

How to Handle Divisive Social Issues



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Americans rarely rank “culture war” issues among their top priorities, but these issues nonetheless play an outsized role in determining how people view their leaders. For many voters, a politician’s positions and statements on social issues are a gut check, indicating whether a policymaker generally shares their values, perspective, and approach to American society and the world. This manual looks at the mindset of Americans in the middle on:

1. Abortion and Contraception
2. Immigration
3. Religious Liberty and LGBT Non-Discrimination
4. Guns
5. Marijuana

For each topic, we explain how the middle approaches the issue using public opinion data, describe how to talk about it in ways that find common ground and resonate with the values of Americans in the middle, and recommend how to talk about a handful of specific legislative proposals. For more

information or assistance, please contact Nathan Kasai at nkasai@thirdway.org or (202) 467-6651.

Abortion & Contraception

What the Middle Thinks

Moderates feel a deep tension when it comes to the issue of abortion—torn between trusting individuals, rather than government, to make the right decisions for themselves and their families, while recognizing the moral complexities inherent in those decisions. But they also believe the debate is over and the issue has been resolved in an appropriate way.

Our polling found 72% of Americans believe the decision to have an abortion should be between a woman, her family, and her doctor, but at the same time, 69% also agreed with the statement that “abortion is the taking of a human life.”¹ Public Religion Research identified a similar overlap when they asked separate questions about whether respondents consider themselves pro-life and whether they consider themselves pro-choice (rather than forcing people to choose one or the other like most polls), finding that 43% of Americans identify as both pro-life *and* pro-choice.² But most strikingly, moderates overwhelmingly believe the issue has been decided and the legal status quo on abortion strikes the right balance. In a recent Third Way poll, a scant 13% of moderates wanted government to set more ground rules on abortion, compared to 84% who preferred to place more trust in individuals to make good decisions.³

On contraception, moderates see far less complexity. Eighty-nine percent of Americans believe birth control is morally acceptable, including 87% of both Republicans and Independents.⁴ And 99% of sexually active women have used contraception in their own lives.⁵ Polling also shows a large majority of Americans—71%—believe that insurance plans should be required to cover contraceptive care without a co-pay.⁶ That was previously required under the *Affordable Care Act* (ACA), but was being gutted by the Trump

Administration and would have been removed completely under the GOP health care proposals.

How to Appeal to the Middle

Win the battle of reasonableness. That means: 1) framing abortion opponents as absolutists who want to wage this battle year after year; and, 2) staking out a position that affirms the right to choose while acknowledging the complexity through a framework of “*reducing the need for abortion while protecting the right to have one.*” Doing these two things maintains progressive principles on abortion rights while acknowledging concerns many voters may have about the morality of the issue. It also marginalizes anti-abortion advocates by distinguishing them as being absolutist activists seeking a broad agenda of bans, criminalization, and imprisonment.

Advice for Talking about Specific Legislative Proposals

Speaking to the middle about opposition to 20-week abortion bans:

- This issue has been decided for more than 40 years, but some people want to fight about it for another 40. Fetuses aren't viable at 20 weeks, so banning and criminalizing abortion after that arbitrary date is just another attempt to overturn *Roe v. Wade*. Courts in several states have already struck down or blocked their state 20-week bans. Americans want this issue to remain settled—they do not want to change the Constitution.

- These bills are so stunningly broad that only a pure absolutist could support them. Many have no exceptions for fatal birth defects or the health of the woman. They often severely limit the rape and incest exception to cover only certain instances of rape—like those reported to police—because they assert that women will lie about being raped to get an abortion. And even if an abortion passes their rape test, these bans commonly dictate that a doctor must use the method of abortion most likely to allow the fetus to survive.
- The 20-week date is arbitrary and says to mothers and fathers that we don't trust them. About 2% of all pregnancies suffer from a major birth defect, and often, no medical treatment can save the fetus. For many pregnant women, it is only in weeks 16-22 that they would even have a hint that something could be fatally wrong with their pregnancy. It can take weeks to get results from follow-up tests to confirm that diagnosis. By the time a woman has found a specialist, considered the incredibly difficult decision to terminate her wanted pregnancy, and set an appointment with a doctor willing to perform the abortion, the 20-week mark has often passed.⁷

