

The Magazine of the Mackinac Center for Public Policy JANUARY/FEBRUARY 2015

# IMPACT



## SCHOOL CHOICE SHINES AT THE CAPITOL

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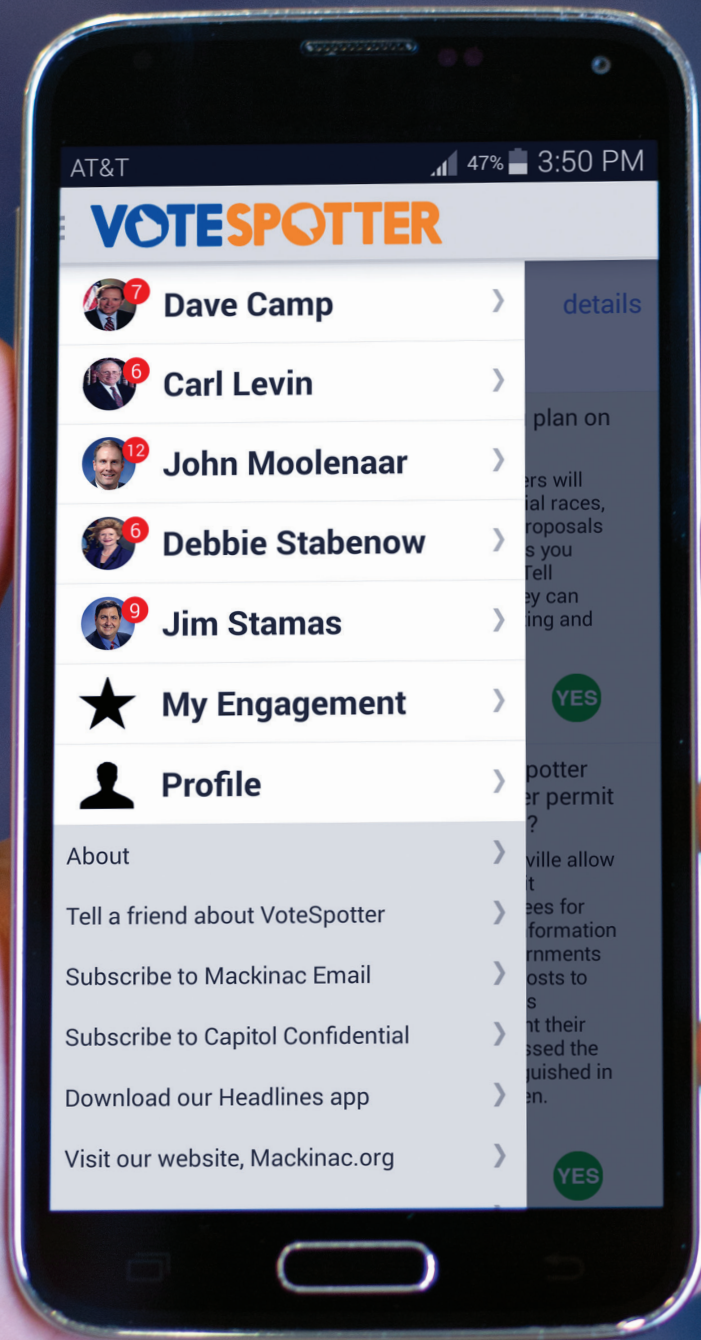
**Neighboring State Legislation  
Could Inspire Michigan's Next  
Move on Overcriminalization**

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# Merit, mens rea and a makeover

Despite what the thermometer outside shows, there’s always a reason for optimism.

The New Year brings fresh opportunities; new, unspoiled pages will soon tell the tale of history and the choices people have made.

And you can always count on the Mackinac Center for new, fresh and creative solutions to the public policy questions facing the people of Michigan.

Those fresh ideas often result from things we have learned from the past. Mackinac Center President Joseph G. Lehman celebrates 20 years of standing up for free-market principles and reflects on the hard-won truths he has gathered over his tenure in the public policy arena. Discover the lessons of unchanging principles that effect liberty and opportunity by reading his Letter from the President on page 4.

The New Year brings a new semester for students and educators. Educators who do a better job than others deserve to make more money. That’s the reason behind merit pay, which was part of several Michigan education reforms implemented in 2011. However, not every school district complied. Mackinac Center Education Policy Director Audrey Spalding recently wrote a study that shows that many districts failed to comply with these reforms. Michigan lawmakers took note of her recommendations, and as a result, they created a new incentive. In order for schools to access an additional \$70 million in state funding, districts must comply with “best practices,” including merit pay (page 5).

In the fall of 2014, Mackinac Center Executive Vice President Michael Reitz coauthored a study detailing Michigan’s

complex and confusing criminal code. One of his recommendations is that every law, by default, contain a “mens rea” requirement. It means that prosecutors must prove that the accused had a criminal intent, thus preventing the prosecution of people who commit crimes they didn’t even know existed — like dancing to the National Anthem, transporting Christmas trees without a bill of sale, or purchasing a motor vehicle on a Sunday. In the last days of 2014, Ohio passed a “mens rea” requirement. Will Michigan be next? (Page 11)

For some people, improving their looks may be on the New Years Resolution list. Michigan Capitol Confidential’s website recently got its own makeover. The site now features a crisper, more visual, and more user-friendly layout. Staying engaged is easier than ever with an email signup and a link to our social media channels in the upper-left section of the page. Top stories now rotate in the center of the page. And our “For the Record” feature finds prominence on the right side. We hope you enjoy the new format. Please let us know what you think. (Page 10)

Even during the holidays, Mackinac Center experts weigh in on the public policy issues of the day. Around Thanksgiving, Fox News invited Labor Policy Director Vinnie Vernuccio into the studio to talk about Black Friday protests. Read more about what he said on page 5.

