

North Dakota

LGBTQ+ Business Climate Score

out of a possible 100 points

55.22

NOTABLE RISK

Out Leadership's Business Climate Index for the 50 United States is an assessment of states' performance on LGBTQ+ inclusion. It measures the impact government policies and prevalent attitudes have on the LGBTQ+ people residing in each state, quantifying the economic imperatives for inclusion and the costs of discrimination. It equips business leaders and policy makers with a clear sense of the most impactful steps states can take to make themselves more hospitable to forward-thinking, innovative, inclusive businesses.

Color Coding



For more context around these scores, and to learn more about the criteria we used to assess how state laws, actions and attitudes toward LGBTQ+ people create business and talent risks, please visit outleadership.com/driving-equality/us-state-ceo-briefs/

North Dakota



Legal & Nondiscrimination Protection

The Legal and Nondiscrimination Protections section includes two subsections: The **Personal Legal Scale** assesses the state's laws directly impacting LGBTQ+ individuals. This includes processes for transgender people to change their gender markers on birth certificates and driver's licenses, as well as protections for individuals in housing, the workplace, public spaces, foster care, and more. **Two Nondiscrimination Protections Scales** assess the extent to which LGBTQ+ people are protected under state law. One evaluates nondiscrimination laws related to employment and the other evaluates any nondiscrimination laws related to housing, public accommodations, credit and lending.



Youth & Family Support

The Youth and Family Support section contains three subsections. The **Family Support Scale** measures how supportive the state is of LGBTQ+ people who are in or wish to start families. Elements of this scale include: the percentage of LGBTQ+ families raising children, and whether state family leave laws cover same-gender couples and allow workers to care for the children they are raising. The **Children and Youth Scale** assesses the resources available to LGBTQ+ children and youth in the state, including whether the state has non-discrimination laws and policies for LGBTQ+ students. The **Targeted Laws** section evaluates states on whether they ban discussion of same-gender marriage in schools, and whether they ban conversion therapy for minors.





Political & Religious Attitudes

The Political and Religious Attitudes section contains two subsections. Taken together, these scales assess the tone of the state's conversation around LGBTQ+ rights. The **Religious Protections Scale** assesses the extent and impacts of a state's constitutional or statutory religious exemption laws, and whether state law provides for targeted religious exemption from laws governing child welfare services, private wedding services, and the provision of medical care. The **State Leadership Scores** are Out Leadership's unique measures evaluating the state's most senior elected officials – the Governor and the two U.S. Senators – and assessing how they've represented their views of LGBTQ+ people in speeches and in their political platforms, and in terms of how they've acted with regard to laws impacting LGBTQ+ equality.

6.8_{/20}



Health Access & Safety

The Health Access and Safety section contains two subsections. The **Health Scale** assesses LGBTQ+ people's access to insurance and medical care in each state, giving particular emphasis to the most economically precarious and vulnerable members of the community. The **Safety Scale** is based on two significant laws protecting or criminalizing behaviors affecting LGBTQ+ people. It asks whether the state protects LGBTQ+ people in its hate crime laws. It also assesses whether the state criminalizes exposure to or transmission of HIV.

8.0_{/20}



Work Environment & Employment

The Work Environment and Employment section contains two subsections. The **Work Environment Scale** assesses transgender individuals' experiences at work, including incidences of verbal harassment, sexual assault, and other mistreatment. The **Employment Scale** is based on assessments of LGBTQ+ employment in the state. This scale includes the percentage of LGBTQ+ people making less than \$24,000 annually (approximately the current Federal poverty line), and the differences in unemployment rates and food insecurity between LGBTQ+ and non-LGBTQ+ identified individuals.