Speaking to the middle about funding for Planned Parenthood:

- Planned Parenthood can't spend federal funding on abortion services except in cases of rape, incest, or life endangerment. Its federal funding comes from both Title X and Medicaid, and not a single cent of Title X funds can be spent on abortions under any circumstances. Nor can federal Medicaid dollars be used to cover abortions, except under those longstanding limited exceptions. What the organization does spend federal funding on is preventing unintended pregnancies—and the abortions they would have led to. Each year, the contraceptive services provided by Planned Parenthood help prevent an estimated 579,000 unintended pregnancies—which statistically would have likely led to 197,000 abortions per year.⁸

- Defunding Planned Parenthood would cut millions of women off from access to birth control. In 21% of counties where Planned Parenthood health centers are located, they are the only place where women can access publicly funded contraceptive care.⁹ In the majority of states, at least 25% of patients relying on publicly funded health clinics for contraception are served by Planned Parenthood—and in seven states, it's more than 50%.¹⁰ Other safety net providers simply don't have the ability to fill the gap if Planned Parenthood were to shut down. To treat *just* the contraceptive patients currently served by Planned Parenthood, they would have to increase their patient load by an average of 47%, and in some states by more than 200%.¹¹
- More than half of Planned Parenthood patients rely on Medicaid to access preventive and contraceptive care, so excluding the organization from Medicaid eligibility would have serious consequences. According to the Congressional Budget Office, doing so would cost taxpayers \$130 million dollars over the next decade due to an increase in unintended pregnancies.¹² And when Texas did something similar on the state level, 54% fewer patients received care, there was a 35% decline in the number of women using the most effective forms of birth control, and there was a 27% increase in pregnancy among women who rely on Medicaid.¹³ Additionally, excluding Planned Parenthood from Medicaid would violate longstanding rules that protect patients' rights to choose any participating provider, especially when it comes to family planning care.

Immigration

What the Middle Thinks

On immigration, Americans in the middle are of two minds—sympathetic to the plight of undocumented immigrants, but worried about national security and the economic implications of immigration. Seventy-six percent of

Americans say that undocumented immigrants are as honest and hard-working as U.S. citizens. But 59% report worrying “a great deal” or “a fair amount” about illegal immigration.¹⁴ In general, Americans are split on whether immigrants help or hurt the economy—with 49% saying immigrants help the economy by providing low-cost labor and 40% saying they hurt it by driving down wages.¹⁵ Meanwhile, promoting national security is the number one value Americans want to guide immigration reform—with 84% rating it very or extremely important.¹⁶

Despite the heated rhetoric coming from the White House, most Americans don’t support President Trump’s immigration priorities. Fifty-eight percent of the country is more concerned that widespread deportation efforts will go too far than they are that dangerous criminals will remain in the country.¹⁷ And when asked about eight different potential priorities for immigration policy, erecting a border wall was the least popular, with only 39% of Americans ranking it somewhat or very important.¹⁸ When it comes to reforming our immigration system, pluralities of both Republicans and Democrats, 45% and 47% respectively, say that better border security/stronger law enforcement and creating a path to citizenship should be “given equal priority.”¹⁹ Moderates aren’t falling for President Trump’s caricatures of immigrants and are ready to support policies that will reform our broken immigration system—but only if those policies are framed the right way.

How to Appeal to the Middle

Despite their conflicting feelings, Americans in the middle can and do support immigration policies when they can be described as “*tough, fair, and practical.*” Tough means tough on border enforcement, fair means fair to taxpayers, and practical means restoring the rule of law and solving the problem for good. This framework reassures moderates that reforms will strike the right balance, placing our national interests—like a secure border and a strong economy—at the forefront of policy-making decisions. Additionally, it

addresses concerns that Democrats will ‘give away the store’ by being too lenient and that Republicans will be overly harsh. Perhaps most importantly, this framework offers moderates a direct route forward for reform, so that our country can fix its broken system and finally put this issue to bed—because the main thing most Americans agree upon is that they are tired of talking about immigration reform.

