and diversity of these regulations has made it difficult for sector stakeholders, such as researchers, regulators, practitioners, information intermediaries, and donors, to understand the nature and significance of state-level charity regulation from a comparative perspective. To address this problem, this article employs latent class analysis to identify three distinct models of state-level charity regulation: broad regulation, limited regulation, and asset oversight. Subsequent analysis identifies relationships between a state’s economic, social, and political characteristics and its model of charity regulation, suggesting new avenues of research for understanding regulatory model emergence. Many additional practical applications of the typology are also discussed.

Keywords: latent class analysis; regulatory breadth index; state charity regulation; United States

Section 501(c)(3) of the US Internal Revenue Code shapes the federal regulatory environment in which charitable organizations operate in the United States, implying a degree of uniformity to US charity regulation. However, charity regulation is far from uniform across the United States. States differ significantly in their adoption or non-adoption of various state-level regulatory requirements, creating not one but many different regulatory environments for US charities. The complexity and diversity of these regulations has made it difficult for researchers to study the role of state-level charity regulation in empirical research comparatively.

Although the federal regulatory environment for charitable organizations is relatively well-understood, the multitude of distinct state-level regulatory
environments that exist across the states are much more rarely examined or systematically incorporated into social science oriented nonprofit scholarship. However, such research has recently been facilitated by the introduction of the Regulation of Nonprofits and Philanthropy Project’s Legal Compendium (Lott et al. 2019) and the Regulatory Breadth Index (Lott et al. 2021, 2022). This research provides a wealth of data describing each state’s charity regulations, revealing a complex pattern of similarities and differences from state to state. This heterogeneity implies that there is no one single model of state-level charity regulation in the United States, but many models. To identify these models, this exploratory research employs latent class analysis (LCA) to examine state-level charity regulation data compiled by Lott et al. (2021, 2022). Adopting a social science, rather than a legal perspective, LCA identifies three state-level charity regulation models, provides a descriptive profile for each model, classifies each state according to its model, and examines statistical correlates to yield additional insights. The analysis greatly simplifies the otherwise nearly intractable problem of studying state-level charity regulation comparatively, reducing the number of pairwise comparisons between regulatory models from 1,275 to three. In short, the simpler typology makes it substantially easier to characterize and study state-level charity regulation in the United States. The typology can be used to better understand how variation in state-level charity regulation models may influence the composition of states’ charitable sectors, the behavior of charitable organizations, the level of public trust in charitable organizations, the nature and extent of financial support for charitable organizations, and an array of other phenomena of interest to nonprofit scholars, funders, practitioners, and policymakers.

The following section provides a brief overview of the literature on state-level charity regulation in the United States, emphasizing the significance of the Legal Compendium (Lott et al. 2019) and the Regulatory Breadth Index (Lott et al. 2021, 2022). The subsequent section describes the data and method employed to empirically derive the typology. The three sections after that report the results of LCA with respect to estimation and classification; profile interpretation; and analysis with covariates or so-called step-3 analysis. This is followed by a brief discussion exploring potential explanations for the results and noting important limitations of the analysis. The conclusion derives implications and provides suggestions for future research.

1 State-Level Charity Regulation

Interdisciplinary social science literatures in public administration, international studies, and nonprofit management have addressed issues related to the regulation of charitable nonprofits and NGOs, although there are relatively few studies that
have specifically addressed state-level charity regulation in the United States outside of the legal literature.

Given the many natural affinities between public administration and nonprofit management (Mitchell and Schmitz 2019; Smith 2010), the ongoing phenomenon of sectoral blurring (Bromley and Meyer 2015), and attention to the “big questions” of nonprofit management (Lohmann 2007) in public administration, it is not surprising that a considerable amount of scholarship concerning the relationships between government and nonprofits and NGOs can be found within the public administration field. Prior such research has examined topics including government-nonprofit contracting (Smith and Lipsky 2009), the effects of government funding of nonprofits (Brooks 2000; Guo 2007; Rushton and Brooks 2007), cross-sectoral collaboration (Boyer, Kolpakov, and Schmitz 2018; Bryson, Crosby, and Stone 2006; Curley et al. 2021; Marwell and Calabrese 2015; Mitchell 2014a; Mitchell, O’Leary, and Gerard 2015; Selden, Sowa, and Sandfort 2006), and accountability (Grizzle and Sloan 2016; Leazes 1997; LeRoux 2009; Robinson and Billingsley 2016). Public administration research specifically relating to federal regulation has addressed topics such as tax policy (Brooks 2004), lobbying restrictions (Berry 2005), and financial disclosure (Keating and Peter 2003), usually referencing the role of the Internal Revenue Service (IRS) and the significance of the IRS Form 990 as a disclosure-based, de facto regulatory tool. Other scholarship in this field has considered the regulation of charitable solicitation by US municipalities (Mead 2019), national charity regulatory regimes across countries (Cordery and Deguchi 2018), and the global phenomenon of voluntary self-regulation through so-called accountability clubs (Tremblay-Boire, Prakash, and Gugerty 2016).

The international studies literature has also addressed the theme of voluntary regulation (Crack 2018), particularly given the absence of a global legal regime governing NGOs. Interest in regulatory patterns across countries has led to research attempting to understand the ebb and flow of so-called regulatory waves over time (Breen, Dunn, and Sidel 2017, 2019) with particular attention paid to the possibility of shifting, closing, or shrinking civic spaces resulting from increasing regulation (Bloodgood and Tremblay-Boire 2011; DeMattee 2019). Other research has explored how domestic charity regulations and norms can affect the transnational behavior of NGOs (Mitchell and Stroup 2020; Mitchell, Schmitz, and Vijfeijken 2020; Schmitz and Mitchell 2022).

