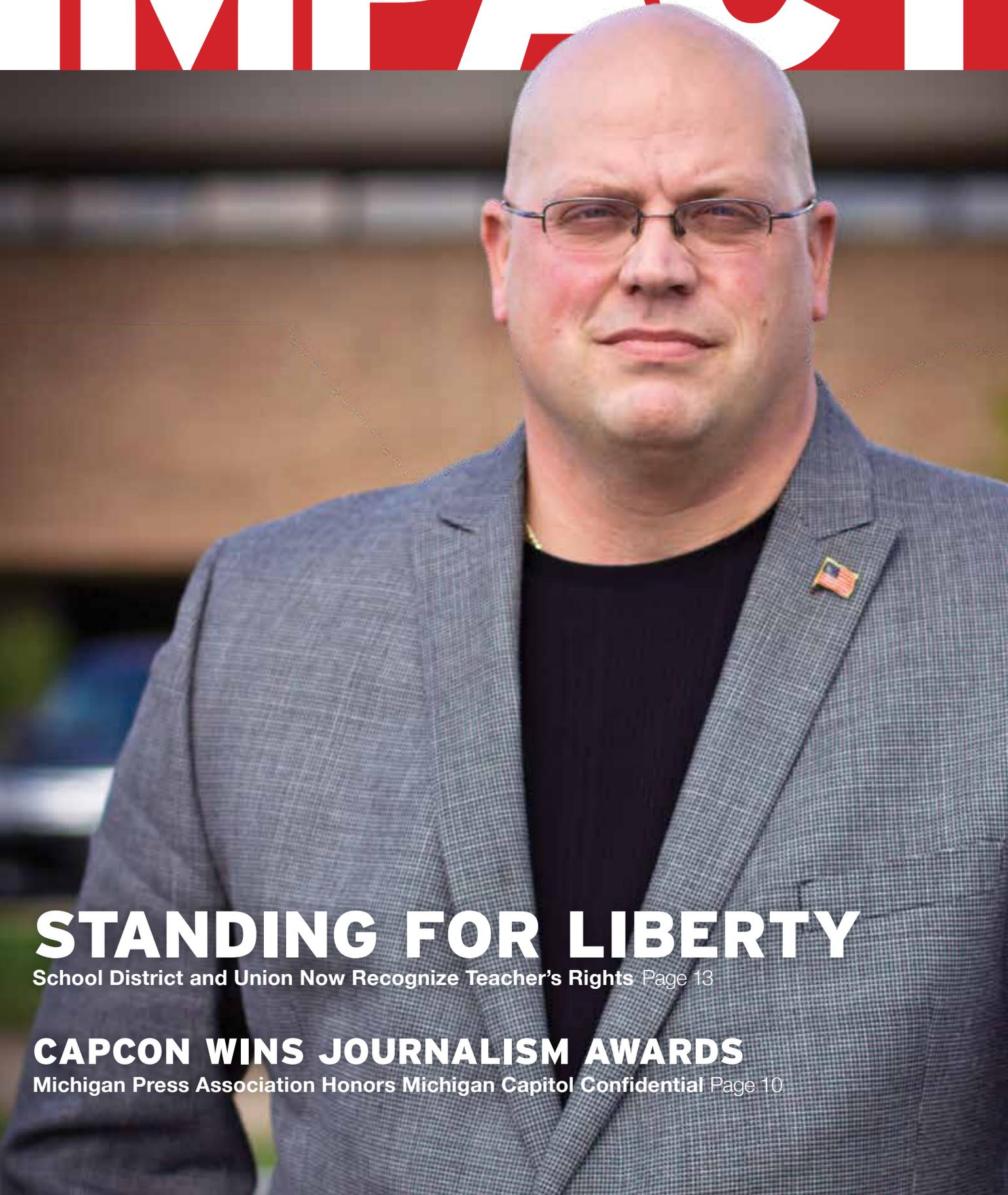


The Magazine of the Mackinac Center for Public Policy NOVEMBER/DECEMBER 2014

IMPACT



STANDING FOR LIBERTY

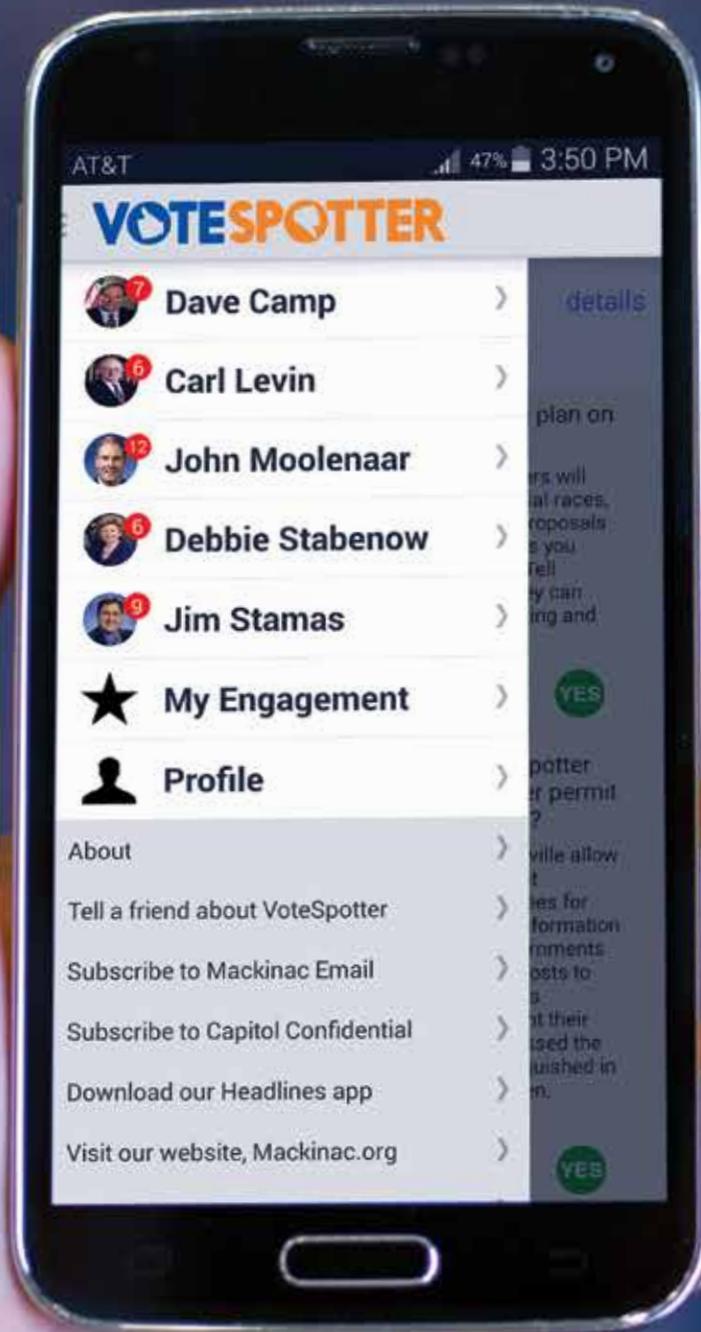
School District and Union Now Recognize Teacher's Rights Page 13

CAPCON WINS JOURNALISM AWARDS

Michigan Press Association Honors Michigan Capitol Confidential Page 10

VOTESPOTTER[®]

UPDATE!