Advice for Talking about Specific Legislative Proposals

Speaking to the middle about the border wall:

- The border between the U.S. and Mexico is more secure now than at any point in history. Every border security standard outlined in the 2006 immigration reform bill—crafted the last time Republicans held both chambers of Congress and the White House—has already been met, and in many cases exceeded. The southern border has seen massive increases in Border Patrol agents, fencing, spending, technology, and resources in the last decade. As a result, apprehensions of immigrants from Mexico and South America are at near all-time lows, and net immigration from Mexico has actually become negative.²⁰
- Physical barriers already exist along the most highly trafficked and regularly crossed sections of the border. What remains unfenced are areas where few immigrants can cross—like the Rio Grande River and unpopulated and inhospitable desert and mountainous regions. It would be extremely difficult and expensive to build there, with estimates suggesting it would cost as much as \$16 million per mile—six times what it cost to build the existing fence. Additionally, building a wall or fence along the Rio Grande River—which itself delineates much of the border—would violate international treaty obligations prohibiting the U.S. from building any structures affecting the flow of the river without express permission from Mexico.²¹

- Two-thirds of the land along the Southern border isn't owned by the U.S. government. That means that in order to build a wall, the government would either need to obtain permission from each individual landowner or take the land by exercising its eminent domain powers—a move that is not only extremely unpopular in Congress and with the public, but that would lead to expensive and protracted legal battles. ²²

Speaking to the middle about sanctuary cities:

- No policymaker supports creating a safe haven for criminals and gangs. Sanctuary policies don't prevent law enforcement and government officials from arresting and prosecuting violent criminals. Whether or not a city has a sanctuary policy, federal officials and local law enforcement work every day to keep dangerous criminals off American streets.
- If a person commits a violent crime, they should be prosecuted to the fullest extent of the law, no matter where they live. And if an undocumented immigration is convicted of a violent crime, they should be deported.
- Our immigration system is broken. We desperately need to overhaul the system and fix it from the ground up, including border security improvements and an earned pathway to citizenship for undocumented immigrants currently here if they keep out of trouble, work hard, learn English, and pay taxes.

Religious Liberty & LGBT Non-Discrimination Laws

What the Middle Thinks

Americans in the middle believe that our laws and Constitution already provide robust protections for religious liberty, and they do not think marriage or non-discrimination laws protecting LGBT Americans threaten

religious beliefs or practices. Sixty-one percent of Americans don't think a small business owner should be allowed to refuse to provide products or services to an individual because that person is gay or lesbian, regardless of the business owner's personal religious beliefs.²³ And 64% oppose new laws that would allow small businesses to deny wedding-related services to gay couples based on an owner or employee's religious beliefs.²⁴ Americans believe that exemptions from non-discrimination laws should largely be limited to places like churches and synagogues and people like pastors, priests, and rabbis.²⁵

Moderates also favor policies that enable transgender Americans to live their lives true to themselves. A majority of Americans—53%—believe that transgender people should be allowed access to restrooms that match their gender identity.²⁶ Twice as many say transgender Americans should be able to serve their country in the military as believe they should not (58% to 27%).²⁷ Vast majorities of Americans think there is a lot of discrimination against LGBT people in the United States, with 64% saying that's the case for transgender Americans in particular.²⁸ And states that have enacted legislation targeting transgender people have received public backlash both from voters and companies that are key contributors to their economies. Still, views towards LGBT people have shifted rapidly, as have policies that protect them, and many Americans are still adapting to the pace of that change.

How to Appeal to the Middle

Many people have never thought about LGBT issues in depth before, so it is important to introduce them in a way that speaks to moderates—by *talking about values and reassuring people that religious organizations won't be adversely affected*.