The nonprofit management literature has also examined national patterns of regulation across countries (Bloodgood, Tremblay-Boire, and Prakash 2014) and the phenomenon of voluntary self-regulation (Gugerty, Sidel, and Bies 2010) but has tended to focus more on regulatory issues specific to the United States. For example, prior research has identified areas for federal regulatory reform (Anheier and Toepler 2019; Barber and Smith 2020), explored topics related to the Sarbanes-Oxley
Act (Benzing et al. 2011; Nezhina and Brudney 2010), and examined issues concerning fundraising regulation (Barber 2012; Barber and Farwell 2016; Barber, Farwell, and Galle 2022; Breen 2012; Dietz et al. 2017). Much of this work acknowledges the role of information disclosure as a means of regulating fundraising activity in the absence of formal regulations. The literature on nonprofit accountability particularly emphasizes the significance of public disclosure in the US context (Chisolm 1995; Lee 2004). So-called charity watchdogs or information intermediaries use this information to assess charities and provide guidance to donors who, in turn, can play an informal regulatory role by predating their giving decisions on the charity assessments (Mitchell 2014b; Mitchell and Calabrese 2019; Szper and Prakash 2011). This literature has also addressed a variety of regulatory issues related to taxation (Breen and Cordery 2022; Grønbjerg and McGiverin-Bohan 2016; Hager and McArdle 2015; Kearns 2015), lobbying (Prentice 2018), political activities (Carroll, Myser, and An 2022), and the possibility of overregulation (Irvin 2005).

There have been a few important efforts to provide overviews of charity regulation, internationally and domestically. McGregor-Lowndes and Wyatt and others (2017) provide insider accounts of charity regulation across several countries, while Fremont-Smith (2004) provides what is probably the most comprehensive overview of charity regulation in the United States, including state-level regulation. Many other studies have analyzed charity regulation in non-US countries, including Australia (Murray 2018), Ireland (Breen and Smith 2019), and the United Kingdom (Morgan 2015), among others. Overall, beyond the relevant legal literature, there is relatively little recent social science scholarship focused on US state-level charity regulation in the major nonprofit studies journals. The most notable exception is Lott et al.’s (2022) research on regulatory breadth at the state level.

In general, state-level charity regulation in the United States has received only modest attention from social scientists and nonprofit management scholars, despite a considerable body of research making extensive use of IRS Form 990 data in the context of the federal regulatory environment. This is problematic because state-level charity regulation may be a significant factor influencing charitable activities and organizations in the United States. This limited attention is likely related to the complexity and variety of state charity regulations across states, which can be especially daunting for researchers without substantial legal expertise. The derivation of a simple typology that addresses this problem may facilitate the incorporation of state-level charity regulation information into mainstream social science and nonprofit management scholarship. The remainder of this article identifies, interprets, and discusses models of state-level charity regulation.
2 Data and Method

Data are obtained from the Legal Compendium, a dataset originally produced in 2016 containing information on state-level charity regulation compiled by researchers associated with the Regulation of Nonprofits and Philanthropy Project at the Urban Institute and the Charities Regulation and Oversight Project at Columbia Law School (Lott et al. 2016). An updated 2019 version of the Legal Compendium added data on fundraising contributed by Deitz et al. (2017).

The Regulatory Breadth Index (RBI) provides a quantitative measure of state-level charity regulation based on 34 indicator variables selected from the 2019 Legal Compendium. These indicators, which were developed by a team of legal scholars in consultation with state charity regulators to reflect the most important areas of state-level charity regulation, are organized into five main categories. Five corresponding subindexes measure (1) registration and exemptions from registration; (2) fundraising regulations; (3) requirements for notice, filing, or review of transactions; (4) audits, and; (5) requirements for notice or action for dissolution.1 Lott et al. (2022) provide an in-depth qualitative and quantitative description of the RBI research, detailing the five subindexes and the indicator variables upon which each is derived. In most cases, the underlying indicator variables measure the presence or absence of specific regulations. For example, the subindex measuring requirements for notice or action for dissolution is equal to the sum of six dichotomous indicators measuring whether a state’s attorney general’s office and/or another state office must review voluntary, judicial, or voluntary dissolutions.2 Each subindex is scaled to range from zero to one, with zero indicating the lowest possible amount of regulation and one indicating the highest possible amount of regulation. The RBI is the average of the five subindexes, multiplied by 100 for convivence of display. Table 1 provides summary statistics for the RBI and the five constitutive subindexes.

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1 The underlying data have several important limitations. First, the indicators included in the Legal Compendium were selected in consultation with state charity regulators as a reflection of their perspectives on the most relevant indicators of regulatory breadth. The data therefore do not comprehensively measure all relevant aspects of charity regulation. Notably, the data do not capture common law or many other areas of charity regulation such as board governance, taxation, or charitable immunity. These areas of regulation were beyond the scope of the Legal Compendium research. Second, due to the absence of available data for each state, neither the Legal Compendium nor the RBI assess enforcement activities. Future research may seek to address these limitations.

2 Specifically, the six dichotomous indicator variables are: Voluntary Dissolutions (to the Attorney General); Voluntary Dissolutions (to other regulatory office); Judicial Dissolutions (to or by the Attorney General); Judicial Dissolutions (to or by other regulatory office); Administrative Dissolutions (to or by the Attorney General); Administrative Dissolutions (to or by other regulatory office).
The RBI provides a scalar measure of the breadth of state-level charity regulation across all 50 states and the District of Columbia. However, the RBI does not take account of the distinct regulatory patterns that exist across states. Latent class analysis (LCA) is performed to assess this possibility. LCA is a model-based clustering technique (Ahlquist and Breunig 2012; Magidson and Vermunt 2003; Magidson, Vermunt, and Madura 2020; McCutcheon 1987; Mitchell 2014c; Mitchell and Schmitz 2021; Vermunt and Jay 2002) that is comparable to (non-model-based) traditional k-means and hierarchical clustering approaches (Magidson and Vermunt 2002; Mitchell 2010). The basic structure of a latent class model expresses the probability of obtaining a specific indicator pattern as a weighted average of the cluster specific probabilities (Vermunt and Jay 2004). Unlike factor analysis, which is typically used to reduce a large number of variables into a smaller number of factors, the typical goal of cluster analysis is to classify cases into clusters such that cases within each cluster are very similar to each other and cases in different clusters are very different from each other. In this respect, LCA could be regarded as a case-oriented method, whereas factor analysis could be regarded as a variable oriented method. As a model-based technique, LCA posits the existence of a categorical latent variable conditional upon which states adopt a specific pattern of charity regulation.