Michigan's most powerful legislative accountability tool just got even more powerful.

In addition to keeping track of key votes from Lansing, VoteSpotter now features your congressional legislators in Washington D.C.

But that's not all.

VoteSpotter now contains all members of congress. Anyone in the country can keep his or her congressional leaders accountable with VoteSpotter. Be sure to tell a friend!

Download it free at the App Store and Google Play.

VoteSpotter.com





Funding, fighting and forging forward

Looking back on 2014, liberty succeeded on several fronts in Michigan.

An administrative law judge ruled in favor of four Saginaw teachers (represented by the Mackinac Center Legal Foundation) who sued the Saginaw Education Association and Michigan Education Association over the restrictive “August window” opt-out period. That same ruling said the “August window” was illegal. Over the summer, the Mackinac Center led a successful informational effort to make more MEA members aware of the opt-out period.

Prior to the ALJ decision, the MEA allowed two teachers represented by the MCLF, Ray Arthur and Miriam Chanski, to leave the union despite missing the “August window.”

The landmark Supreme Court decision *Harris v. Quinn* prohibited the forced collection of dues or fees from home health care providers in Illinois and several other states. Former Gov. Jennifer Granholm helped orchestrate a similar scheme in Michigan, which the Mackinac Center litigated over, and it eventually ended. After the Supreme Court decision, MCLF clients Steven Glossop and Patricia Haynes received checks from the Service Employees International Union in the amount of dues that had been taken out of the checks that were supposed to go to caring for their loved ones. (Page 7)

Three Dearborn city workers triumphed over Teamsters Local 214 after the union tried to discriminate against those who had exercised their worker freedom rights.

2014 ushered in a new era of government accountability with the Mackinac Center’s mobile app VoteSpotter. And it’s expanding. Users can now evaluate Congressional votes, and Illinois voters can now weigh in on their state elected officials’ votes.

These are just some of freedom’s victories and accomplishments this year.

In this issue of IMPACT, you’ll read about another legal victory involving a Brighton High School teacher whose union and district agreed on a contract that violated his rights. Thanks to the Mackinac Center, the district and union are now following the law. (Page 13)

Michigan’s governor’s race brought the issue of education funding to the forefront and whether it had been increased or decreased. But prior to the heat of the political race, Michigan Capitol Confidential showed how funding had increased. CapCon quoted some school district officials who also confirmed that education funding is higher now. (Page 14)

Michigan parents want school choice, but they face battles to make Michigan a more choice-friendly state. The Mackinac Center is following the developments with Livonia Public Schools. LPS shut down its successful charter school Hinoki International. Parents are wondering why. (Page 8)

We hope you enjoy this holiday season and have a chance to pause and reflect on how freedom makes everything better. Thank you for your interest in the Mackinac Center and commitment to make Michigan a freer state. ■

Dan Armstrong is director of marketing and communications for the Mackinac Center.



Blog

Keep up to date on the latest policy stories from Mackinac Center analysts.

Mackinac.org/blog

MichiganVotes

Want to know what your legislator (and others) have been voting for?

MichiganVotes.org helps keep Michigan politicians accountable to their constituents.

MichiganVotes.org

CapCon

Our flagship news source for the state of Michigan. Breaking news like never before.

MichCapCon.org

Databases

Labor contracts, superintendent salaries, school grading and more. Our online databases provide easy access to important information.

Mackinac.org/databases



WHAT FOLKS ARE SAYING ABOUT THE MACKINAC CENTER

“Great suggestions from @MackinacCenter ‘Unionizations for the 21st Century: Solutions for the Ailing Labor Movement.’”

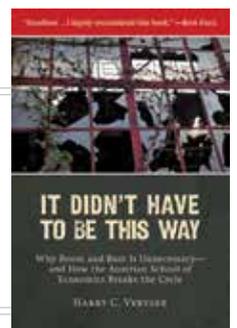
— James Sherk, senior policy analyst in labor economics at The Heritage Foundation



MICHAEL VAN BEEK RECOMMENDS “IT DIDN’T HAVE TO BE THIS WAY” BY HARRY VERYSER

Harry Veryser, an economics professor at the University of Detroit Mercy and member of the Mackinac Center’s Board of Scholars, explains the recent economic downturn through the lens of an Austrian economist in his latest book “It Didn’t Have To Be This Way: Why Boom and Bust is Unnecessary — and How the Austrian School of Economics Breaks the Cycle.”

Recent action from Washington, D.C., and policymakers implies that politicians have learned nothing from the 2008 financial meltdown. Veryser zeroes in on what lessons should be learned and aptly presents the case for following the Austrian model to unleash future economic liberty and prosperity.





Crime, Crime, Everywhere a Crime

Three fish nearly cost John Yates 20 years in prison.

Yates makes his living as a commercial fisherman. In 2007 he was fishing in the Gulf of Mexico. A state wildlife official boarded Yates' vessel and determined that 72 red groupers (of a 3,000-fish catch) were undersized, issued a civil citation and ordered the fish to be confiscated. When Yates returned to port, armed agents inspected his catch and found only 69 undersized fish.

Nearly three years later, federal agents arrested Yates at his home and charged him with violating the Sarbanes-Oxley Act's anti-shredding rules (yes, the post-Enron Sarbanes-Oxley Act) — a crime that carries a maximum sentence of 20 years in prison. His crime? Throwing three undersized fish overboard. Yates was prosecuted and convicted of having destroyed evidence. Yates fights on; his case reached the U.S. Supreme Court in November 2014.

Yates' case represents much more than the proper interpretation of federal financial regulations. Civil liberties groups, libertarians and conservatives are joining forces to confront the problem of "overcriminalization," taking on both the sheer volume of laws and the troubling trend of imposing severe criminal sanctions on behavior that simply isn't wrong.

Consider the well-publicized plight of Lisa Snyder, from Middleville, Mich. In 2009, she agreed to watch several neighbor children in the morning before the school bus arrived. The Department of Human Services accused

Snyder of running an illegal daycare — a misdemeanor punishable with jail time. That situation was resolved without incarcerating the neighborly Mrs. Snyder, but it required an act of the Michigan Legislature.

Like many states, Michigan's criminal code is overpopulated. A study we recently co-published with the Manhattan Institute identified more than 3,100 crimes, with the Legislature creating an average of 45 new crimes annually. Many of these laws do not require a prosecutor to prove criminal intent on the part of the accused.

Some of Michigan's laws are obscure or downright silly. You are a criminal if you transport a Christmas tree without a bill of sale, curse or blaspheme, cause a pet ferret discomfort, sell artificially dyed ducklings or rabbits, mock a person for refusing to duel, or dance to "The Star Spangled Banner." Other laws may be justified but carry heavy penalties; Sparta businessman Alan Taylor was charged with a wetlands violation and was ordered to pay \$8,500 in fines for expanding his company's parking lot.