When speaking out to oppose overly broad religious liberty bills or on behalf of non-discrimination laws, rely on fundamental American values—like the Golden Rule, freedom, and meritocracy—that lie at the heart of non-discrimination laws and policies. Because many Americans in

the middle feel some level of tension between religious beliefs and the rapid change in societal treatment of LGBT people, reinforce that no one has to change their beliefs, but as Americans we have agreed that it's wrong to turn someone away or deny someone access because of who they are.

And where non-discrimination laws include exemptions for small businesses or religious organizations—which many of them do, at both the state and federal level—it is valuable to mention those carve-outs to reassure those in the conflicted middle that the laws are balanced and have taken into account the views and interests of those who may oppose them. Finally, Americans agree that allowing businesses to refuse to serve or hire gay people is discrimination, but there is no need to draw explicit analogies between the discrimination faced by gay and transgender Americans today and the horrors faced by people of color during the Civil Rights era. It is more effective to focus on the discrimination at hand and let people fill in any analogies that resonate with their own experiences for themselves.

Advice for Talking about Specific Legislative Proposals

Speaking to the middle about overly broad religious liberty exemptions:

- Businesses don't have to change their beliefs, but they do have to follow the same laws as everyone else. If they open up a storefront for business, they can't turn someone away because of who they are. A jewelry store selling rings, a caterer baking a cake, or a clean-up crew vacuuming the floor is not endorsing a marriage. They are in business and fulfilling a contract for services.

- Twenty-one states already have non-discrimination laws that protect gay Americans and 19 protect transgender Americans as well.²⁹ Those laws balance the need to protect religious liberty with the need to ensure that LGBT people and couples aren't being refused service in public businesses. Marriage laws don't undermine existing religious liberty protections for non-profit religious organizations and churches—in many cases they've made them even stronger.
- Some overly broad bills would allow religious organizations using taxpayer dollars to turn away gay couples in need—but that's in direct conflict with both our fundamental values and the spirit of the Charitable Choice rules established more than a decade ago by the George W. Bush Administration.
- Religious organizations offering services paid for by taxpayers should not be allowed to use a religious test to determine who they will or will not serve. If an organization is using taxpayer money, they should not be able to pick and choose among qualified applicants.

Speaking to the middle about access to bathrooms for transgender people:

- Transgender people need to use the restroom just like everyone else does. They aren't looking for special treatment—just the ability to use the facilities and go on about their day, without being treated differently under the law. They should not have to avoid public places for fear of needing to use the restroom.
- About half of the U.S. population already lives in a place that protects transgender Americans' ability to use the restroom aligning with their gender identity.³⁰ Nineteen states, the District of Columbia, and hundreds of cities, municipalities, and school districts across the country have already enacted such protections, many of which have been in place for years—without incident.³¹

- Law enforcement officials nationwide have unequivocally confirmed that allowing transgender Americans to use the restroom that aligns with their gender identity *does not* put public safety at risk.³² In places with non-discrimination laws already in place, there have been no increases in attacks occurring in bathrooms or people pretending to be transgender to access a particular restroom.³³ Anti-harassment and assault laws already protect all people in restrooms, regardless of gender identity or additional state protections. No non-discrimination law would change that.³⁴

Guns

What the Middle Thinks

Americans in the middle feel a deep tension on guns. They are broadly supportive of commonsense gun laws like expanding criminal background checks for gun sales. In a recent Third Way poll, 84% of moderates agreed that we need to expand background checks on gun sales to keep firearms out of the hands of criminals. Yet, 58% of moderates believe that current gun laws are already sufficient to protect them and their communities.³⁵ This tension was also evident when we asked whether people believed that we need more government ground rules on gun sales or more trust in individuals. Unlike liberals and conservatives who overwhelmingly leaned one way or the other (by 58 and 41 points, respectively), moderates were split almost down the middle, with only a nine-point margin in favor of more ground rules (53% ground rules to 44% trust in individuals).³⁶ That divide is likely one of the reasons why passing gun safety legislation is so much more difficult than top line polling numbers suggest—and why talking about guns in the right way is so crucial.