Latent class model estimation proceeds by incrementing the number of posited latent classes until a model fit criterion is satisfied, typically indicated by the Bayesian Information Criterion (BIC). The model with the lowest value indicates the preferred model. A well-performing latent class model also exhibits a condition known as local independence. This is achieved when the residual statistical association among the indicator variables conditional upon the latent variable is insignificant. This condition can be assessed by examining bivariate residuals following model estimation. The local independence assumption can be relaxed by incorporating direct effects between highly correlated indicators (Vermunt and Jay 2016). After a preferred model is selected, a taxonomy is created by assigning cases (states)

### Table 1: Summary statistics for regulatory breadth subindexes and index.

<table>
<thead>
<tr>
<th></th>
<th>Mean</th>
<th>SD</th>
<th>Median</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transactions</td>
<td>0.42</td>
<td>0.32</td>
<td>0.40</td>
</tr>
<tr>
<td>Dissolutions</td>
<td>0.53</td>
<td>0.25</td>
<td>0.50</td>
</tr>
<tr>
<td>Registration</td>
<td>0.66</td>
<td>0.29</td>
<td>0.76</td>
</tr>
<tr>
<td>Audits</td>
<td>0.41</td>
<td>0.39</td>
<td>0.50</td>
</tr>
<tr>
<td>Fundraising</td>
<td>0.63</td>
<td>0.30</td>
<td>0.67</td>
</tr>
<tr>
<td>RBI</td>
<td>52.86</td>
<td>18.89</td>
<td>55.29</td>
</tr>
</tbody>
</table>
to the cluster to which they most likely belong based on their posterior membership probabilities. This procedure is called modal assignment.

LCA generates a descriptive profile for each cluster. The profile describes both the estimated size of each cluster and the estimated means of each indicator variable conditional on latent class membership. These profiles are interpreted to derive a qualitative understanding of the latent variable and to label the clusters (Mitchell and Schmitz 2021). The profile information is estimated prior to modal assignment. After classification, an assignment solution may contain classification error that can be statistically accounted for in subsequent analyses if necessary (Bakk, Oberski, and Vermunt 2014; Bakk, Tekle, and Vermunt 2013; Bolck, Croon, and Hagenaars 2004; Vermunt 2010).

The final step in LCA usually involves further use of the categorical latent variable in subsequent analyses. Typically, this is done to facilitate description and interpretation of the latent variable and to assess whether the latent variable is statistically associated with other variables of interest. This is sometimes referred to as step-3 analysis, the three steps being estimate, classify, and analyze.

3 Latent Class Analysis: Estimation and Classification

The indicators employed include the five subindexes that constitute the RBI. These subindexes measure the extent of regulatory requirements for transactions, dissolutions, registration, audits, and fundraising, as summarized in Table 1.

Table 2 displays model fit statistics for latent class models with 1–5 clusters. The 3-class model is preferred because it has the lowest Bayesian Information Criterion (BIC). However, the bivariate residuals table indicates a local dependency between the indicators for transactions and dissolutions, probably because these two indicators both concern the status of charitable assets. A 3-class model (Model 6) accounting for this local dependency with a direct effect between the indicators results in a lower BIC but does not represent a statistically significant improvement in model fit according to a bootstrap log-likelihood difference test. The profiles and assignment solutions for the two 3-class models are identical; however, Model 6 is retained as the preferred model because it resolves the local dependency. This model has virtually no classification error (0.00), indicating that each state is correctly assigned to the appropriate cluster.3 Accounting for classification error in step-3 analysis is therefore not necessary.

3 The mean posterior membership probabilities for the modal assignments are as follows: Cluster 1 = 1.0000000; Cluster 2 = 0.9999914; Cluster 3 = 0.9999345.
Table 3 displays the profiles for the three latent classes. As shown in the first row of the table, about 54 percent (28) of states fall into Cluster 1, 31 percent (16) fall into Cluster 2, and 14 percent (7) fall into Cluster 3. The remaining values in the table describe the predicted means for each indicator conditional on the respective latent class. Interpreting these means involves identifying substantively large differences both across the clusters and relative to the unconditional (population) means. Substantial variation across a row indicates that the indicator has interpretive importance as large differences in values differentiate the clusters from each other. Comparing the conditional means to the respective unconditional means indicates how the states in a particular cluster compare to the overall population. Substantively large differences similarly suggest that the indicator has interpretive importance. The bolded numbers in Table 3 represent values greater than the unconditional means. Tables 4, 5 and 6 display the states assigned to Clusters 1, 2 and 3, respectively, and provide each state’s values for the regulatory breadth index as well as for the five subindexes.

The profile for Cluster 1 indicates above average scores for all five subindexes. The states assigned to Cluster 1 are shown in Table 4.

Table 3: Latent class profiles.

<table>
<thead>
<tr>
<th>Cluster size</th>
<th>Cluster 1</th>
<th>Cluster 2</th>
<th>Cluster 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audits</td>
<td>0.74</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Registration</td>
<td>0.77</td>
<td>0.76</td>
<td>0.00</td>
</tr>
<tr>
<td>Transactions</td>
<td>0.44</td>
<td>0.29</td>
<td>0.63</td>
</tr>
<tr>
<td>Dissolutions</td>
<td>0.54</td>
<td>0.47</td>
<td>0.61</td>
</tr>
<tr>
<td>Fundraising</td>
<td>0.78</td>
<td>0.54</td>
<td>0.19</td>
</tr>
</tbody>
</table>

*Cluster size indicates the proportion of states in each cluster. For ease of interpretation, bold numbers indicate conditional means greater than the population averages.
Cluster 2 states score highly only for the registration subindex, while scoring a zero for the audits subindex. The states assigned to this cluster are shown in Table 5.