It's time for Michigan to tackle the problem of overcriminalization. There's progress on that front; Rep. Joe Haveman, R-Holland, is leading an important effort to reform sentencing and probation guidelines, Rep. Mike Shirkey, R-Clarklake, recently introduced a bill that addresses criminal intent and Rep. Jeff Irwin, D-Ann Arbor, is fighting civil asset forfeiture. ■

MICHAEL J. REITZ

Board of Directors

- Hon. Clifford W. Taylor, Chairman**
Retired Chief Justice, Michigan Supreme Court
- Joseph G. Lehman, President**
Mackinac Center for Public Policy
- Joseph J. Fitzsimmons**
Retired President, University Microfilms
- Dulce M. Fuller**
Owner, Woodward and Maple
- Richard G. Haworth**
Chairman Emeritus, Haworth, Inc.
- Kent B. Herrick**
President and CEO, Thermogy
- J.C. Huizenga**
President, Westwater Group
- R. Douglas Kinnar**
Senior Vice President and CFO, Amerisure Insurance
- Edward C. Levy Jr.**
President, Edw. C. Levy Co.
- Rodney M. Lockwood Jr.**
President, Lockwood Construction Company, Inc.
- Joseph P. Maguire**
President, Wolverine Development Corporation
- Richard D. McLellan**
Attorney, McLellan Law Offices
- D. Joseph Olson**
Retired Senior Vice President and General Counsel, Amerisure Companies

Board of Scholars

- Dr. Donald Alexander**
Western Michigan University
- Dr. William Allen**
Michigan State University
- Dr. Thomas Bertonneau**
SUNY - Oswego
- Dr. Brad Birzer**
Hillsdale College
- Dr. Peter Boettke**
George Mason University
- Dr. Theodore Bolema**
Mercatus Center
- Michael Clark**
Hillsdale College
- Dr. Stephen Colarelli**
Central Michigan University
- Andrew Coulson**
Cato Institute
- Robert Crowner**
Eastern Michigan University (ret.)
- Dr. Richard Cutler**
University of Michigan (ret.)
- Dr. Chris Douglas**
University of Michigan - Flint
- Dr. Jefferson Edgens**
East Georgia College - Statesboro
- Ross Emmett**
James Madison College
- Dr. David Felbeck**
University of Michigan (ret.)
- Dr. Burton Folsom**
Hillsdale College
- John Grether**
Northwood University
- Dr. Michael Heberling**
Baker College
- Michael Hicks**
Ball State University
- Dr. Ormand Hook**
Mecosta-Oscoda Intermediate School District
- Robert Hunter**
Mackinac Center for Public Policy
- Prof. Harry Hutchison**
George Mason University School of Law
- Dr. David Janda**
Institute for Preventative Sports Medicine
- Annette Kirk**
Russell Kirk Center for Cultural Renewal
- David Littmann**
Mackinac Center for Public Policy
- Dr. Dale Matcheck**
Northwood University
- Charles Meiser**
Lake Superior State University (ret.)
- Glenn Moots**
Northwood University
- Dr. George Nastas III**
Marketing Consultants
- Todd Nesbit**
Ohio State University
- Dr. John Pafford**
Northwood University
- Dr. Mark Perry**
University of Michigan - Flint
- Lawrence W. Reed**
Foundation for Economic Education
- Gregory Rehmke**
Economic Thinking/ E Pluribus Unum Films
- Dr. Steve Safranek**
Private Sector General Counsel
- Dr. Howard Schwartz**
Oakland University
- Dr. Martha Seger**
Federal Reserve Board (ret.)
- James Sheehan**
Deutsche Bank Securities
- Rev. Robert Sirico**
Acton Institute for the Study of Religion and Liberty
- Dr. Bradley Smith**
Capital University Law School
- Dr. John Taylor**
Wayne State University
- Dr. Richard K. Vedder**
Ohio University
- Prof. Harry Veryser Jr.**
University of Detroit Mercy
- John Walter Jr.**
Dow Corning Corporation (ret.)
- Dr. William Wilson**
Economic Consultant
- Mike Winther**
Institute for Principle Studies
- Dr. Gary Wolfram**
Hillsdale College

facebook.com
flickr.com /MackinacCenter
twitter.com
youtube.com



Stay engaged with what the Mackinac Center is doing by liking, subscribing and following our social media pages.

140 West Main Street, P.O. Box 568
Midland, Michigan 48640
989-631-0900, Fax 989-631-0964
www.mackinac.org mcpp@mackinac.org

IMPACT is published six times a year by the Mackinac Center for Public Policy, a nonprofit, nonpartisan, tax-exempt research and educational institute classified under section 501(c)(3) of the IRS code.

DAN ARMSTRONG Editor

JONATHAN VANDERHOOF, ILIA ANDERSON Designers

RECOMMENDATIONS TO IMPROVE THE LABOR MOVEMENT

For years union membership has been in decline. In 2012 union membership hit the lowest percentage of the American workforce since 1916.

F. VINCENT VERNUCCIO

The union business model, based on industrial organizing of the 1930s, does not translate well in today's educated workforce.

Unfortunately unions have not adapted to this modern shift in work demographics.

The new Mackinac study "Unionization for the 21st Century" proposes a way forward for the labor movement.

This study recommends several ways to improve labor organizations by making them more responsive, refocusing their efforts to be more like professional associations which at their core are about services and representation.

In order to thrive, unions must move away from the coercive nature, monopolies, and privileges that were given to them by the labor laws of the last century. The way for unions to grow again is by allowing them to enter the free market and compete for the hard earned voluntary dues of their future members.

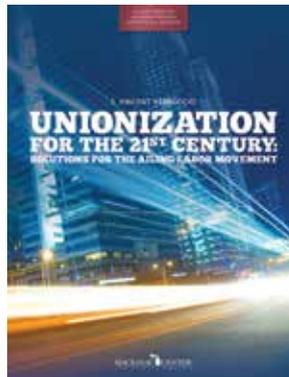
Central to this idea is allowing unions to vie for members and only represent those members who wanted to be represented. These unions should cater to the skilled individual worker of the 21st century and not impose an outdated one size fits all model on them.

In many cases, even the choice of representation could go further. Instead of simply giving a worker a take-it-or-leave-it proposal, unions could specialize in à la carte services where their members could pick and choose what they wanted from one or multiple unions.

The four areas which the study recommends 21st century unions can thrive are:

1. **Professional organizations** – Unions should act as the American Bar Association or other professional associations. They should advocate for their members' interests in the industry, serve as a resource for collaboration and provide social networking events.

2. **Unions as representatives** – Unions must realize that employees are unique. They should refocus on providing resources for individual contracts and employees should be allowed to negotiate for themselves. Merit pay clauses and rewards for productivity should be embraced.



This study is available online at Mackinac.org/s2014-07

3. **Unions as insurance** – Unions can provide malpractice insurance and other optional life, health and retirement benefits, such as defined-contribution plans, which workers can take with them from job to job and union to union.