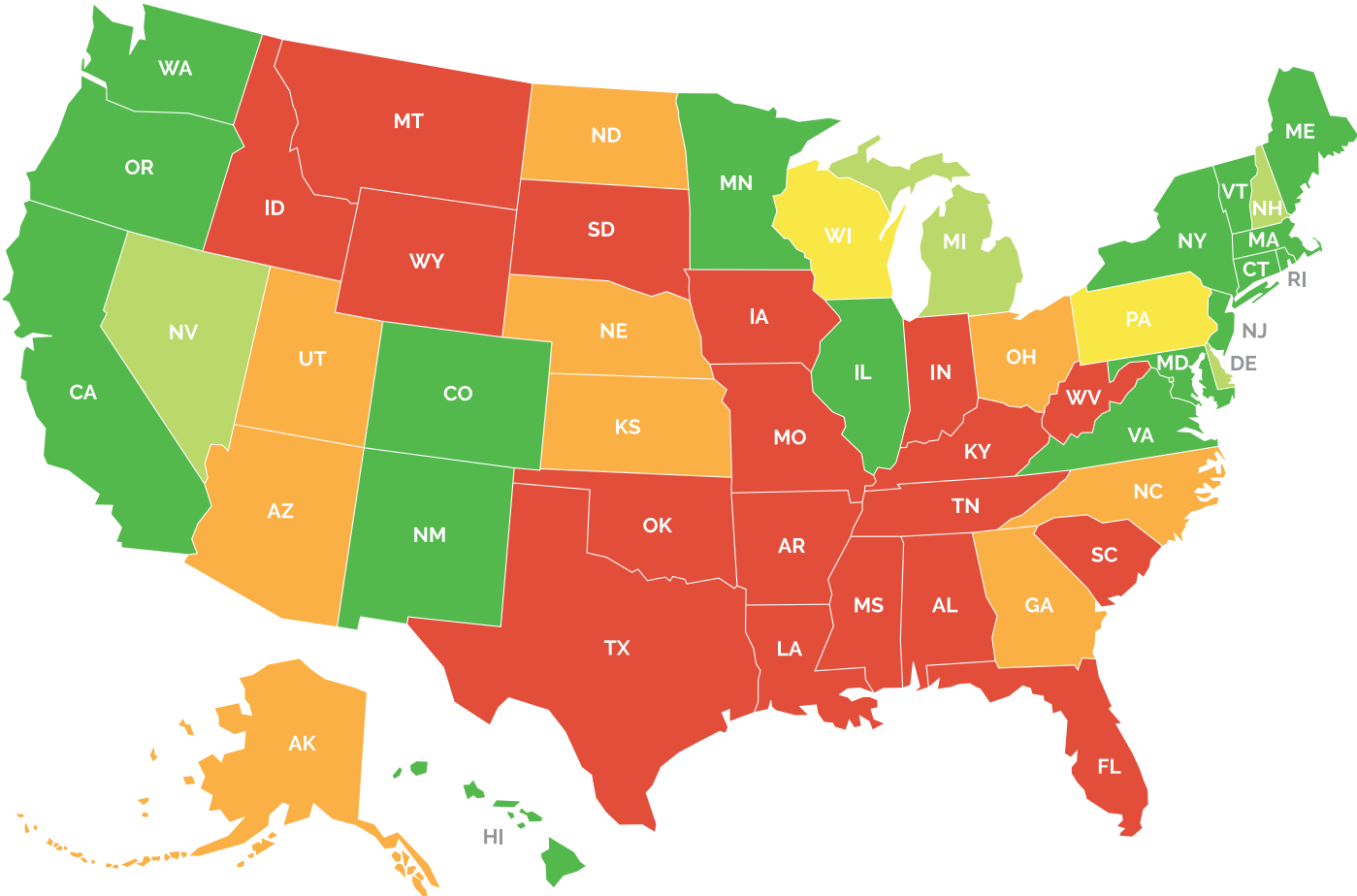
17.0_{/20}

A Note on Methodology

Download this report to learn how and why Out Leadership created the LGBTQ+ Business Climate Index for the 50 U.S. States, with important details about our methodology, including our data standards and practices. NOTE: *HIV criminalization laws are discriminatory and ineffective. These laws fail to account for advances made in treating and controlling HIV, may deter people from getting tested and seeking treatment, and can exacerbate the stigma targeting people living with HIV and LGBTQ+ people.

United States Heat Map

The legal and cultural situation for LGBTQ+ people varies widely across the country. This map, based on each state's total Business Climate Score, illustrates the states where LGBTQ+ people are empowered to participate more fully and openly in the economy, and the states that are lagging behind.