We hope that wherever you are reading this, you are as optimistic as we are about the possibilities we see ahead in 2015. ■

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



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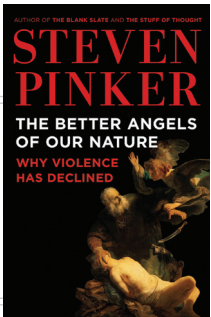
WHAT FOLKS ARE SAYING  
ABOUT THE MACKINAC CENTER

**“Though we disagree with the Mackinac Center on just about every major issue, we find common ground in exposing Michigan’s broken FOIA laws.”**

— Lonnie Scott, Progress Michigan Executive Director

 JARRETT SKORUP RECOMMENDS “THE BETTER ANGELS OF OUR NATURE” BY STEVEN PINKER

Scientist Steven Pinker provides good evidence in his latest book showing that world violence is declining significantly in both the short and long term. In fact, today’s world is probably the most peaceful time in history. He argues that this is occurring because of the trend towards more law enforcement, a greater respect for women, and higher literacy rates, to name a few reasons. But also crucial, especially in modern times, is the rise of commerce, globalization and free trade. When people voluntarily trade with each other in a market system, it encourages peaceful interactions — something that is more prevalent in the modern world.





Joseph G. Lehman

## Lessons from Twenty Years in the Freedom Movement

Twenty years ago I quit my perfectly good engineering job to join the save-the-world business. Two decades at anything prompts retrospection. Here are a few things I know now about public policy and the freedom movement that I did not know in January 1995.

JOSEPH G. LEHMAN

- It's better to be for people than against things. I'll admit to blatantly taking this language from the American Enterprise Institute's president, Arthur Brooks. The Mackinac Center and our movement in general must reorient around this idea.
- Good ideas are not inherently persuasive. Even brilliant ideas must be sold. Without persuasion, ideas are merely academic.
- Persuasion in public policy must reach beyond logic. Effective persuasion engages the mind (logos), the heart (pathos), and the conscience (ethos).
- Most lawmakers are not primarily interested in the details of public policy. They find other parts of the job more attractive. This reality creates obstacles and opportunities for us.
- Finding a person to illustrate a policy point is more powerful than explaining it as a concept. Our research analyzes and predicts government failure, but our news and litigation divisions find people to tell the world how government-backed coercion and overreach have harmed them.
- Electing the party that campaigns on free markets does not automatically produce free-market governance. Electing that party without changing its incentives will result in disappointment. That's why we don't shy away from naming names of political leaders who support legislation that's at odds with their free-market rhetoric.

- Lawmakers typically do not lead social change, even when passing landmark laws like the Civil Rights Act. Rather, lawmakers ratify what the public has already indicated it will demand or at least accept. This is the Overton Window in a nutshell. (Exceptions are called Overton's Revenge. See Prohibition and possibly ObamaCare.)
- The states themselves are largely untapped, incredibly powerful engines of change in Washington. Not only do they exert political influence, but the U.S. Constitution gives them legal influence as well, which may be in the process of being rediscovered. Change doesn't begin in Washington, it ends there.
- Economics is even less of a science than I once thought. Predicting the economic results of a law or program is at least as difficult as predicting anything else involving human behavior. That's another reason not to have much faith in central planning.
- Optimism is essential in the battle to save the republic. Temper it with reason; temper it with realism. But pessimism is demotivating – and self-fulfilling.
- America is amazingly full of generous, civic-minded, principled, hard-working people committed to the basic ideas of this country's founding. I knew they were there, I just didn't know how many and how passionate they are.

People wiser than I am taught me most of these lessons. I figured out a few on my own. All of us at the Mackinac Center are better equipped to advance sound policy than we were 20 years ago. ■

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## To Ensure School Compliance with the Law, Include Financial Incentives

For most people who follow government, nothing is more meaningful or more

**AUDREY SPALDING**

dramatic than the struggle to pass a law. In this romanticized view, the passage of

a law means that change was required, and that those who break the new law will be punished.

In 2011, the Michigan Legislature passed a series of education reforms, designed to retain and reward Michigan's best teachers. According to these new laws, districts would have to pay high-achieving teachers a premium, and could not make teacher hiring and firing decisions on the basis of seniority alone. For those who celebrate new laws, this marked the beginning of change.

But Michigan's public education system did not change dramatically simply because a few laws had been passed. As the Mackinac Center found in a 2012 survey of collective bargaining agreements, some districts "complied" by paying their best teachers just \$1 more, with the majority of districts ignoring the law entirely.