4. **Unions as trainers and voluntary certification agencies** – Unions should continue to provide training and apprenticeship programs (free of taxpayer dollars.) ■

F. Vincent Vernuccio is director of labor policy at the Mackinac Center.

FORtheRECORD

ForTheRecord (FTR) posts are candid and hard-hitting quick bits on political statements and activities around the state. Ever read something you just know is flatly untrue? FTR is there to correct the error.

In its short existence, the new feature has had several stories explode in popularity and get picked up by more mainstream media sources.

Fox News picked up and ran with FTR's bit on a liberal economist complaining about CEO pay while making nearly \$243,000 to teach a few college courses at a public university.

Other pieces have included:

- Former Gov. Jennifer Granholm will teach a class on job creation this semester and the University of California – Berkeley. Under her leadership, Michigan lead the nation in job loss with a decline of 576,900 positions.
- The SEIU is urging home caregivers in Michigan to join some fast food protesters in going on strike. The vast majority of these workers look after family or close friends. (A possible picket sign: "Hey Ma! I'm going on strike!")

- A new "non-partisan" group says they "are canvassing for Democrats." FTR provides the definition of "non-partisan."
- The Michigan Education Association "fights for teachers" – but spends only 11 percent of revenue on direct representational activities.

FTR posts are meant to be short, easy-to-understand and very shareable by email and social media. (Our reporters say they are also very enjoyable to write.)

As our news website continues to expand in reach and content, providing even more reality checks for those in the political world will serve an important function. Come check out other examples at MichCapCon.com/ForTheRecord. ■





The Mackinac Center for Public Policy is funded solely by freedom loving individuals and organizations that find value in its conviction of free-market principles. For this issue of IMPACT, we hear from **Hubert Fisk**.

MCPP: Where are you originally from?

Fisk: From Sterling, Michigan, born and raised. My parents moved to Sterling from the Reese area in the 1920s when they purchased the farm. I'm the youngest of 10 children.

My siblings and I all have wonderful marriages. None of us has had a divorce. In March, my bride of 57 years, Elizabeth "Betty Lou" Louise Fisk passed away. There were 400 people at her showing. She touched so many lives. She made me a better person.

People donated money to place a large stone with her name on it near the Adams Township playground.

It's great to share in my siblings' 50th wedding anniversaries. One of my brothers just celebrated his 70th anniversary.

While I'm retired, I still like to keep active. I cut wood almost every day and also still provide a little help farming.

My family strives to be honest and caring people.

MCPP: Have you been involved in public offices?

Fisk: Yes. I was township supervisor for Adams Township in Arenac County for 30 years. I ran for township clerk when nobody else ran for that position. I was asked to consider it and I jumped in. I like being involved in the community.

I like interacting with my elected leaders. Even when I disagree with them, I feel it's important that they hear my concerns and that I hear their concerns. I feel it's very important to know your elected officials.

I like speaking with people directly. I often hear gossip and rumors started that never help out a situation. Speaking with people directly is the most respectful way to do it.

We're still unzoned in our township. I believe in that freedom. Zoning has its place, but not here in our rural community. We shouldn't be regulated to see how many cats you can have.

I currently serve as an appointed member on the Michigan Department of Human Services board.

MCPP: Tell us about your children.

Fisk: I have five children. Three boys and two girls. All of the boys went into farming, just like me. I remember when I was a kid, tying a rake to the back of my tricycle and pretending that I was plowing fields. One of my sons and one of my daughters are in Alaska now. One son is in the Upper Peninsula, and my oldest boy is here. Our other daughter passed away from brain cancer.

I have 10 grandchildren and eight great-grandchildren.

MCPP: What keeps you in Michigan?

Fisk: Having children in Alaska, I've driven out there at least four times. It's beautiful there, but I always enjoy coming home to Michigan. I have options to live almost anywhere, but I can't beat the view I have outside of my 10-foot-wide window in the dining room. It's a wilderness of freedom that I soak up as much as I can.

MCPP: How did you first hear about the Mackinac Center?

Fisk: It was at one of the first events the Mackinac Center had after it started. I remember going to the Lansing Center and speaking with someone there at a display table. I read the material and struck up a conversation that has lasted until today. I liked what the Mackinac Center was doing then, and it has only gotten better.

MCPP: What value do you find in the Mackinac Center?

Fisk: The research of a limited government. I like that approach. We are so over-regulated. I see all of the opportunities my family and I have had. That opportunity is fading away fast with regulation.

MCPP: Why do you think it's important to be a Mackinac Center Legacy Society Member?

Fisk: It's vital to preserve freedom and be willing to pay for that freedom. ■

MACKINAC CROSSES THE POND

Director of Labor Policy F. Vincent Vernuccio and his wife Katie stopped by the British Free Market think tank, Institute of Economic Affairs while they were in London in August. In true British fashion the policy analysts took their American guest to a local English pub for a proper pint of bitters.

Policy and outreach officers at IEA were interested in learning about how American policy organizations work together. IEA is leading a collation effort called EPICENTER which will be similar to the State Policy Network in America. Officially launching last October the burgeoning pan-European network will help instill more freedom and liberty into the European Union. ■



DUES MONEY RETURNED

Steven Glossop (pictured left) shows the check he received of all the returned dues that were previously taken out of his mother's Medicaid checks.

The Mackinac Center Legal Foundation litigated on behalf of Glossop and Patricia Haynes in 2012 after the Service International Employees Union skimmed money out of checks that were intended to care for vulnerable people in Michigan.

Glossop and Haynes did not want to belong to the union and thought it was wrong that money was being taken out of Medicaid checks to support a union they disagreed with.

Thanks to the work of the Mackinac Center, the dues skim ended and Glossop and Haynes received all the money back that was taken out of their checks. ■

CAPCON DIA BONUSES

When Michigan Capitol Confidential breaks a story, the mainstream media listens, but it may take a little while for them to catch on.

This was the case in mid-September when CapCon first reported that the two top officers of the Detroit Institute of Arts received compensation increases of \$58,415 and \$98,564. Those increases brought Director Graham Beal up to \$513,868 in 2013, from \$455,453 in 2012.

DIA Executive Vice President Annmarie Erickson's compensation jumped 36.3 percent from \$270,802 to \$369,366 in 2013.

All this while the institute's website says it has a "structural operating deficit."

It benefits from a \$230 million millage, which was passed by voters in Macomb, Wayne and Oakland counties in 2012.

Three weeks after CapCon's initial report, The Detroit News and Detroit Free Press published reports on the issue.

Because of the reporting, Oakland County commissioners threatened to pull the funding near the end of October.

In early November, directors of the DIA repaid \$90,000, but as of the printing of this IMPACT, it's still uncertain whether the money taxpayers spent will be returned. ■



HOSTILE TAKEOVER *of* CHARTER SCHOOL

State Superintendent Mike Flanagan recently announced he was putting 11 charter public school authorizers on notice for their rankings on the state “Top-to-Bottom” list. Excluded from the criteria was any requirement of charter school authorizers to operate in good faith, a noticeable oversight given what recently occurred with one such authorizer – Livonia Public Schools.