How to Appeal to the Middle

The best way to appeal to the torn middle is to be the “rights and responsibilities” person on guns. That means *owning the Second Amendment* in a way that allows for support of

reasonable gun laws. Policymakers and candidates should establish that they take a backseat to no one in support of Second Amendment rights—but that those rights come with responsibilities and don't extend to terrorists, criminals, abusers, or the dangerously mentally ill. This balance is important to acknowledge for those conflicted moderates who are generally supportive of expanding commonsense gun laws but want to ensure that the government won't steamroll individuals or their rights. It means finding areas of common ground with the more than a third of American households that own a gun, rather than demonizing gun owners—we all want to live in safe communities and keep guns away from criminals. The best way to protect gun rights is to pass sensible gun laws to ensure that law-abiding Americans can continue to use guns for collection, protection, and sport while keeping guns out of the wrong hands. And we need laws that recognize the ways the world has changed since Congress last passed a gun bill more than two decades ago. The advent of the internet has created a virtual loophole for people to buy and sell guns online to strangers—without having to run any kind of background check.

Advice for Talking about Specific Legislative Proposals

Speaking to the middle about universal background checks legislation:

- Universal background checks are solely meant to ensure guns stay out of the hands of those who are already legally prohibited from buying a firearm. Current federal law only requires background checks for the purchase of a gun through a licensed firearms dealer, critically missing purchases of guns through private sales. With these loopholes, anyone prohibited from possessing a gun, including convicted felons, violent criminals, and individuals deemed dangerously mentally ill, can bypass a background check. Under a universal background check system, however, every purchase would be reviewed to ensure dangerous weapons stay out of the hands of those who should not have them.

- Expanding background checks are remarkably uncontroversial to most Americans. In fact, Ninety percent of Americans support universal background checks for purchases of guns from both registered dealers and private sellers.³⁷ And several states across the country have already taken the lead by enacting universal background check legislations.³⁸ In each of these states, proud American traditions like hunting continue unencumbered. That's exactly why many hunters have joined organizations like *Gun Owners for Responsible Ownership*, which support universal background checks.³⁹
- Universal background checks will not and cannot create a federal national gun registry. Federal law explicitly requires the immediate destruction of identifying information background check and the only record of the gun sale stays with the dealer. And none of the serious proposals to close loopholes in our background check system would alter this.

Speaking to the middle about high-capacity magazines:

- Prohibiting high-capacity magazines can save lives during a mass shooting. In many of these harrowing incidents, survivors noted that the only opportunities they had to escape danger or take action was during the small window when the shooter had to reload his or her firearm. During the tragic events of the Parkland, Florida high school shooting, many students were able to escape during the time the gunman was struggling to reload his weapon. And in 2011, when Representative Gabrielle Giffords and several others were shot in Tucson, Arizona, brave bystanders were able to stop the gunman from inflicting more bloodshed only when he was reloading.

- High-capacity magazines are frequently used in mass shootings across the country but have little practical use elsewhere. Their primary intent is to dispense an excessive amount of ammunition rounds in a short amount of time. Responsible firearm owners don't need 100, 30, or even 15 rounds of ammo to hunt or defend themselves. But limiting capacity can save lives. In eight states with limits on high capacity magazines, mass shootings occurred at a 63% lower rate than in unrestricted jurisdictions. ⁴⁰
- And the majority of Americans support reasonable restrictions on magazine capacities, with seven in ten voters backing the proposal. ⁴¹ Many state legislators are also listening to these calls of the American people and have already taken action. Ten states, plus Washington, D.C., have implemented limits on high-capacity magazines for either all firearms or handguns. ⁴² These states' legislators were able to pass commonsense gun safety laws that can ultimately serve as a model for Congress to follow.

Speaking to the middle about red flag laws:

- Red flag laws (also known as “Extreme Risk Protection Orders”) allow family members or police officers to petition a court to temporarily remove access to firearms when it's clear a person may seriously inflict harm on themselves or others. ⁴³ These protective orders include strong individual liberty safeguards and can only be issued after a court hearing in front of a judge. And these orders are temporary – intended solely to help an individual through a seriously challenging portion of their life without harming themselves or others.