Cluster 3 states score highly for transactions and dissolutions, while scoring a zero for both audits and registration requirements. The states in this cluster are shown in Table 6.

### 4 Latent Class Analysis: Profile Interpretation

Profile interpretation is an exploratory process. To facilitate this step, Figure 1 displays a map of the United States shaded by cluster (with light grey indicating Cluster
Table 5: Cluster 2.

<table>
<thead>
<tr>
<th>State</th>
<th>RBI</th>
<th>Audits</th>
<th>Registration</th>
<th>Transactions</th>
<th>Dissolutions</th>
<th>Fundraising</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>28.59</td>
<td>0.00</td>
<td>0.53</td>
<td>0.40</td>
<td>0.50</td>
<td>0.00</td>
</tr>
<tr>
<td>Alabama</td>
<td>34.67</td>
<td>0.00</td>
<td>0.71</td>
<td>0.00</td>
<td>0.25</td>
<td>0.78</td>
</tr>
<tr>
<td>Alaska</td>
<td>34.80</td>
<td>0.00</td>
<td>0.82</td>
<td>0.00</td>
<td>0.25</td>
<td>0.67</td>
</tr>
<tr>
<td>Colorado</td>
<td>38.80</td>
<td>0.00</td>
<td>0.82</td>
<td>0.20</td>
<td>0.25</td>
<td>0.67</td>
</tr>
<tr>
<td>Indiana</td>
<td>32.92</td>
<td>0.00</td>
<td>0.53</td>
<td>0.20</td>
<td>0.25</td>
<td>0.67</td>
</tr>
<tr>
<td>Iowa</td>
<td>37.14</td>
<td>0.00</td>
<td>0.82</td>
<td>0.20</td>
<td>0.50</td>
<td>0.33</td>
</tr>
<tr>
<td>Missouri</td>
<td>52.18</td>
<td>0.00</td>
<td>0.76</td>
<td>0.40</td>
<td>1.00</td>
<td>0.44</td>
</tr>
<tr>
<td>Nevada</td>
<td>19.87</td>
<td>0.00</td>
<td>0.88</td>
<td>0.00</td>
<td>0.00</td>
<td>0.11</td>
</tr>
<tr>
<td>North Carolina</td>
<td>54.04</td>
<td>0.00</td>
<td>0.74</td>
<td>0.80</td>
<td>0.50</td>
<td>0.67</td>
</tr>
<tr>
<td>North Dakota</td>
<td>54.58</td>
<td>0.00</td>
<td>0.82</td>
<td>0.60</td>
<td>0.75</td>
<td>0.56</td>
</tr>
<tr>
<td>Ohio</td>
<td>60.25</td>
<td>0.00</td>
<td>0.82</td>
<td>0.80</td>
<td>0.50</td>
<td>0.89</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>27.09</td>
<td>0.00</td>
<td>0.88</td>
<td>0.00</td>
<td>0.25</td>
<td>0.22</td>
</tr>
<tr>
<td>South Carolina</td>
<td>63.90</td>
<td>0.00</td>
<td>0.71</td>
<td>0.60</td>
<td>1.00</td>
<td>0.89</td>
</tr>
<tr>
<td>Texas</td>
<td>31.70</td>
<td>0.00</td>
<td>0.53</td>
<td>0.00</td>
<td>0.50</td>
<td>0.56</td>
</tr>
<tr>
<td>Utah</td>
<td>39.80</td>
<td>0.00</td>
<td>0.82</td>
<td>0.00</td>
<td>0.50</td>
<td>0.67</td>
</tr>
<tr>
<td>Washington, D.C.</td>
<td>47.93</td>
<td>0.00</td>
<td>0.94</td>
<td>0.40</td>
<td>0.50</td>
<td>0.56</td>
</tr>
</tbody>
</table>

Table 6: Cluster 3.

<table>
<thead>
<tr>
<th>State</th>
<th>RBI</th>
<th>Audits</th>
<th>Registration</th>
<th>Transactions</th>
<th>Dissolutions</th>
<th>Fundraising</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delaware</td>
<td>11.22</td>
<td>0.00</td>
<td>0.00</td>
<td>0.20</td>
<td>0.25</td>
<td>0.11</td>
</tr>
<tr>
<td>Idaho</td>
<td>9.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.20</td>
<td>0.25</td>
<td>0.00</td>
</tr>
<tr>
<td>Montana</td>
<td>26.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.80</td>
<td>0.50</td>
<td>0.00</td>
</tr>
<tr>
<td>Nebraska</td>
<td>36.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.80</td>
<td>1.00</td>
<td>0.00</td>
</tr>
<tr>
<td>South Dakota</td>
<td>41.11</td>
<td>0.00</td>
<td>0.00</td>
<td>1.00</td>
<td>0.50</td>
<td>0.56</td>
</tr>
<tr>
<td>Vermont</td>
<td>44.33</td>
<td>0.00</td>
<td>0.00</td>
<td>0.80</td>
<td>0.75</td>
<td>0.67</td>
</tr>
<tr>
<td>Wyoming</td>
<td>32.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.60</td>
<td>1.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