North Dakota Talking Points

4.9% of North Dakota residents identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$1.4 billion – it's a market my business can't afford to ignore.

Increased hostile policy toward the LGBTQ+ community will have a negative impact on companies ability to attract and retain top talent.

When LGBTQ+ employees don't feel welcome at work, they're less likely to stay, and employee turnover is a drag on the state economy and business competitiveness. It costs companies an average of \$9,626 to replace an employee in North Dakota, and it can cost up to \$368,277 to replace senior executives. North Dakota and the businesses operating there have strong financial incentives to create inclusive workplaces in the interest of keeping these costs down.

Nondiscrimination policies allow LGBTQ+ people to participate more fully in the economy.

Millennial and Gen Z consumers prefer to do business with companies with LGBTQ+ friendly advertising and policies – 54% say they're more likely to choose an LGBTQ+ inclusive brand over a competitor – which is why it's important that North Dakota continue to foster a business environment where being inclusive is supported. State leaders should set a welcoming, not a stigmatizing tone.

North Dakota has a regressive attitude towards trans-inclusive health coverage. Treating trans people as unequal makes us look complicit if we choose to do business in North Dakota – equality is good for everyone's bottom line.

Regional Context

The Midwest

Out Leadership and FCB partnered on original market research into the attitudes of American workers on LGBTQ+ inclusion, which fielded in 2019 and 2020. These briefs as a whole will be updated on an ongoing basis by Out Leadership because we recognize the ever-changing nature of policy on the local, state, and national level.

Only 50.8% of LGBTQ+ workers in the Midwest are out at work. They are only slightly more comfortable being open with their managers than other regions (14% more likely), but they are the least likely to cover their identity at work (17% less likely than nationwide). This could be due to the Midwest having the lowest rates for observing microaggressions (23% less likely) and hearing or engaging in negative conversations on average. However, workers in this region do not typically go out of their way to do business with inclusive companies (21% less likely than the nation as a whole). This is primarily driven by those who live in more rural areas where respondents were 85% less likely to do business with companies that are inclusive.

Unless otherwise noted, all comparisons for more or less likely are compared to the National results. Regional results are based off of 1,500 respondents (LGBTQ+ and Non-LGBTQ+ responses have been weighted to be age-representative for each audience in each region). National results are based off of 600 respondents representative of each audience (LGBTQ+ vs Non-LGBTQ+).

States in the Midwest region included: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, North Dakota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

Impact of LGBTQ+ Discrimination on Business Talent

1

NO RISK

2

LOW RISK

3

MODERATE RISK

4

NOTABLE RISK

5

HIGH RISK

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Brand Risk

5

HIGH RISK

Companies incur high risk to their brands by operating in North Dakota. There are no statewide LGBTQ+ inclusive nondiscrimination protections, the state's governor and senators have negative voting records on LGBTQ+ issues, and adoption agencies are allowed to discriminate against potential LGBTQ+ parents.

Client Risk

4

NOTABLE RISK

There is notable risk of LGBTQ+ or strong ally clients pulling their business from companies operating in North Dakota in light of the state's business climate and reputation.

Talent Risk

4

NOTABLE RISK

LGBTQ+ professionals are likely to consider North Dakota's legal and social environment unfriendly. There is no statewide LGBTQ+ inclusive nondiscrimination law, no hate LGBTQ+ hate crimes protections, no trans healthcare coverage protections, and adoption agencies can discriminate against LGBTQ+ adoptive parents on religious grounds. All of this makes working in North Dakota unattractive to LGBTQ+ talent.

Marketing Risk

5

HIGH RISK

There is notable risk involved in marketing to the LGBTQ+ community in North Dakota, where there is no statewide LGBTQ+ inclusive nondiscrimination law, sexual orientation and gender identity are not protected under state hate crimes legislation, and no statewide restrictions exist on the practice of conversion therapy.

Future Risk

4

NOTABLE RISK

The state has a discriminatory law on the books related to child welfare, but a very low overall volume of discriminatory legislation filed. We assess this state as having a notable risk of a future negative event.