- These measures have proven to be a common ground approach to addressing gun violence. Prior to 2018, five states had enacted a red flag law, but following the Parkland school shooting the number of states with them has more than doubled. And in many cases they were enacted with strong bipartisan support.⁴⁴ In fact, Republican governors across the country signed them into law, including governors John Kasich (OH), Phil Scott (VT), and then-governor Rick Scott (FL).⁴⁵ Even the NRA has conditionally conceded its most strenuous opposition to red flag laws.⁴⁶
- Red flag laws have proven effective in preventing suicides through firearms, which account for two-thirds of all firearm-related deaths.⁴⁷ Without extreme risk protection laws, those close to a distressed individual are too often left without the legal means to protect loved ones from gaining access to a firearm used to harm themselves or others. Red flag laws help prevent these harmful events from occurring by giving family members the opportunity to intervene at the first sign of a crisis, and the results are promising. In Indiana and Connecticut, two of the first states to pass red flag legislation, saw 8% and 14% respectively, in firearms suicides since the enactment of their states' laws.⁴⁸

Marijuana

What the Middle Thinks

The views of the middle on marijuana are nuanced and complicated. According to a recent Quinnipiac poll, 59% of American voters support legalizing marijuana broadly, while 36% oppose it.⁴⁹ Some polls have found even higher levels of support, reaching into the 60s.⁵⁰ However, this steadily rising number disguises a more complicated reality. Ninety-three percent of voters support legalizing medical marijuana, meaning that a third of them—34%—support marijuana use for medical purposes *without* supporting broader legalization.⁵¹ The voters who fill this space between blanket

legalization and total prohibition form what we call the “marijuana middle.” Based on our public opinion polling, this group skews towards white women, people ages 50 and over, and self-identified moderates or conservatives.⁵²

Despite its torn views on legalization itself, the marijuana middle is quite clear in its belief that the current conflict between state laws that legalize marijuana and federal laws that prohibit it is untenable—and that Congress has a responsibility to fix it. In our polling, 67% of voters said Congress should pass a bill giving states that have legalized marijuana a safe haven from federal marijuana laws, so long as they have a strong regulatory system.⁵³ Even almost a quarter of those voters who oppose legalizing marijuana for recreational use support a safe haven policy that would let states act within federal guidelines.⁵⁴ When given an option of state or federal control, a clear majority of the electorate believes states should control and decide whether to legalize marijuana (60% state control compared to 34% federal government enforcement).⁵⁵ And a full 71% of Americans—including majorities of every single demographic group—oppose the federal government going into states that have chosen to legalize marijuana for medical or recreational purposes to enforce the federal ban.⁵⁶ Americans—in particular the marijuana middle—recognize that the current system doesn’t work, and they responded in our polling not with ideological proclamations but by supporting a middle-ground, commonsense safe haven policy that would ease that conflict as the legal landscape continues to quickly shift.

How to Appeal to the Middle

The best way to frame marijuana discussions to appeal to the marijuana middle is to *allow states to be responsible actors within set federal guardrails*. Because of the federal prohibition on marijuana, states’ efforts to effectively regulate their markets are severely hampered and their ability to be responsible regulators is curtailed by fears of federal preemption lawsuits. However, not all state legalization laws are equally effective, which is why we also need to maintain

federal guardrails that steer states towards protecting federal interests, like keeping roads and kids drug-free.

Additionally, when talking to the middle it is critically important to distinguish marijuana from other drugs—not lump them together. While talking about the failure of the drug war may be effective with young white men and some Independents, it does not speak to the marijuana middle. Another common mistake is an over-reliance on the popularity of medical marijuana. Though there is overwhelming support for its legalization, it is only a place to start the conversation—focusing on medical marijuana alone does not necessarily lead the marijuana middle towards support for full legalization. Instead, talking only about medical marijuana cries out for a targeted, medical-only solution, one that fails to resolve the conflicts on the ground being experienced by the eight states (and D.C.) that have already legalized recreational marijuana. Instead, voters in the middle respond to the idea that the pragmatic choice is to give states that are acting responsibly the ability to effectively regulate both medical and recreational marijuana where voters have decided one or both should be legal—and to crack down on states that are legalizing marijuana in irresponsible ways.