LPS is not on the list, but its actions bear scrutiny as it shut down its own successful charter in a grab for students and their foundation grants. The case raises the question whether public school districts should be in the authorization business in the first place, and if they are what safeguards are in place to prevent

them from taking advantage of the system for financial gain.

ANNE SCHIEBER

About one month before the 2013-2014 school year ended, Livonia Public Schools notified its charter, Hinoki International, that it was not renewing the lease on its building for the 2014-2015 school year. Hinoki, a Japanese language immersion school, became homeless and while it was authorized to operate until June 2015, the loss of a facility would have the effect of putting the school out of business. Not coincidentally, LPS announced it was starting a carbon copy magnet school in the same building and taking steps to hire Hinoki staff and recruit its students.

Instead of guiding its charter school into the future and supporting a system for continued success, LPS engaged in a hostile takeover. The Hinoki school board asked LPS to postpone its decision on the lease so it could find better ways to manage its growing enrollment. Hinoki parents appealed to school board members and Superintendent Randy Liepa, but the decision was firm. Hinoki would lose its lease.

State regulators could do nothing to stop the move and instead of any penalty, LPS was actually rewarded for its actions. Every student who left Hinoki to join the competing magnet school would mean an additional \$8,049 in foundation allowance for LPS, a district that has lost students and money over the years.



Left: Hinoki students



Hinoki School Board Director Anne Hoogart said the charter authorization required the school to operate within the boundaries of LPS and finding a building to accommodate more than 180 students and staff in less than two months was next to impossible.

The school had no choice but to go on hiatus. Parents of Hinoki students were torn. Many of them, afraid that their children would have no place to go in the fall, signed up for the magnet school program. Hinoki moved all of its furniture, books and equipment into storage and worked furiously to find a new authorizer that would allow it to move beyond the boundaries of LPS. It has several interested parties, but none willing to start before 2015. With the rapid loss of its students, LPS claimed Hinoki was violating the terms of its authorization and cancelled the agreement.

Looking back over the school's four-year history, charter school parents and board members say they wonder if a takeover wasn't planned from day one. The school was the brainchild of Ted Delphia. Delphia was active with the area's significant Japanese population and wanted to create a program where children could maintain their language skills in a public school setting. Eventually, he and Liepa decided on creating a charter school with LPS as the authorizer. LPS leased out space in a vacant school building for the new charter. Delphia, who was the Hinoki administrator, would also rent out space in the building for his private Japanese-focused preschool and those students would eventually feed Hinoki. He also served as the school's administrator, but

because of Hinoki's growing needs its board was reconsidering his role.

Because it was to function as a charter, Hinoki received \$560,000 in government grants for equipment, resources, operation and curriculum development. The investment was quickly paying off. Hinoki grew from a few dozen students to 183 enrolled for the 2014-2015 year. And it was drawing a wide mix of students. Many were from multi-cultural homes, but increasingly families seeking an independent and smaller school setting were coming on board. Hinoki developed a tight-knit community. It was not uncommon for parents to "hang out" in the school library after hours to meet with other families to do homework together.

Hooghart found one practice particularly troubling. As part of its lease agreement, LPS would charge Hinoki extra rent for students who lived in Livonia but chose to enroll in Hinoki. Hinoki could bypass this charge by getting families to sign an affidavit that they had no intention to send their child to LPS schools. Last year, Delphia neglected to collect all the affidavits and in late May Hinoki received a \$75,000 bill from LPS. State law prohibits conventional public school districts that authorize charters from charging for "lost" students and Hooghart believes by putting this requirement in the lease, LPS was trying to bypass state law.

Liepa says all agreements were drafted by attorneys familiar with state law and felt the district was generous in providing added space to the program at "no cost." When asked about the extra payments, he said

the district collected \$5,000 in 2012 and \$10,000 in 2013. In an email response, he did not state what was billed.

Whatever the case, the story of Hinoki is not over. Its board is working closely with its attorney and auditor for questionable actions, including what role Delphia has with the magnet school today. He still operates his preschool in the former Hinoki building and, according to parents, is still a visible presence in the building. Parents are carefully evaluating the quality of the new magnet program. Some are lamenting the loss of family gathering time at the library after school because of the school's strict drop off and pick-up policy.

Liepa insists the new school is running well and parents seem happy. He says the student count is about the same number as those registered but he was not aware of any adds or drops at the moment.

What Livonia Public Schools did raises the question whether conventional school districts should be in the charter school authorization business in the first place and, if they are, what is to prevent them from exploiting the system for their own financial gain.

Hinoki is still a nonprofit corporation and could very well reopen in 2015 with a new charter authorizer. Livonia had been one of 14 conventional school districts in Michigan serving as a charter school authorizer. Most charter school authorizers are universities, entities that don't compete with K-12 charters for students. ■

Anne Schieber is senior investigative analyst for the Mackinac Center.

Michigan Capitol Confidential wins Journalism Awards

Michigan Press Association recognizes CapCon

Michigan Capitol Confidential staff won three awards in the 2014 Michigan Press Association's "Better Newspaper Contest" in October.

Former Managing Editor Manny Lopez won second place and an honorable mention in the headline writing category, while Jarrett Skorup, digital engagement manager, and Tom Gantert, senior capitol correspondent, took third place in enterprise reporting for their work on Michigan's film subsidy program.

The judges remarked that the reporting by Skorup and Gantert was a "Solid outlining of various aspects of wasted government money."

The second place headline winner was for "Reuben Sandwich with a Side of 500k Lost Jobs," which dissected how local media covering an April visit by President Barack Obama to an Ann Arbor deli to campaign for a higher mandated minimum wage went into great detail about what the president ordered while ignoring a report that the increase could result in 500,000 lost jobs.

Judges said, "This headline did an excellent job of characterizing the media's reaction to the subject matter. Well played."

The honorable mention headline was for "Barber Bill Barely Takes Anything off

the Top," a column regarding Michigan's licensing regime – including a proposed decrease in the number of hours it takes to get a barber's license.

Judges said it was a "Great use of pun to describe the situation at hand."

Capitol Confidential won two MPA awards in 2013 and four awards earlier this year from the Detroit Chapter of the Society of Professional Journalists. ■

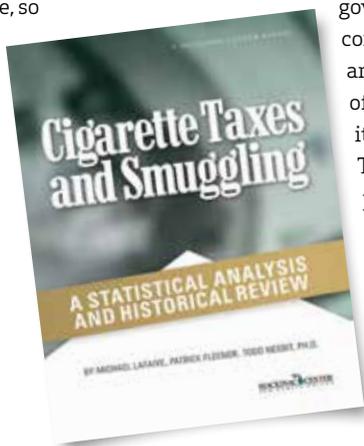
Cigarette Taxes, Smuggling Studies Continue to Generate Interest

The Mackinac Center for Public Policy's original research into how cigarette taxes impact smuggling and other unintended consequences continues to draw interest around the nation. Mackinac Center scholars Michael LaFaive and Todd Nesbit have both recently presented Center findings at separate events.