In the spring of 2014, we conducted another survey, finding that 60 percent of surveyed districts worked to preserve collective bargaining language that was prohibited by the 2011 laws. In comparison, a different 2011 law passed to contain district health insurance costs had widespread compliance. The key difference between the two laws, we noted,

was that the one addressing health insurance costs had a hefty financial fine for districts that failed to comply.

It is clear that though the passage of a law may be meaningful for some, many school officials appear not to care — unless a financial penalty or reward is attached. As we suggested in our 2014 survey, if legislators wanted districts to pay their best teachers more and to stop making critical personnel decisions on the basis of seniority, they needed to use a financial stick or carrot.

In response to our recommendations, the Michigan Legislature added a carrot. In order to access an additional \$70 million in state funding, school districts must comply with certain "best practices," including offering merit pay for teachers and removing certain language, prohibited by law, from collective bargaining agreements.

Though adding a financial incentive to an existing law seems like a small change, the Michigan Education Association was livid that school districts would "get more money" if they paid high-quality teachers more and removed some subjects from teacher contracts. The MEA likely realizes what we have learned: The financial incentive attached to a law is at least as important as the law itself. ■

Audrey Spalding is director of education policy at the Mackinac Center.

## LaFaive's speech to We the People of Mid-Michigan: Political Society Displaces Civil Society

In December, Michael LaFaive, director of the Morey Fiscal Policy Initiative for the Mackinac Center for Public Policy, presented a speech to We the People of Mid-Michigan on political society versus civil society.

The state budget for fiscal year 2015 will be \$52 billion, he noted, a number which will likely increase in 2016.

Michigan's budget has already increased 30 percent from the 2005 fiscal year, when it was \$40 billion.

LaFaive focused on how smaller government benefits society's freedom as a whole, while a government that takes more from taxpayers expands Michigan's "political class" and reduces its "civil society."

"A political society is a coercive one that requires countless mandates and regulations and rules to function while a civil society relies on peaceful, voluntary association in a free market economy," LaFaive said.

"As government grows, civil society shrinks. When government moves beyond its core functions, it does not create things out of thin air so much as it displaces what a free people would choose to do. And it ends up performing too many tasks too poorly, including the ones we absolutely must rely upon for the sake of safety and basic, essential services." ■

## No Holiday for MCPP: Labor Director Exposes Union Front Groups on Fox News and in The Hill the Day after Thanksgiving



The day after Thanksgiving, union front groups were at it again. In what has become

labor's holiday tradition, OUR Walmart, an organization affiliated with the United Food and Commercial Workers union, mounted a public relations campaign to protest at Wal-Mart stores around the country.

Yet again, the hype was overblown. Despite email exhortations to union members from the AFL-CIO's president, Richard Trumka, the campaign seemed to be waning this

year, and few Wal-Mart employees joined the protests.

On Black Friday, F. Vincent Vernuccio, Mackinac's director of labor policy, spoke about the protests with Charles Payne on Your World with Neil Cavuto in the Fox News studios in New York City.

That same day, The Hill published an article he wrote. In it, Vernuccio compared the tactics used during the protests to the positive solutions he recommends in his new

study, "Unionization for the 21st Century: Solutions for an Ailing Labor Movement."

In the study and the article Vernuccio shows that unions are desperate to gain new dues-paying members. He points out that the answer is not to stage demonstrations against businesses through manufactured protests and front groups. Rather, unions should adopt free market reforms where the individual is the center of the labor movement and choice without compulsion is paramount. ■





## INTERVIEW WITH A SUPPORTER

This issue: Tom McMullen



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 Tom McMullen (pictured here with his wife, Debbie).

**MCPP:** Tell us about your family.

**McMullen:** My wife Debbie and I have three children. Two boys in their 40s and a girl in her 30s. Our middle son is in Sarasota, Florida. The other children are in Michigan.

It's an interesting story of how my wife and I were engaged. The Vietnam draft was going on. I was called in as a 24-year-old. The drafter asked me if I genuinely wanted to go to Vietnam, and I told him honestly, "No." He told me there were two ways to stay out, either keep running the business I was running or get married.

I told my girlfriend at the time about this discussion. She asked, "Is this a proposal?" I guess it was. We eventually got married. However, I would have gone to Vietnam if it was required.

**MCPP:** What do you do for a living?

**McMullen:** I started McMullen Properties in Ann Arbor 40 years ago. We have around 30 employees. We're involved in real estate development, investment, offices, apartments and we were in the home-building business for 10 years.

At first I bought and sold, making a profit that way. Then, I figured out that when you build it, continue to own it, and then lease

it to someone, it's easier to fight through tough economic times because you still own something at the end.

**MCPP:** Where are you from originally?

**McMullen:** Ann Arbor. Grew up here through high school. Then went to Brown University in Rhode Island, spent some time in Pennsylvania, then Illinois, and came back to Ann Arbor.

What brought me back to Michigan is an interesting story. I was working at a good job for a big company in Chicago. However, I wanted to get started in construction. My college major was political science, not exactly in line with building, but that's where I wanted to go. My dad was a homebuilder, too. I worked for him as a kid. I quit the good job in Chicago and moved back to Michigan. I was single at the time. I started remodeling homes to get started. Then I bought some property and built a spec home. That sold and then I got married and stayed in Ann Arbor ever since. This is where we raised our family. I still follow Brown University, but I'm also a Wolverines fan too.