Advice for Talking about Specific Legislative Proposals

Speaking to the middle about federal enforcement in states that have legalized:

- Ninety-eight percent of Americans live in a state that has legalized some form of marijuana—but all of those laws are in violation of the federal ban. That means every cancer patient using medical marijuana, business owner operating a dispensary, or banker providing financial services for a marijuana company is at risk of federal prosecution, fines, and jail time even though they are following the laws in their state.

- Congress has already spoken on this issue—by directly prohibiting the Administration from enforcing the federal ban in states that have legalized medical marijuana. First passed in 2014, Congress has included a policy rider in every federal appropriations bill since that ties the hands of the Drug Enforcement Administration so that states can enact effective regulatory systems. That rider has now passed the Republican-controlled House Floor and Senate Appropriations Committee several times, every time with growing bipartisan support. And if House Leadership would allow a vote, it would easily be extended to also cover recreational marijuana states.
- If states are going to be laboratories of democracy when it comes to marijuana legalization, we have to give them the space to effectively regulate their markets without the threat of the Drug Enforcement Administration airdropping in. That sort of threat not only incentivizes hands-off regulations, it also scares away the banks and legitimate entrepreneurs that a community needs for the industry to function safely and responsibly.
- Everyone agrees that a federal crackdown would be bad policy. Nearly three-quarters of the American public opposes it.⁵⁷ The Governors in several states that have legalized—even those who did not personally support legalization in the first place—have written to the Attorney General, defending their states’ regulatory systems and asking him to not to intervene.⁵⁸ And the Department of Justice doesn’t have the resources to enforce the federal ban on marijuana in the 46 states who laws currently violate it.

Speaking to the middle about “safe haven” legislation:

- We need to resolve the conflict between state legalization and federal prohibition by creating a safe haven for states that have robust regulatory systems. With a waiver system, states will be able to more effectively regulate their marijuana markets because they won't be hamstrung by concerns that limit state employees from interacting with marijuana due to fear of being targeted by federal officials—even for consumer protection purposes like testing and labeling. Banks will be able to serve legal marijuana businesses, ending their need to rely on all-cash systems that present a huge risk for crime. And participants in legal state markets—from cancer patients to business owners—will no longer have to live in fear of future federal prosecution.
- Not all state marijuana legalization laws are created equal. Safe haven proposals like the *SMART Enforcement Act* introduced by Rep. Suzan DelBene (D-WA) would give the federal government a tool to guide the states, through the waiver process, to establish strict and effective systems that protect important federal interests. Other proposed solutions could leave the government unable to step in to prevent drugged driving, youth access, or gang violence. If the federal government's hands are tied, it could perpetuate a wild west of marijuana, where states establish wildly differing regulatory schemes that don't take into account federal interests or prioritize public safety.
- The *SMART Enforcement Act* would establish a process for ongoing oversight by requiring that waivers are reauthorized every three years, if eligible. It would guarantee that the federal government will have a chance to monitor whether states are regulating marijuana responsibly, review data on long-term effects of legalization, and prompt a course correction if need be.

ENDNOTES

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- 4.** Art Swift, “Birth Control, Divorce Top List of Morally Acceptable Issues,” Gallup, June 8, 2016. Accessed September 6, 2017. Available at: <http://www.gallup.com/poll/192404/birth-control-divorce-top-list-morally-acceptable-issues.aspx>.
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- 10.** Jennifer J. Frost and Mia R. Zolna, "Response to Inquiry Concerning the Impact on Other Safety-Net Family Planning Providers of 'Defunding' Planned Parenthood," The Guttmacher Institute, June 15, 2017. Accessed September 6, 2017. Available at: <https://www.guttmacher.org/article/2017/06/guttmacher-murray-memo-june-2017>.
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