For the uninitiated, the Mackinac Center published a statistical analysis in 2008 designed to measure the degree to which cigarettes are smuggled in 47 of the 48 contiguous states. Originally, the model was designed only to measure smuggling in a few states. The model wouldn't work without more to measure, so the Center fed its model with data from all but one of the 48 contiguous states.

The result was that the Mackinac Center – a state-based research

The 2008 edition of the Cigarette Taxes and Smuggling study is available online at Mackinac.org/s2008-12



institute – created a study with national implications. Our work has been used across the country by law enforcement, revenue officials, media and individuals ever since, and we have updated that model on three occasions.

Recently, two groups – the Council of State Governments and the Federation of Tax Administrators – asked Mackinac Center experts to present (and if necessary, defend) these findings before audiences in Anchorage, Alaska, (CSG) and Knoxville, Tenn., (FTA). The CSG works to achieve "excellence in state governments to advance the common good, is non-partisan and serves all three branches of government, according to its website. The Federation of Tax Administrators works to provide assistance to state-based taxing authorities, such as state treasuries.

The first, which I attended, included a presentation followed by a panel

discussion, which I moderated. That panel included members of the Virginia State Crime Commission, two members from law enforcement (one retired) and two members of Rhode Island's state Legislature.

The panel painted an ugly picture of the illicit trade in cigarettes, especially on the east coast.

The second, attended by Nesbit, involved a PowerPoint presentation and relatively lengthy question and answer session. Tax administrators are often questioned about Mackinac Center findings and this event gave them the opportunity to better understand our measuring techniques and agree or disagree accordingly.

The Center's most recent edition – which contains data through 2012 – estimates that 27.6 percent of all cigarettes consumed in the Great Lake State are smuggled.

We will release our latest findings in 2015. ■

Michael LaFaive is director of fiscal policy at the Mackinac Center.

MCPH Headlines

Senior Men's Group of Birmingham

Notable groups across Michigan ask Mackinac Center staffers to serve as keynote speakers for their events.

In October, the Senior Men's Club of Birmingham asked Director of Marketing and Communications Dan Armstrong to address its membership. Armstrong's remarks showed how bad public policy ruined the Motor City.

Around 150 men packed the Community House to see and hear the presentation.

One of the members showed his appreciation with a thank-you note that included:

"Thank you very much for the excellent presentation that you made to the Senior Men's Club of Birmingham on Friday, Oct. 3, 2014.

Your presentation on the Mackinac Center for Public Policy and the examples of how Detroit caused many of its financial problems through unwise taxes and regulations was enlightening to all of our members. Your detailed description of the Mackinac Center's work provided our members with a much better understanding of the institute's work in helping state and local policy makers find real, workable solutions to their financial and policy problems."

Past speakers of the SMC of Birmingham include former Gov. Jennifer Granholm, Detroit Mayor Dave Bing, Oakland County Sheriff Michael Bouchard, Lt. Gov. Brian Calley, Ford Motor Company Executive Chairman William Clay Ford Jr., former UAW President Bob King and Oakland County Executive L. Brooks Patterson. ■



F. H. Buckley
with the Mackinac Center and the Acton Institute

The Mackinac Center teamed up with the Acton Institute to bring Dr. Frank Buckley, a professor at George Mason Law School, to Grand Rapids to discuss his new book. Dr. Buckley has also taught at the University of Chicago, Montreal's McGill University and the Sorbonne in Paris. He also serves as editor of *The American Spectator*.

"The Once and Future King" is about the "rise and fall of crown government" and discusses the increase in executive power in the United States. Dr. Buckley views this as a significant problem facing American democracy, as it disrupts the balance of power the American Founders attempted to establish through limited powers attributed to the legislative, judicial and executive branches of government through the United States Constitution.

At the lecture, which took place at the beautiful Acton Institute building, Dr. Buckley first set out to debunk some myths. He noted that most people believe the United States system of government does a good job at protecting our freedom. But despite America's constitutional republic, by many measures, parliamentary regimes – where a country's leader is elected by the legislature – are generally freer.

Our current two-party system tends to shift more power to a president who is elected democratically. Dr. Buckley said the executive branch has been getting more powerful over time and American presidents now take action far beyond what the Founding Fathers envisioned or intended. Dr. Buckley believes there is a legitimate need for an executive power, but that power must be limited.

"What they expected," he writes in the book, "was a country in which Congress would dominate the government and in which the president would play a much smaller role."

Dr. Buckley said recent presidents have all shifted power away from the legislature and towards themselves. But the Obama administration has been a particularly bad offender.

Audience members were interested in knowing what could be done to solve this problem, which seems to be a bipartisan issue.

Dr. Buckley believes there are two feasible ways forward. One would be a constitutional convention with new amendments dedicated to explicitly limiting presidential power. The other would be Congress doing what it can in the current system to reclaim authority.

He believes the latter is much more likely and said there may be a chance for a bipartisan legislature to do so. The problem is that moves to shift power from the executive to the legislative branch would have to be done in a way that does not look overtly partisan, since the make-up of the Congress is not likely to overwhelmingly favor Republicans or Democrats in the near-term.

The event was a partnership with the Acton Institute, which is dedicated to "promoting a free and virtuous society characterized by individual liberty and sustained by religious principles." The talk took place at the Institute's new and refurbished building, which features a new lecture hall, tens of thousands of books lining the walls, and an art gallery. ■

Schieber Among Finalists in National Video Competition



Senior Investigative Analyst Anne Schieber was among five finalists in Reason's 2014 Video Prize. Specifically, it was her video

that showed how state bureaucrats were encouraging tax assessors to gain access inside private homes.

More than 25,000 people viewed the video on YouTube and on the Mackinac Center's online news site, Michigan Capitol Confidential. The video prompted two lawmakers to introduce bills ensuring tax assessors stay within the bounds of search and seizure protections in the U.S. Constitution and require assessors to

have written permission before encroaching private property. The bills remain in the House Tax Committee.

"We released the video one year ago, and it is still getting views," Schieber said.

"Many people have sought it out when they have experienced similar situations with their local assessors. We are still investigating reports of assessors peering into windows and walking onto yards despite 'no trespassing signs,' that are clearly visible."

The Reason prize honors videos that it says "explores, investigates, or enriches our appreciation of individual rights, limited government and the free market."

Schieber's video was in high company. Other finalists included MRUniversity's "The Hockey Stick of Human Prosperity," and Learn Liberty's "Should the Government Subsidize... Silly Walks," highly produced



Reason

videos that appeared to require the work of production teams.

Schieber's video had the advantage of a compelling tale.

"We did not win the top prize, but the fact that we produced the video on a small scale was honor enough," she said.

Schieber researched, produced, shot, wrote and edited the video on her own.

"Years ago, one-man bands were almost unheard of. Today we have the advantage of lightweight and portable, high-definition video cameras and audio recording equipment," she said. "We can document just about anything without the obtrusiveness of a crew. I believe the fact that we recorded the town meeting featured in the video and presented its drama on the web was one of the main reasons the township officials in that case ended invasive property tax inspections."

Had Schieber taken home the top prize, she had an acceptance speech ready to go.