Ann Arbor is quite a town. It's really solid on many fronts: athletically, academically, culturally and economically. The economy

is very strong and the college is strong. It keeps us out of recessions and from hitting rock bottom. We get along really well.

**MCPP:** What was your first experience with the Mackinac Center?

**McMullen:** I suppose the first experience was getting newsletters and Viewpoints. A lot of what I was reading was making sense. I am particularly interested in labor issues, having had my own construction company.

I received a copy of the Mackinac Center report on Unionization for the 21st Century and am excited to read it. Successful unions will be the ones that adapt to the changing times.

I like reading about other Mackinac Center supporters like the Morey family, who gave the Mackinac Center its first million-dollar gift.

I know what it's like to raise money. I've helped other nonprofit organizations like the YMCA and my church raise money, probably a dozen organizations total. ■



# Events Highlight the Marriage of Special Interests and Government Power

Two recent Mackinac Center events helped deepen the public’s understanding of licensing and the power of public sector unions.

On Dec. 4 the center welcomed Dr. Morris Kleiner, who recently wrote the book, “Our Guild-Ridden Labor Market: The Curious Case of Occupational Licensing.”

Dr. Kleiner spoke to a group at the Radisson Hotel in Lansing for the Mackinac Center’s Issues and Ideas forum.

He pointed out the history of guilds. “In the Middle Ages, guilds arose to protect the members of the guild, using their power and the state to exclude others and get business for themselves,” Kleiner explained.

He said there’s been a movement away from manufacturing, where unions dominate, to the service economy, where licensing dominates.

Kleiner contends that increasingly, regulations keep people from entering the workforce and trying new things, while freedom produces an environment where innovation and growth occur.

On Jan. 14, more than 60 people gathered at the Townsend Hotel in Birmingham for another Issues and Idea forum, this one featuring Daniel DiSalvo.

The assistant professor of political science at The City College of New York-CUNY and senior fellow at the Manhattan Institute’s Center for State and Local Leadership shared the findings of his new book, “Government Against Itself: Public Union Power and Its Consequences.”

DiSalvo acknowledged differing ideas regarding the proper size of government. However, he pointed out the thoughts of Alexander Hamilton, who said, “A government ill executed, whatever it may be in theory, must be, in practice, a bad government.”

DiSalvo’s main points were that increasingly powerful public sector unions tend to decrease state capacity, resulting in increased costs, decreased efficiency, crowded-out priorities, and a skewed distribution of public resources.

Full videos of these speeches and other past events are available on the Mackinac Center event page at [www.mackinac.org/events](http://www.mackinac.org/events). ■



Daniel DiSalvo, speaking at the Townsend Hotel on January 14.



Dr. Morris Kleiner, speaking at the Radisson Hotel in Lansing on December 4.

## Got Budget Savings?

“I saw an unusual thing today,” Mark Twain allegedly said. “It was a politician with his hands in his own pockets.”

In the hope politicians might stop reaching deeper into everyone else’s pockets, experts at the Mackinac Center have invested countless hours in researching and recommending hundreds of budget reform ideas worth billions of dollars. Our first budget study was published in 1996 and recommended \$1 billion in cuts. More recently, we published 35 old and new ideas for reforming the budget, to reallocate up to \$2.1 billion for roads or other priorities.

Many of the 35 ideas are bold ones, with large savings. Indeed, the first three reform ideas alone are worth nearly \$1.2 billion, the figure Gov. Rick Snyder has long said he wanted in new taxes for road and

**MICHAEL LAFAYE**

infrastructure repair. The following is a cross section of ideas from the document:

- Eliminate statutory revenue sharing to local units of government and/or redirect those revenues back to local units, but earmark them to road repair. Savings: \$419.2 million.
- Eliminate the Michigan Economic Development Corporation. This is Michigan’s corporate welfare department. Savings: \$300 million. (Note: This is a very conservative estimate.)
- End certain “one-time” appropriations, such as subsidies for the Muskegon farmers market (\$200,000) or the Michigan Senior Olympics (\$100,000).

The Mackinac Center’s analysts have identified \$10.1 million in such appropriations in the fiscal 2015 budget.

The Mackinac Center isn’t the only institution to float bold budget reform ideas. In 2009 and 2010, two other government groups made hundreds of recommendations worth \$1.5 billion and \$2.98 billion, respectively. If not our ideas for reform, why not those?

Michigan taxpayers deserve a break. The state could give them one by finding budget savings and then cutting spending and personal income taxes. We’ve drawn a roadmap for legislators, if only they would follow it. ■

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





# CONSIDER THE CONTEXT:

## Mackinac Report Card Allows for Apples-to-Apples Comparison of Schools

In November, we released our “Context and Performance” report card for public high schools throughout Michigan. This is the Mackinac Center’s latest annual school report card. High school grades were calculated using the past four years of student academic achievement at each school, providing a more stable measure of school success.

Star International Academy, a public charter school in Dearborn, was the top-scoring school in the state in 2014. This shouldn’t be a surprise – Star International was No. 1 on the Center’s 2012 report card, too.