1, medium grey indicating Cluster 2, and dark grey indicating Cluster 3). Additionally, Table 7 displays descriptive means for various state-level covariates by latent class. The rationales for selecting these covariates are as follows. First, it is probable that states with more legal restrictions overall might also impose more regulations on charities, reflecting a consistency in regulatory propensity. Second, states with higher tax rates, tax revenues, GDP, and populations should, in principle, have more resources available to support more comprehensive charity regulation models, such as the model reflected in Cluster 1. Third, political liberalism is typically associated with more regulation and thus may also be associated with more extensive charity regulation. Fourth, the number, size, and density of nonprofit originations in a state might be associated with the charity regulation model because greater number, size,
and density may provide more opportunities for activities to take place in the nonprofit sector that may lead to more or different regulation. Fifth, the regulatory breadth index itself may be correlated with the regulatory model because both are constructed from the same underlying data. Finally, states with bifurcated jurisdictions, in which more than one authority has responsibility for charity regulation, might regulate charities differently compared to states without bifurcated jurisdictions because differently situated regulators may have different interests, mandates, incentives, or resources for regulating charities. Additionally, requirements to report to more than one authority in bifurcated jurisdictions might mechanically result in more overall requirements. The following three subsections describe each latent class with reference to these covariates.4

**Figure 1:** Cluster map.

4 Total restrictions data are from: Patrick A. McLaughlin, Jonathan Nelson, Thurston Powers, Walter Stover, and Stephen Strosko, State RegData 2.0 (dataset), QuantGov, Mercatus Center at George Mason University, Arlington, VA, 2020. Tax data are from the Tax Foundation for 2019 (https://taxfoundation.org/state-tax-burden-2019/). Population data are 2019 Census estimates. GDP data are from the Bureau of Economic Analysis for 2019. State ideology measures the 1960–2014 average state level government ideology; data are obtained from Berry et al. via the Correlates of State Policy Project (Berry et al. 1998; Berry et al. 2010; Grossmann, Jordan, and McCraine 2021). Nonprofit data are from the August 2019 Internal Revenue Service Business Master File (excluding private foundations). All correlations are based on the entire population of US states and the District of Columbia.
4.1 Cluster 1: Broad Regulation

In general, states in Cluster 1 are more ideologically liberal, have more overall restrictions, and have larger and wealthier nonprofit sectors compared to those in the other clusters. Cluster 1 states also receive more tax revenue per capita and enjoy higher GDP relative to those in Clusters 2 and 3. These findings appear to support the pattern of relatively broad charity regulation indicated by the profile for Cluster 1 displayed in Table 3.

Cluster 1 is the most liberal as measured by the state government ideology score. It also has the highest total restrictions, the highest tax rate, highest tax burden per capita, and highest taxes paid to own state per capita. Cluster 1 also has the highest average state GDP and population, although the population figure is only slightly higher compared to Cluster 2. Overall, Cluster 1 states are relatively more liberal, higher tax, and wealthier.

Cluster 1 has the largest nonprofit sector. On average, nonprofits in Cluster 1 have about 1.71 times more total assets and 1.69 times more gross receipts compared to those in Cluster 2. Compared to Cluster 3 the differences are even more striking. Cluster 1 nonprofits have, on average, about 9.03 times the total assets and 8.64 times the gross receipts of nonprofits in Cluster 3. Although Cluster 1 states do have the highest numbers of nonprofits, the figure is somewhat close to the Cluster 2 average.

Table 7: Covariate means by cluster.\(^a\)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Cluster 1</th>
<th>Cluster 2</th>
<th>Cluster 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total restrictions**</td>
<td>156,102.60</td>
<td>125,615.90</td>
<td>67,062.50</td>
</tr>
<tr>
<td>State-local effective tax rate***</td>
<td>0.11</td>
<td>0.09</td>
<td>0.10</td>
</tr>
<tr>
<td>State-local tax burden per capita ($USD)**</td>
<td>5910.93</td>
<td>4730.56</td>
<td>5174.29</td>
</tr>
<tr>
<td>Taxes paid to own state per capita ($USD)**</td>
<td>4681.21</td>
<td>3596.56</td>
<td>3817.00</td>
</tr>
<tr>
<td>State GDP ($USD billions)</td>
<td>526.44</td>
<td>381.25</td>
<td>67.58</td>
</tr>
<tr>
<td>Population (millions)*</td>
<td>7.77</td>
<td>6.42</td>
<td>1.12</td>
</tr>
<tr>
<td>State government ideology (liberalism)***</td>
<td>61.93</td>
<td>48.45</td>
<td>47.86</td>
</tr>
<tr>
<td>Count of 501c nonprofits(^c)</td>
<td>38,327.61</td>
<td>31,463.25</td>
<td>7973.43</td>
</tr>
<tr>
<td>Total assets of 501c nonprofits ($USD billions)**</td>
<td>130.00</td>
<td>76.10</td>
<td>14.40</td>
</tr>
<tr>
<td>Gross receipts of 501c nonprofits ($USD billions)**</td>
<td>62.30</td>
<td>36.90</td>
<td>7.21</td>
</tr>
<tr>
<td>Nonprofit density (count per 100,000 pop.)(^*)</td>
<td>527.61</td>
<td>615.50</td>
<td>755.12</td>
</tr>
<tr>
<td>Nonprofit gross receipts to state GDP ratio</td>
<td>0.13</td>
<td>0.11</td>
<td>0.11</td>
</tr>
<tr>
<td>RBI***</td>
<td>65.64</td>
<td>41.14</td>
<td>28.52</td>
</tr>
<tr>
<td>Bifurcated(^**)</td>
<td>0.57</td>
<td>0.56</td>
<td>0.00</td>
</tr>
</tbody>
</table>

\(^a\)p-values are obtained from separate analysis of variance (ANOVA) tests. \(^*\)p < 0.10; \(^**\)p < 0.05; \(^***\)p < 0.01.
Overall, Cluster 1 states have the largest economies, populations, and nonprofit sectors. Cluster 1 also scores highest on the regulatory breadth index. Finally, more than half of states in Cluster 1 have bifurcated jurisdictions, similar in proportion to Cluster 2.