"I would have certainly have thanked the judges, but first and foremost, I would have thanked government — for making the video so easy." ■



Watch this video online at <http://goo.gl/vir4nG>



Frank Beckmann uses Mackinac Center research

When members of the media need facts, they turn to the Mackinac Center.

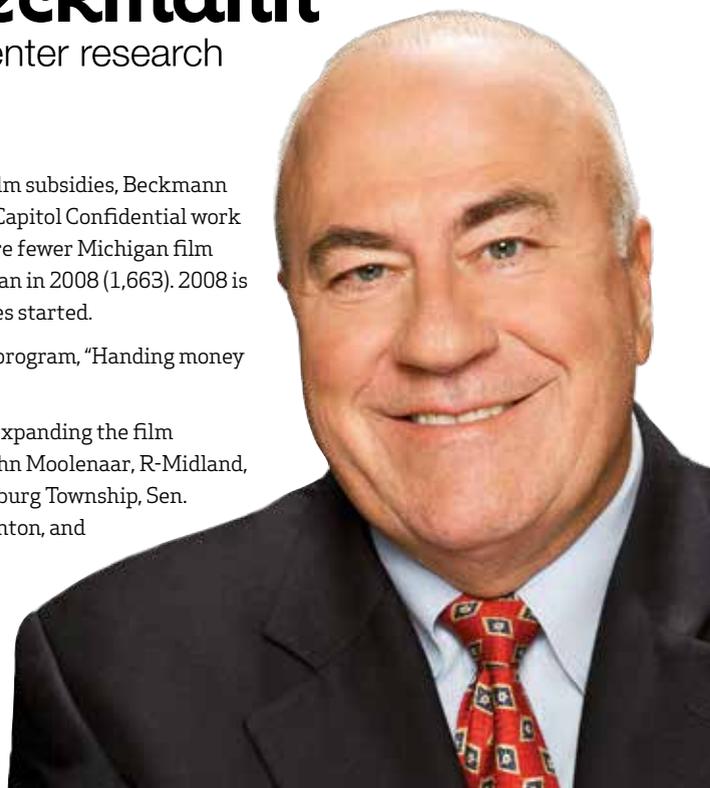
On the Oct. 27 edition of "The Frank Beckmann Show" on WJRAM760, Beckmann praised four Michigan senators who voted against the continuation of film subsidies, which benefit a few, but cost all taxpayers.

Michigan's film subsidy program has cost taxpayers nearly half a billion dollars, but has resulted in no new jobs. It also takes money away from other projects that better serve the public like roads and public safety.

When talking about film subsidies, Beckmann referred to Michigan Capitol Confidential work that showed there were fewer Michigan film jobs in 2013 (1,561) than in 2008 (1,663). 2008 is when the film subsidies started.

Beckmann called the program, "Handing money out to Hollywood."

Those voting against expanding the film subsidies were Sen. John Moolenaar, R-Midland, Sen. Joe Hune, R-Hamburg Township, Sen. Patrick Colbeck, R-Canton, and Sen. David Robertson, R-Grand Blanc. ■





Patrick J. Wright is vice president for legal affairs for the Mackinac Center.

Lawsuit Leads to Rights Recognition

Living by principles can often lead one to make choices that can be difficult and challenging. Brighton High School teacher Adam Neuman made an extremely challenging choice when he decided to take a sabbatical from teaching so that he could join the military and serve in Afghanistan. So it should come as no surprise that Neuman was willing to stand up to the Michigan Education Association when it attempted to violate his freedoms under Michigan's right-to-work law.

Neuman attended Brighton High School as a student and eventually returned there to teach civics and Advanced Placement government. In 2008, at the age of 34, two things motivated him to join the Army Reserves. First, he had known a first responder who had died in the aftermath of the 9/11 attacks. Second, some of his former students were being called back into service under the military's stop-loss program. In 2011, he served in combat during the Kandahar surge where one of his duties was to carry fallen soldiers to the plane that returned them home. His time in Afghanistan gave him a strong appreciation for liberty.

Another thing Neuman took from his time in the Army was an appreciation for that institution's unwillingness to tolerate incompetence. In contrast, he believes that the MEA and his local teacher union protect ineffective teachers. Further, the National Education Association had taken a public

position against military involvement in Afghanistan.

Thus, when presented with the opportunity to resign during the MEA's so-called "August Window," he did so and as a consequence of Michigan's right-to-work law's passage expected that to be the end of the union attempting to collect money from him. The union had other ideas.

In its September 2014 contract with the school district, the Brighton Education Association sought release time for its president. Release time allows a union official to perform union business instead of teaching while still receiving a full salary from the district. In March 2011, the Mackinac Center estimated that this practice cost taxpayers \$2.7 million in the schools alone. Surprisingly, given that release time is in essence a gift to the union at taxpayer expense, the practice is not illegal. But the manner in which the union and district agreed to implement it in Brighton's collective bargaining agreement was. The agreement violated both right-to-work and a law preventing school districts from administering paycheck withdrawals for the union.

The district sought to ameliorate the effect of the release provision by having the union pay for any time used above a certain threshold. The contract authorized the union president to receive a full salary with a maximum teaching load of four hours. The union president was given an hour a day to perform union business. Any overage on this amount was to be paid by the union through



Left to right: Patrick Wright, Adam Neuman and Derk Wilcox

a payroll deduction from all teachers. This method meant that teachers who resigned from the union under right-to-work would be forced to provide funds to the union.

The Mackinac Center Legal Foundation filed a lawsuit on Adam's behalf on Oct. 15, 2014. The case received significant publicity. Adam and I appeared on "The Frank Beckmann Show" on WJR AM760. The case was a front-page article on FoxNews.com and also made Reason.com.

But, perhaps the most interesting media coverage was from the local newspaper, the Livingston Daily Press & Argus. It got a feisty quote from the Brighton Education Association president, Ellen Lafferty, who brazenly claimed the lawsuit was based on erroneous facts. She stated: "It would behoove Mr. Neuman and the Mackinac Center to check their facts before filing and publicizing this lawsuit that is 100 percent untrue." Lafferty might want to hesitate

in the future before offering legal analysis.

Almost immediately, the union and school district began work on changing the collective bargaining agreement. Perhaps in an attempt to allow Ms. Lafferty to save face, the language of the collective bargaining agreement was changed to comply with the law and Neuman's suit through an Oct. 20, 2014, "Confidential HR/LR Memo." That document was signed on behalf of the district by the superintendent and by Ellen Lafferty on behalf of the union.

While Lafferty's actions amuse, Neuman's actions should inspire. He is someone who has repeatedly been willing to live up to his principles, whether that involves dangerous military service or merely standing up and drawing attention to lawless behavior by the union. After the case was dismissed, Neuman explained "I just didn't want to be forced to pay for an organization I'm not part of." ■

WHAT HEROES MIGHT YOU AND I MEET IN 2015?



This year brought us heroes like Miriam Chanski, the kindergarten teacher who fought back when the union refused to recognize her right-to-work request. Union officials even threatened to turn her name over to a collections agency. But Miriam turned around and charged the union with unfair labor practices – and the union backed down.