While there are a number of other public school report cards, Mackinac Center experts are the first to measure school performance by accounting for student socioeconomic background. Since student background can have a tremendous impact on academic results, report cards that do not adjust for it run the risk of penalizing schools that serve high-poverty areas.

The report card considers student background by using regression analysis to adjust school-level test scores by taking the percentage of students in poverty at a school into account. By adjusting for student background, the report card provides more of an “apples-to-apples” comparison, allowing schools to be compared throughout the state.

Covert High School is one example of a school that is typically penalized for serving a high-poverty population. Nearly all of the students attending Covert district schools – 96 percent – are eligible for free or reduced-price lunch, a program extended to low-income families.

In 2014, the Michigan Department of Education ranked Covert High School among the bottom 26 percent of schools. However, Covert received an ‘A’ on the Mackinac Center’s report card, scoring in the top 90 percent of schools. In other words, Covert High School is posting higher test scores than other schools with similar student populations.

“We definitely don’t use demographics as an excuse,” Covert Superintendent Bobbi Morehead told the Mackinac Center. Morehead suggested that state and school officials consider student academic growth over time rather than at just one point. “Take a look at where students are and hold people accountable for the progress they make,” she said.

Newspapers throughout Michigan reported on the report card, including the Dearborn Press and Guide, the Battle Creek Enquirer, the Kalamazoo Gazette, the Macomb Daily, the St. Joseph Herald-Palladium and the Oakland Press.

This report card is one of the Mackinac Center’s most popular publications among school officials. In the weeks following its publication, we received thank-you notes and calls from school officials, as well as requests for additional copies. ■

This study is available online at [Mackinac.org/s2014-08](http://Mackinac.org/s2014-08).



# MACKINAC CENTER LEGACY SOCIETY

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Call 989-631-0900 and ask for the Advancement department  
or send an email to [LegacySociety@Mackinac.org](mailto:LegacySociety@Mackinac.org).

## Women Legislators Hear of Cigarette Smuggling Impact

The Mackinac Center for Public Policy's popular studies about cigarette taxes and smuggling have once again drawn the attention of lawmakers from across the country. This time, the National Foundation of Women Legislators hosted Mackinac Center experts on the subject at its 2014 conference last November.

Our study, published in 2008 and updated three times since, estimates the smuggling rates for 47 of the 48 contiguous United States for both "casual" and "commercial" smuggling. Casual smuggling involves individuals crossing a border to buy cheaper smokes. That is not always illegal, as some states — Michigan not among them — permit small amounts of cross-border shopping. Commercial smuggling involves long-haul and large shipments that can be characterized as an organized crime.

I presented these estimates at a foundation forum on illicit tobacco, which also included testimony from law enforcement, an expert on regulation, and the head of a convenience-store association in Canada.

My coauthor Todd Nesbit and I estimate that through 2012, 27.6 percent of all the cigarettes consumed in Michigan were smuggled in. While this was a substantial percentage, Michigan was not America's number one smuggling state. New York — where almost 57 percent of the total market was smuggled in — has that dubious

distinction. Ours is not the only estimate showing the Empire State's smuggling rate above 50 percent.

In my remarks, I also noted that other scholars have been doing fascinating research — mostly on the East Coast — in which they collect discarded cigarette packages and examine each for the tax "stamp" placed on each pack. A tax stamp indicates in which jurisdictions excise taxes have been paid.

In 2013, a group of eight scholars released a study summarizing their analysis of discarded cigarette packs in five East Coast cities: Philadelphia, New York City, Boston, Providence, and Washington D.C. Between 30.5 percent and 42.1 percent of the collected packs did not bear the local tax stamp and were in these cities as a result of illegal trafficking.

These authors also calculated that the five cities in their study would collect \$680 million to \$720 million more in revenues if they could eliminate the smuggling problem.

The Mackinac Center estimates that the state of Michigan loses \$175 million in excise tax revenue to smuggling activities.

These estimates are state, not city specific, but both our studies and those of the scholars focusing on the East Coast seem to indicate that smuggling could be deemed "rampant." Our methodology involves



comparing the published smoking rates for each state with its paid, legal sales per capita. The difference between the two has to be explained somehow, and we believe it is largely explained by illegal activities.

Several members of the National Foundation of Women Legislators publicly stated the need to tackle the issue of illicit trade more aggressively. While I recommended doing so by rolling back excise tax rates in high-tax states, other panel members emphasized greater communication between law enforcement agencies, plus stiffer penalties.

Earlier in 2014, Nesbit and I presented our findings to the Council of State Governments and the Federation of Tax Administrators. The CSG is a nonpartisan group that serves both Democrats and Republicans in state legislatures across the country. The FTA assists state taxing authorities such as state treasuries.

The next iteration of the Mackinac Center's cigarette taxes and smuggling study — based on data through 2013 — will be released in early 2015. ■

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



# WHAT'S NEW?

Have you noticed our new CapCon page? We've made some updates to give you a streamlined experience on our website. Check out some of the new features.

Easily navigate the site or donate.

A rotator was added to highlight the top stories. Updated Daily.



Easily find and visit our sister sites.

For The Record features moved to their very own column.