### 4.2 Cluster 2: Limited Regulation

Ideologically, states in Cluster 2 are more conservative than those in Cluster 1, with much lower state government ideology scores that are closer to the Cluster 3 mean. Cluster 2 states have a more moderate level of total restrictions, falling in between Clusters 1 and 3.

This is the lowest tax cluster. Cluster 2 has the lowest effective tax rate, lowest tax burden per capita, and lowest taxes paid to own state per capita. State GDP and population figures fall in between the other two clusters.

The greater conservatism, lower taxes, and lower GDP provide context for Cluster 2’s profile shown in Table 3. This profile indicates a more limited regulation pattern compared to Cluster 1, despite states in this cluster still containing moderately large numbers of nonprofits. The more limited regulation is reflected in a lower regulatory breadth index value compared to Cluster 1.

This regulatory model emphasizes registration requirements and excludes audit requirements. This suggests a regulatory interest in simply knowing what nonprofits are operating within the state, and possibly a reluctance to subject nonprofits to more intensive regulations such as requiring audits. More than half of states in Cluster 2 have bifurcated jurisdictions, similar in proportion to Cluster 1.

### 4.3 Cluster 3: Asset Oversight

By far, states in Cluster 3 have the fewest total restrictions, lowest GDPs, smallest populations, and fewest nonprofits. Taxation in this cluster is moderate, falling in between the other clusters for the effective tax rate, tax burden per capita, and taxes paid to own state per capita.

Cluster 3 is a low regulation cluster generally, with many fewer total restrictions compared to both Cluster 1 and Cluster 2. It is also the most conservative cluster, with a state government ideology score slightly lower than Cluster 2’s score.

Cluster 3 states have the lowest tax revenue per nonprofit and lowest GDP per nonprofit. This holds even though Cluster 3 states have the fewest number of nonprofits and the lowest levels of nonprofit total assets and gross receipts. Nonprofit density in Cluster 3 is the highest of the three clusters, reflecting much smaller populations.
Unsurprisingly, Cluster 3 scores lowest on the regulatory breadth index. Like Cluster 2, Cluster 3 states do not require audits. However, whereas Cluster 2 states emphasize registration, no states in Cluster 3 require registration. Instead, Cluster 3 states are most likely to monitor the status of charitable assets by requiring notice, filing, review, or action for transactions and dissolutions. This emphasis suggests a regulatory interest in overseeing changes to charitable organizations and their assets. None of the states in Cluster 3 have bifurcated jurisdictions, unlike the other two clusters, which are divided more evenly.

4.4 Profile Summary

In summary, analysis identifies three models of state-level charity regulation. States with broad regulation impose the most requirements across all five areas of charity regulation measured. They tend to be the most liberal, have the most regulations, the highest taxes, and the largest nonprofit sectors. States with limited regulation, by contrast, primarily “just want to know that you’re there” as evidenced by their relative emphasis on registration requirements and lack of audit requirements. These states tend to be more conservative and lower tax compared to states adopting the broad regulation model. Finally, states that adopt an asset oversight regulatory model impose the fewest requirements, requiring neither audits nor registration. These states focus mainly on overseeing changes that may affect charitable assets, especially in relation to transactions and dissolutions. States adopting this regulatory model tend to be the most politically conservative and the least regulated, and they have the smallest nonprofit sectors.

5 Latent Class Analysis: Step-3

The derivation of the categorical latent variable enables new research seeking to explain the emergence of state level charity regulation models using quantitative methods. Prior comparative research in the so-called social origins tradition has proposed that economic, social, and political factors influence the development of a country’s charitable sector (Salamon and Anheier 1998; Salamon, Sokolowski, and Haddock 2017). The preceding descriptive analysis similarly suggests that economic, social, and political characteristics may help to explain features of states’ charitable sectors within the United States. To explore this further, Table 8 displays the results of a multinomial logistic regression analysis predicting the regulatory model (cluster) based on a concise set of economic, social, and political variables. The economic importance of the nonprofit sector in a state is indicated by the ratio of nonprofit
The social significance of the nonprofit sector in a state is indicated by density, or the count of nonprofits divided by the population. The political character of a state is indicated by state ideology. The results shown in Table 8 show effects relative to Cluster 1 in units of multinomial log odds.

To facilitate a more intuitive interpretation of the multinomial logistic regression results, Table 9 displays the average marginal effects of the indicators on the probabilities of cluster membership. States in which the charitable sector is more economically important, less socially important, and that exhibit greater political liberalism have an increased probability of broad regulation. States in which the charitable sector is less economically important and that are more politically conservative have an increased probability of adopting a limited regulation model. Finally, states with a more socially important charitable sector are more likely to have the asset oversight regulatory model.

### 6 Discussion

Why do states adopt a particular charity regulation model? Analysis suggests that regulatory model adoption may be influenced by the economic, social, and political conditions prevailing in each state. However, larger historical forces, coupled with state-level idiosyncrasies, are likely to play a large role in any explanation. The roots of contemporary US charity law have been traced through English law to at least
Roman antiquity (Fremont-Smith 2004). Within the United States, the process of westward expansion resulted in different cultural traditions and legal frameworks taking hold in different places at different times. Complex historical and cultural factors likely affect contemporary patterns of state-level charity regulation in ways that may be difficult or impossible to capture using statistical social science methods alone.

For example, in one prior study of state-level charity regulation, Irvin (2005) singled out six of the seven states from Cluster 3 for the absence of certain registration and reporting requirements, in close alignment with the LCA result based on the RBI data. According to conversations with deputy and assistant attorneys general from those states, this lower level of regulation did not appear to be associated with unusually high levels of charity fraud as might be expected. Irvin (2005, 171, 174) pointed out that both high and low regulation states tend to rely on “the citizen complaint method … to identify potentially fraudulent activity” and proposed that:

the lack of state regulatory action could be due to the small states’ ability to spot the few cases of nonprofit misdeeds when they occur or because fraudulent nonprofits find low-population states to be inefficient places to carry out fraudulent activity.