Then we met Adam Neuman, the high school civics teacher and war veteran who forced his school district and union to recognize right-to-work fully – not just in part. It was all about following his principles, Adam told us.

And how about Robert and Patricia Haynes, the Clinton Township couple who first

exposed what came to be known as the SEIU “dues skim”?

Their willingness to come forward back in 2012 helped us figure out the skim, which helped us submit arguments to the U.S. Supreme Court in a similar case out of Illinois this year. The court ruled that arrangements like the one that forced the Haynes family to pay union dues are against the First Amendment.

There is one common thread among Miriam Chanski and Adam Neuman and Robert and Patricia Haynes.

They all came to the Mackinac Center for help – and we were able to help them only because of friends like you. You made all the difference.

Thank you for standing with us for the principles of limited government, individual liberty and free markets. Together we are putting these ideals into action in Michigan.

We know from the November elections that the people of our state want change. They want reforms that bring greater freedom and opportunity, like right-to-work, school choice and tax fairness.

With your continued support, the Mackinac Center will bring more big ideas to Michigan in the coming year, such as fixing underfunded pensions, corrections reform and enforcing merit pay for teachers.

What heroes might lead these charges? ■

CapCon Stood Firm Against K-12 Spending Lie

A few weeks prior to Election Day 2014, the campaign of Gov. Rick Snyder started countering untrue claims that under his leadership K-12 spending in Michigan had decreased \$1 billion. By that time, Capitol Confidential readers were well-versed on the issue.

Over the past two years, Capitol Confidential manned the front line in the battle against the false premise that the state’s education funding was down. That premise was manufactured by the Michigan Education Association and what might be termed its “education is always underfunded” coalition.

In article after article, Capitol Confidential exposed the dishonesty in which

the “K-12 funding cuts” dogma was rooted. Now it can finally be reported that ultimately that politically inspired dogma failed to resonate with the people of Michigan.

Gov. Snyder and the Republican-controlled Legislature in 2011 made what in accepted Lansing political parlance is generally considered “cuts” to K-12 spending. In response, the MEA and its coalition endeavored to exact a heavy political price upon them with what amounted to a nonelection year campaign. One GOP lawmaker was narrowly recalled from office, but otherwise all the ensuing noise, rallying and rhetoric accomplished little.

After Gov. Snyder’s first year in office he and the Legislature started to increase

funding for K-12 education. Instead of adjusting their rhetorical narrative to the new reality, the MEA and its coalition played fast and loose with the facts. They continued to loudly proclaim K-12 spending was down although the charge was unfounded.

Many segments of the news media gave credence to the creative devices the “education is always underfunded” coalition employed to prop up its claim K-12 spending had been reduced. Meanwhile, Capitol Confidential focused on the actual funding figures to set the record straight. Whether hiking K-12 education spending was the right decision or not, the groundless charge that funding levels were down had to be challenged. ■



Flawed Study Says Michigan Cut School Funding

Sept. 19, 2013

State Education Spending Still Increasing While Serving Fewer Students

July. 16, 2013

MEA Economist Ignores Billions in Education Spending

May. 13, 2013



Holiday traditions can change, but liberty marches on

While you may not be at work around the holidays, liberty is. Deciding where to go, what to do, what to eat (and how much of it to eat), are brought to you by liberty.

Normally the holidays provide a slower pace. That's what I mostly remember about the holidays growing up.

For our family at Thanksgiving, we spent a whole day with each other. Most other days of the year we ran in different directions. But for that day, we paused. We watched Macy's Thanksgiving Day parade, helped mom make the crust for her homemade pumpkin pie, piled into the station wagon, traveled to our grandparents' home to visit our cousins and eat lots of food.

The long day meant many opportunities to make memories. My siblings and cousins made up plays and performed them for the adults. We showed off the latest and greatest fads. Some years it was sports cards, sometimes video games, sometimes fashion.

Laughter and good conversation filled the evening with enjoyment.

The next day, I slept in. After all, I had just eaten the equivalent of two, possibly three meals and there was no school.

That was then.

Later in my teens, I found out what Black Friday was. My battle plans of finding the best deals were thorough. I would even buy items I thought other people wanted to give to other people so that they could benefit from the cheaper price.

Black Friday shopping stories abound. I'll never forget the overly ambitious shopper who grabbed a whole rack

full of clothes, hoarding them for himself and expecting other shoppers to pay him more for the clothes than the store was charging. Security made sure he didn't have any trouble selling any of those clothes or doing any shopping for himself. Guards escorted him back to his vehicle empty handed and told him not to return.

For others, shopping is the last thing on their list the Friday after Thanksgiving (or Thanksgiving Day as the case is now). Some believe it's materialistic. Others refuse to shop in protest of establishments that are open on or around a holiday. They believe they are making a statement to owners that they believe it's not right to expect people to work those days.

Allow me to share other perspective. Last year, I overheard workers at a national retail chain discussing the idea of working on Thanksgiving. One of them had said an acquaintance was criticizing her employer for opening the store on Thanksgiving. The employee, however, bragged about how the company provided meals for her throughout the day and paid her more than her normal wage that day. She said she wanted to work and that it should be her choice.

Those who don't like the idea of shivering outside while waiting for hours to get a deal make fun of me for doing so. I respect their opinion.

When it comes to the idea of whether a store should be open, whether people should shop, or whether people should work on a particular day, I believe freedom provides the best answer. ■

BY THE NUMBERS

15.6 percent:

reduction in state prison population from 2006 to 2014.

4.4 percent:

increase in state appropriations for the corrections department from Fiscal Year 2006-2007 to FY 2014-15.

4.25:

the current income tax rate percentage in Michigan

3.75:

the recommended tax rate percentage by James Hohman

10.8 billion:

the state school aid budget in 2011

12.1 billion:

state school aid budget for 2015

Join the Mackinac Center for these upcoming events.
Details and registration available at Mackinac.org/Events
- Pre-registration is required for all events.

January
14

WEDNESDAY

Issues & Ideas Forum featuring Daniel DiSalvo
Topic: Government Against Itself: Public Union Power
and Its Consequences

Location | The Townsend Hotel
100 Townsend Street
Birmingham, MI 48009

11:30 a.m. | Check-in and lunch available for
registered guests

12:00 – 1:00 p.m. | Program with Q&A

January
27

TUESDAY

National School Choice Week 2015
Screening of 'The Ticket' by Bob Bowden
Location: Capitol Building – South Hallway

10:30-11:00 a.m. | Check-in and light lunch available
for registered guests

11:00-12:00 Noon | Screening of 'The Ticket' and Q&A
with Bob Bowden

12:00-12:30 p.m. | Children's Choir performance in the
Capitol Rotunda

January
29

THURSDAY

MCPP and Acton Institute present Arthur Brooks
Location: Acton Institute, Grand Rapids

11:00 a.m. – 12:00 Noon | Book signing and event check-in
11:30 a.m. | Lunch available for registered guests
12:00 – 1:00 p.m. | Presentation with Q&A

Cost: \$15 per person
\$10 for students