# Criminal Intent Bill Passes in Ohio

Ohio recently enacted a law that protects the rights of individuals and can serve as an inspiration for the Michigan Legislature.

The Ohio bill dealt with criminal laws and the criminal intent a prosecutor must prove to secure the conviction of a defendant. The bill goes even further and renders void any future legislation that fails to specify the level of intent required for conviction of a crime.

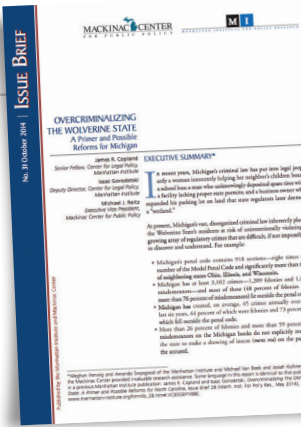
Traditionally, conviction of a crime required the combination of two factors: a criminal act and a culpable state of mind. Since the industrial revolution, however, legislatures have increasingly relied on the use of criminal sanctions to accomplish regulatory aims. A common feature of those laws is that they eliminate the obligation to prove that a

defendant intended to commit a criminal act; if the defendant commits the act, regardless of his state of mind, he can be held strictly liable.

This becomes a concern when one surveys the explosion of criminal laws in recent years, both at the federal level and in many states. A study published by the Manhattan Institute and the Mackinac Center found more than 3,100 criminal laws on the books in Michigan, with the Legislature adding an average of 45 new crimes in each of the last six years. With an ever-escalating number of crimes one can commit, people can be caught in a violation for conduct they simply didn't realize was illegal.

Our study recommends pruning obscure and obsolete laws from the books. It also recommends establishing a default

standard of criminal intent for laws that are silent on the issue. Such a reform would concentrate criminal sanctions on truly objectionable behavior and would serve to only convict those who choose to commit a crime. And, much like Ohio's recent legislation, this reform would protect individual rights and improve the efficiency of the justice system. Senate Bill 20, introduced by Sen. Mike Shirkey, R-Clarklake, would accomplish this goal and is worth consideration in the new legislative session. ■



Our recent Overcriminalization Study is available online at [Mackinac.org/20644](http://Mackinac.org/20644)

# Mackinac Center Attorneys Keep Local Governments Honest

Free-market organizations and legal groups often successfully advocate for public policy changes, such as right-to-work, or win a big high-court case, such as one that involves a union skimming the dues of home care workers. But they have been less effective at making sure that the new law or court ruling is obeyed and enforced. The Mackinac Center Legal Foundation knows this fact, and makes it a priority to implement and defend our victories.

controlled by the unions) are still including these illegal provisions in their collective bargaining agreements. In the recent Mackinac Center Legal Foundation victory on behalf of Adam Neuman (featured in the last issue of IMPACT), violations of this law were coupled with an attempted end-run around the right-to-work law. In Brighton, Adam Neuman, though he had left the union, was being required by the school district's collective bargaining agreement to pay for "release time" — the collection

awaiting decisions from the court and also from the Michigan Employment Relations Commission. Another priority for our attorneys is testing and defending the Freedom of Information Act — challenges that have already paid dividends in keeping government open and honest.

Michigan's attorney general has the primary responsibility of enforcing Michigan's laws and holding local governments accountable. But the reality is that there are simply too many local collective bargaining agreements, too many local FOIA policies, and too many attempts by government officials to undercut legitimate and beneficial public policies. The attorney general's office simply can't monitor all of these — and has different priorities as well.

That is why the Mackinac Center Legal Foundation considers it a key function to act as a "shadow attorney general's office," ferreting out these attempts to undercut freedom-supporting public policies and calling the parties to account. If we don't do it, then who will? The foundation looks forward to the day when every local municipality, as it considers contracts, collective bargaining agreements, or FOIA policies, stops and asks, "If we try to get around this law we don't like, will we get sued by the Mackinac Center?" Hopefully, they'll make the right choice. ■



In 2012 the Michigan Legislature passed a law making it illegal for a school district to collect money from its employees on behalf of labor unions. Yet research conducted by the Mackinac Center's education policy unit has turned up numerous instances where the unions and the school boards (whose members are often heavily influenced or

controlled by the unions) are still including these illegal provisions in their collective bargaining agreements. In the recent Mackinac Center Legal Foundation victory on behalf of Adam Neuman (featured in the last issue of IMPACT), violations of this law were coupled with an attempted end-run around the right-to-work law. In Brighton, Adam Neuman, though he had left the union, was being required by the school district's collective bargaining agreement to pay for "release time" — the collection of taxpayer and teachers' money to fund union officials' activities — and the school system was acting as the union's bill collector. It was a clear example of the union and a government body disregarding or flouting the law.

And the Mackinac Center continues to fight for the rights of other teachers as

well. The center continues to fight for Angela Steffke and the Taylor teachers who were subjected to a deplorable ten-year union security agreement that denies them the right-to-work freedoms other teachers are entitled to. On Dec. 3, center attorneys argued their case before the Michigan Court of Appeals. They are





Students sign their names on a banner at the National School Choice Week event in Lansing January 27, 2015.