Table 9: Average marginal indicator effects (dy/dx) on cluster membership.

<table>
<thead>
<tr>
<th>Cluster</th>
<th>Variable</th>
<th>dy/dx</th>
<th>S.e.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cluster 1 (broad regulation)</td>
<td>Economic importance</td>
<td>4.27***</td>
<td>1.54</td>
</tr>
<tr>
<td></td>
<td>Social importance</td>
<td>−0.14***</td>
<td>0.04</td>
</tr>
<tr>
<td></td>
<td>Political ideology</td>
<td>1.41***</td>
<td>0.33</td>
</tr>
<tr>
<td>Cluster 2 (limited regulation)</td>
<td>Economic importance</td>
<td>−3.71**</td>
<td>1.73</td>
</tr>
<tr>
<td></td>
<td>Social importance</td>
<td>0.06</td>
<td>0.04</td>
</tr>
<tr>
<td></td>
<td>Political ideology</td>
<td>−0.90**</td>
<td>0.43</td>
</tr>
<tr>
<td>Cluster 3 (asset oversight)</td>
<td>Economic importance</td>
<td>−0.56</td>
<td>1.12</td>
</tr>
<tr>
<td></td>
<td>Social importance</td>
<td>0.08***</td>
<td>0.02</td>
</tr>
<tr>
<td></td>
<td>Political ideology</td>
<td>−0.51</td>
<td>0.33</td>
</tr>
</tbody>
</table>

*Figures multiplied by 100 for convenience of display. *p < 0.10; **p < 0.05; ***p < 0.01.

5 Irvin excluded South Dakota, which lacks audit and registration requirements but does have requirements for transactions, dissolutions, and fundraising.
This also allows the possibility that greater overall levels of political conservatism in these states may mean that residents are simply less likely to complain to state regulators when fraud is suspected. Even if fraud rates are broadly similar across high and low regulation states, a lower propensity to seek government intervention could help explain lower perceived rates of fraud and therefore potentially explain a lesser need for extensive charity regulation. When suspicions about fraud do arise, it may be that concerned stakeholders prefer to address matters through other means.

These complexities notwithstanding, it is informative that economic, social, and political factors relate to a state’s model of charity regulation. Economic importance is associated with a greater likelihood of broad regulation and a lesser likelihood of limited regulation, suggesting that charity regulation is likely to be more comprehensive when the contribution of the charitable sector to a state’s economy is greater. By contrast, states with a more socially important charitable sector are more likely to adopt the narrowest regulatory model focused on asset oversight and are less likely to adopt a model of broad regulation. It may be that the types of charities that predominate in the more sparsely populated Cluster 3 states are relatively smaller and more numerous than those found elsewhere, perhaps reflecting different cultural and geographic characteristics that favor larger numbers of geographically more dispersed organizations (over the greater consolidation that might occur in more densely populated, urbanized areas). Finally, regulatory model adoption is correlated with political ideology, with more liberal states favoring broad regulation and more conservative states favoring limited regulation or asset oversight. This result agrees with the expectation that liberal politics are likely to result in more, not less regulation, and this tendency appears to extend to the charitable sector.

One further possibility is that state-level charity regulation depends not only upon the overall size but also the composition of each state’s nonprofit sector. Table 10 reports statistics describing states’ charitable subsectors by cluster. The relative sizes of five charitable subsectors as a proportion of the total does not vary significantly by cluster, but a few differences emerge when charitable subsectors are measured in terms of assets. Educational charities account for a larger share of total assets in Cluster 1 (broad regulation), while human services charities account for larger shares in Clusters 2 (limited regulation) and 3 (asset oversight). This suggests that qualitative factors such as the types of charities that predominate in a state may affect the nature of the regulatory models that emerge over time.

Prior research has asserted that the need to increase public trust and confidence in charitable organizations is an important consideration for charity regulators.

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6 Subsector classification is given by the National Taxonomy of Exempt Entities (NTEE) major five codes. Data are obtained from the 2019 IRS Business Master File provided by the National Center for Charitable Statistics (NCCS).
Additionally, so-called contract failure theory—the canonical theory of the nonprofit institutional form—posits that nonprofit organizations are specifically designed to be trustworthy and that this trustworthiness is achieved essentially through regulation (in the form of the prohibition on private inurement referred to as the non-distribution constraint) (Hansmann 1980). One potentially fruitful area for future research would be to rigorously examine whether a state’s charity regulation model is associated with public trust in charitable organizations. To explore this possibility preliminarily, Table 11 summarizes the level of public trust in charitable organizations by cluster for various time periods. Generally, public trust appears to be slightly lower in the cluster of states adopting the asset oversight model that offers the least comprehensive regulation. However, these results should be interpreted with caution due to sparse data for less populated states. A longer panel with annul trust data stratified by state and with regulatory breadth data for each year may be needed to support more conclusive findings in future research.

The emergence of three qualitatively distinct charity regulation models in the United States does not imply that these models were deliberately selected by policymakers or were derived from any explicit political preferences or theories of governance. Rather, it is more likely that these models are the result of myriad idiosyncrasies and path dependencies, including differences in “state nonprofit culture” (Pettijohn and Boris 2018, 1), regulatory responses to specific cases of fraud or abuse, the ongoing need to monitor tax exemptions, the work of particularly...
entrepreneurial lawmakers, and the uneven influence of model acts, among many other potential factors. More research, particularly research of a legal-historical nature, is needed to better understand the qualitative processes and characteristics that influence state-level charity regulation.

Although each state may have traveled a unique path to its current regulatory model, analysis shows that state-level charity regulation can be efficiently characterized with respect to three general models: broad regulation characterized by a relatively comprehensive array of requirements; limited regulation emphasizing an interest in primarily knowing what organizations exist in a state; and asset oversight more narrowly focused on actions that may affect the purpose and status of charitable assets. This typology helps to make sense out of an otherwise unwieldy number of state-level regulatory regimes that have heretofore defied inductive, data-driven classification.