Current Legal Status of LGBTQ+ People in North Dakota

Legal status of the Lesbian, Gay and Bisexual Community

North Dakota does not have statewide anti-discrimination legislation that covers sexual orientation or gender identity.

Fargo protects city employees from discrimination on the basis of sexual orientation, and Grand Forks does so for sexual orientation and gender identity. Grand Forks has also banned anti-LGBTQ+ housing discrimination.

All of the state universities in the North Dakota University System have policies prohibiting discrimination based on sexual orientation, and at least three of those universities also have policies prohibiting discrimination based on gender identity.

North Dakota has regulatory protection against discrimination on the basis of sexual orientation and gender identity for youth in the child welfare system. There is policy, as opposed to regulatory, protections against discrimination based on sexual orientation and gender identity.

State laws do not expressly prohibit LGBTQ+ people from adopting or having custody of children, but they also permit adoption agencies to practice anti-LGBTQ+ discrimination on religious grounds. North Dakota has implemented adoption and foster care nondiscrimination protections for LGBTQ+ parents, on the basis of sexual orientation and gender identity.

It is a class A felony for a person with HIV who is aware of their positive status to willfully transfer body fluids to another person.

There are no hate crimes protections in North Dakota covering sexual orientation or gender identity.

Conversion therapy is legal in the state.

Legal Status of the Transgender Community

To update the gender marker on a birth certificate, an applicant must submit a signed statement from a physician that they had appropriate clinical treatment for gender affirmation, and that the change is complete and permanent.

To update the gender marker on a driver's license, an applicant must have a letter signed by a physician or therapist licensed in the United States stating that the gender affirmation has been completed in accordance with the World Professional Association for Transgendered Health Standards of Care. The phrase "gender role transition has been completed" must be included in the letter.

Name changes require a court order.

North Dakota's Medicaid program has no explicit policy regarding transgender health coverage and care.

Insurance companies are not prohibited from excluding coverage for transgender-specific healthcare.

The state explicitly prohibits transition-related healthcare in its state employee health insurance.

Government Statements and Actions

According to the Human Rights Campaign, North Dakota was one of the states that passed the most anti-LGBTQ+ bills in 2023. Gov. Doug Burgum signed over 10 anti-LGBTQ+ bills in the last year. These bills prohibit schools and state employees from using students' and colleagues' preferred pronouns, forbid transgender students from using bathrooms consistent with their gender identity, prohibit trans individuals from updating their gender marker on their birth certificate, and prevent trans and nonbinary individuals from bringing claims of sexual orientation or gender identity discrimination.

The governor also signed a law that increases free speech protections for student groups at public high schools and universities, which activists say is a cover for LGBTQ+ discrimination and exclusion.

The legislature has voted down anti-discrimination protections for LGBTQ+ North Dakotans five times in the last decade, most recently in January 2019.

Joshua Boschee is the first, and so far only, openly LGBTQ+ state legislator. He has been in office since 2012.



Socio-cultural Environment of LGBTQ+ People in North Dakota

Status of LGBTQ+ Organizing and Community

There are at least four annual pride events held throughout the state. The largest are Capital Pride in Bismarck, and Fargo-Moorhead Pride.

Cultural Views of the LGBTQ+ Community

North Dakota has the second-lowest LGBTQ+ population in the country. The only state with a lower percentage is South Dakota.

Consistent with nationwide trends, though, a much higher percentage of teens in the state – about 9% – identify as LGBTQ+.

43% of North Dakotans oppose allowing small businesses to discriminate against LGBTQ+ people on religious grounds.

71% of North Dakotans favor LGBTQ+ anti-discrimination legislation.



Partners

Our partnerships make our work possible. The first State LGBTQ+ Business Climate Index released in 2019 was funded by a grant from the Gill Foundation. The Index is based on data graciously shared by the Movement Advancement Project and the Williams Institute. Ropes & Gray is our pro bono legal partner for the CEO Business Briefs globally, and their research informs this Index. FCB partnered with us to conduct original market research into American attitudes toward LGBTQ+ workplace inclusion, informing the Regional Context section of the State CEO Briefs. America Competes supported the development of the scoring for the Risk Assessments, particularly for the Future Risk score.