# School Choice Shines at the Capitol

by Audrey Spalding and Jarrett Skorup

This year, more than 250,000 Michigan students will use educational choice to attend a public charter school, or to attend school outside of the district in which they live. At least 100,000 more students attend private schools, or are homeschooled. For Michigan parents, educational choice is no longer controversial — choice is now part of this state's educational mainstream.

The last week of January is National School Choice Week, an annual celebration of the fact that families can choose among a variety of options in order to find the best school for their children. Across America, there are thousands of events held to celebrate. In Michigan, the main event took place in Lansing.

The Mackinac Center for Public Policy, the Great Lakes Education Project, and the Michigan Association of Public School Academies teamed up with National School Choice Week sponsors to bring supporters and students to the Capitol and to engage state officials on this important issue.

Approximately 150 charter school students visited the state Capitol to showcase their schools. Filmmaker Bob Bowdon made a visit to show and discuss his latest documentary, “The Ticket,” which highlights ways families make use of school choice throughout the country.

Gov. Rick Snyder honored the event by issuing a proclamation in support of making a wide range of educational options available to Michigan families, and designating the week as National School Choice Week.

State legislators showed their support, as well. Rep. Harvey Santana, D-Detroit, spoke to the visiting students about the importance of education. Later in the day, Sen. Phil Pavlov, R-St. Clair, spoke about the future of school choice to a group of school reform activists.



The event began with the screening of “The Ticket.” The short film shows the many ways school choice is provided.

“Different kinds of children thrive under different kinds of educational environments,” Bowdon said.

“The Ticket” highlights innovative school choice options, such as “parent trigger” laws, which enable parents to force remedies on chronically failing schools that refuse to change. Another option showcased was homeschooling, which was mostly illegal across much of the country a few decades ago, but is increasing in popularity today due in part to educational co-ops. Public school district choice is another option. Michigan’s Schools of Choice program was first authorized in 1996, and lets students attend school districts other than just the one to which they are assigned by ZIP code.

In 2011, an artificial cap was lifted on the number of charter schools in Michigan, which are public schools that have been freed from restrictive mandates such as being forced to engage in collective bargaining with teachers unions.

While vouchers are prohibited in Michigan by a state constitutional amendment adopted in 1970, programs in 13 other states allow participating parents to take some of the money that would be spent to teach their children at a conventional public school and use it to send them to a school they choose — including a private school and often a Catholic school. In 18 states, taxpayers can take advantage of income tax deductions or credits that encourage school choice. A new kid on the block in school choice options is online learning or “cyber schools,” where technology allows students, especially those with unique educational circumstances or seeking an escape from bullying, to gain wide access to educational opportunities.

After watching the documentary, the chair of the Michigan Senate education policy committee, Sen. Phil Pavlov, R-St. Clair Township, spoke about the expansion of educational opportunities in the state. Pavlov was instrumental in removing the arbitrary cap on charter schools, which just a few years ago had generated a 10,000-student waiting list and forced children into enrollment lotteries.

“I’m a big believer in the idea that parents make the best choices for where to educate their kids,” Pavlov said. “We need to put the students first in the equation.”

Then, about 150 students packed the Capitol rotunda to celebrate the choices in schooling they now enjoy. A choir and a step team from Bradford Academy in Southfield performed, as did a dance team from the West Michigan Academy of Arts and Academics in Spring Lake. Aviation and robotics teams from other charter schools, including the West Michigan Aviation Academy in Grand Rapids and FlexTech High in Brighton, displayed their work.

James Smith, a senior at the aviation school, said he heard about the school through his mother when it was getting off the ground in 2010. There is a lottery to get into the school and he’s thrilled to be there.

“Students take all of the normal classes that you would take anywhere, but there is a focus on aviation,” Smith said, adding that the school also offers engineering and robotics programs.

His classmate Lexie Asbury started at the school as a sophomore after going on a private flight with her grandfather and being inspired to learn to fly.

“It’s a chance to do what I love,” she said.

Taryn Winfrey and Daija Hayes sing in the choir for Bradford Academy. They both began attending the charter school in grade school because their families believed it to be the best educational opportunity in the area where they live.

“It’s a smaller school and I love the music programs,” Hayes said.

Cathy Cantu is the school director for the West Michigan Academy of Arts and Academics. “We believe many students learn best across multiple modalities,” Cantu said. “We feature all the classes of any schools, but music, dance, and the arts intersect across the subjects.”



Every student had a different explanation for how they ended up exercising the choice to attend a school their family selected rather than one to which they were assigned. All of them were grateful their families had the opportunity to choose.



The Mackinac Center is committed to making sure every Michigan parent has the freedom and flexibility to choose the best education for their child, and celebrating National School Choice Week is part of that effort. Often, critics of school choice focus on maintaining existing educational institutions, rather than examining whether those institutions are acting in the best interest of children. The most recent example can be found in Saginaw, where the Saginaw Public School District chose to demolish a vacant school building, rather than sell it to a public charter school.

The Saginaw board's actions ensure that both Saginaw and charter school students lose: Saginaw could have used the \$3.25 million

from the sale to pay off its debt, while the charter school would have offered students an additional educational option in a previously vacant school building.

At the end of National School Choice Week, The Detroit News ran an op-ed from Rep. Santana that discussed the importance of giving Michigan families access to educational choice.