This analysis has several important limitations. First, the cross-sectional, observational nature of the data precludes rigorous causal analysis, and it is likely that numerous features of states related to charity regulation coevolved together and exerted mutual influence. Second, as data about enforcement are not available, it is possible that the de jure regulatory breadth data do not accurately describe the de facto level of regulation and enforcement in each state, particularly after taking reporting propensities and regulator discretion into account. Third, the underlying research does not account for common law or additional statutes that may exist at the local level, such as in municipalities. Perhaps most importantly, statistical

Table 11: Trust in charities by cluster.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Cluster 1</th>
<th>Cluster 2</th>
<th>Cluster 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017–2018</td>
<td>6.44</td>
<td>6.39</td>
<td>5.84</td>
</tr>
<tr>
<td>2020–2022</td>
<td>6.52</td>
<td>6.60</td>
<td>6.37</td>
</tr>
<tr>
<td>2017–2022</td>
<td>6.47</td>
<td>6.48</td>
<td>6.20</td>
</tr>
</tbody>
</table>

a Data are obtained from the Better Business Bureau Wise Giving Alliance/Give.org Donor Trust Report studies, 2017–2022. Respondents were asked: “In general, on a 10 point scale, how much do you trust charities? Use “1” to indicate “Do not trust at all” and “10” to indicate “Completely trust.” For more information, see: https://give.org/give.org-donor-trust-report. Multiple years are averaged together to smooth out potential anomalies due to sparse data for less populated states. The District of Columbia is removed from analysis due to having only one observation in total for all years, resulting in a sample size of 50 instead of 51. p-values are obtained from separate analysis of variance (ANOVA) tests. *p < 0.10; **p < 0.05; ***p < 0.01. The variances for trust in charities for 2020–2022 are unequal according to a Bartlett’s equal variances test. A Kruskal–Wallis equality of populations rank test agrees with the ANOVA result (failure to reject the null hypothesis).

7 For a cross-jurisdictional analysis of regulatory purposes and impact, see: Cordery and Deguchi (2018).
analysis alone cannot possibly incorporate the myriad relevant qualitative-historical factors that inevitably influence the adoption and non-adoption of state-level charity regulations.

7 Conclusions

Amid a perplexing array of charity regulation regimes across all 50 US states and the District of Columbia, this article identifies three general models of state-level charity regulation in the United States: broad regulation, limited regulation, and asset oversight. Although a detailed tracing of the historical emergence of these regulatory models over time is beyond the scope of this research, analysis suggests that the economic, political, and social characteristics of states may help to explain patterns of charity regulation in the United States.

Future research could examine regulatory model emergence quantitatively using longitudinal data. It could also evaluate additional covariates that may have important connections to charity regulation, such as variables related to religious organizations and land ownership, or explore other interesting regulatory patterns, such as the absence of bifurcated jurisdictions in Cluster 3. Attempts could also be made to estimate enforcement rates, perhaps with creative proxy indicators or potentially based on representative surveys, given the low likelihood of obtaining enforcement data directly from state regulators. Additionally, the underlying RBI data could be expanded to include additional statutory variables and possibly also information concerning common law to produce a richer dataset for analysis. Moreover, in-depth qualitative research based on historical data could provide much more detail about the development of charity law over time, especially at the intersections of important economic, political, and social developments within an across states. Finally, research in international studies and related fields could identify and compare regulatory models across countries to derive further insights about the relationships between regulatory models and key outcome variables such as indexes measuring civil society and democracy, levels of public trust in NGOs, and levels of foreign funding of NGOs. Such work could potentially contribute to existing efforts to study and typologize civil society regulatory regimes internationally (DeMattee 2018). Relatedly, research in the social origins tradition (e.g. Salamon and Anheier 1998; Salamon, Sokolowski, and Haddock 2017) could seek to examine the relationship between charity regulation models and patterns of civil society development internationally.

This research has useful implications for researchers, regulators, practitioners, information intermediaries, and donors. Researchers in nonprofit studies and related fields can employ the typology to gain new insights about the role of state-
level charity regulation in their studies. The categorical variable generated by the analysis can be used to contextualize the regulatory environments particular to a given state, to assess the significance of state-level regulatory models in statistical research, or simply to control for differing regulatory models across states in studies of other phenomena. For example, a state’s regulatory model might predict rates of organizational entry and exit, mergers and acquirors, malfeasance, levels of public trust in nonprofit organizations, and other important outcomes of interest. Regulators may find it useful to have a better understanding of their peer group to facilitate convening and benchmarking. Additionally, proponents of the so-called single portal initiative for fulfilling state registration and reporting requirements could consider developing a triple portal, either instead of, or as an intermediate step toward, a single portal. State charity regulators may have an easier time achieving alignment within each of the three clusters than across all states simultaneously. Finally, practitioners and donors may benefit from a simpler and more convenient understanding of the general regulatory environments that prevail in different states. For example, depending on the regulatory model, charity practitioners may choose to incorporate or operate (or not) in certain states, while donors and information intermediaries may wish to incorporate the regulatory context into their assessments of charities. In short, the novel typology can improve our understanding of the charitable sector and facilitate efforts to pursue a variety of desirable outcomes for the sector and for society.

Acknowledgements: The author is grateful to Putnam Barber, Nicolas Duquette, Beth Gazley, Cindy M. Lott, Mark Sidel, and attendees of the 2022 conferences of the International Society for Third Sector Research and the Association for Research on Nonprofit Organizations and Voluntary Action who provided constructive comments and suggestions in the development of this research.

Data availability: Replication files are available at OSF: https://osf.io/hbgu9/?view_only=2660d5a577be4677a0bf754f43dfa74d.

References