"If we stop focusing on adult institutions and start trusting parents to make the right choices for their children, everyone will win," Santana wrote.

Unfortunately, Saginaw's school board is still placing the needs of the institution ahead of the needs of Saginaw children. However, the popularity of educational choice in Michigan shows that it is an organically growing force that cannot be stopped by a few misguided decisions made by local school officials. As school choice becomes ever more popular, more state and local officials will realize that the best thing to do is to put the needs of Michigan students first. ■

## Welcome aboard!



### Andrew Koehlinger

VOTESPOTTER PROJECT DIRECTOR

Andrew Koehlinger is the project director for VoteSpotter. He joined the project in February 2014, after working two years in sales, first as a representative for a national medical device manufacturer, and then as an industrial safety specialists for a Fortune 500 company.

Prior to that, Andrew held internships with the Institute for Humane Studies and the Institute for Justice, while earning his bachelor's degree in economics from Hillsdale College.

Andrew resides in Midland.



### Jim Walker

VICE PRESIDENT FOR ADVANCEMENT

Jim Walker joins the Mackinac Center with 15 years of professional fundraising experience.

In his previous position as chief development officer for the Ohio History Connection, Jim's team grew the overall philanthropy by more than 100 percent in less than four years.

"The Mackinac Center is leading the charge to renew a system of free enterprise in Michigan and also impacting public policy nationally. I feel honored and energized to join this noble cause, working for freedom in my home state," Jim said.

Originally from Oxford, Jim, his wife Kelly, and their 6 children are excited to be back home in Michigan and are residing in Midland.



### Ilia Anderson

GRAPHIC DESIGN ASSISTANT

Ilia started her design internship with the Mackinac Center in August 2013, and was recently promoted to her current position as graphic design assistant.

In addition to her love of design, Ilia's other interests include illustration, photography and music, which she pursues in her free time. She has performed a number of live shows and enjoys a significant YouTube following for her many cover videos and originals. She was homeschooled through high school and is a Midland native.





## Skiing with Ashleigh

I was 13 years old when I first skied downhill. Being athletic seemed to favor a rapid learning of a new skill. But this perception and reality did not match.

Getting the equipment on my body was the first hurdle. I was familiar with boots that allowed my ankles to move; ski boots denied them that right. The people helping me gear up told me the boots should “fit like a glove.” What an insult to gloves everywhere.

The next test was the beginner slope. Not going down it (that was still a few steps away), but rather, lumbering toward the mechanism that propelled me up the hill. There is no video evidence of me learning to walk as a toddler, but you could have rolled tape on my attempt to get up the ski hill and filmed a similar scene.

These thoughts permeated my mind last month as I took my oldest daughter Ashleigh (age 6) skiing for her first time.

She’s a perfectionist and stubborn, just like her daddy. She is the same person who asked, 15 seconds after strapping on ice skates for the first time, “Why am I not good at this?”

I prepared for a day of having my patience tried. My advice to her was, “Don’t give up, keep trying.”

Ashleigh’s first few times up the tow rope were rough for her — and me. I had no experience picking ski-strapped children off the ground, and it showed.

But soon she got the hang of it. She was grabbing the rope, bending her knees, and hanging on for dear life as the line dragged her up the bunny slope.

She got better going down the hill too. After mastering the skill of balancing on two long, thin pieces of wood, she moved on to controlling her speed.

She came long way in a short time and soon wanted to go on the bigger hills that — and here my fear for her kicked in — required going on the chair lift.

This is the part where I began failing as a parent. Rather than encouraging her desire to advance, I tried to dampen it. I didn’t want her newfound love of skiing to be destroyed by a bad experience on the chair lift, or by struggling down a hill that was beyond her abilities.

Rather than stopping her altogether, I did something even worse: I went into “helicopter parent” mode. Mind you, I have criticized the practice of parents who overdo it, but for some reason I let my fears turn me into Airwolf. Even the lift operator had more confidence in her than I did. I tried to get the lift slowed down but the worker balked, saying, “She’ll do fine.”

And she did.

Ashleigh got off the lift as if she had invented the practice, but that didn’t stop me from hovering. I can only imagine the embarrassment she felt. Her father was skiing beside her the whole time, his arm in front of her, as if keeping her back in the seat of a car that had stopped abruptly.

Oftentimes, fear of failure results not only in bad parenting, but also in bad public policy. In the name of promoting public safety or consumer well-being, governments pile regulation upon regulation and our political leaders hesitate to repeal bad laws. “What if something goes wrong?”

My fear of my daughter failing may have kept her from falling, but it also stifled her ability to learn from her mistakes. My good intentions made it more difficult for her to get better, because I was stopping her from trying to improve herself. I also contradicted my advice to her earlier in the day. “Don’t give up, keep trying.”

Hypocrite, table for one.

While I’m not proud of my actions, I am proud to say that Ashleigh taught me more than she ever learned that day. ■

## BY THE NUMBERS

**\$1,550.22**

Amount Michigan Liquor Control charged Mackinac Center for digital information.

**\$5.1 Billion**

The original amount of refundable tax credits approved by the now-defunct Michigan Economic Growth Authority program.

**24.97 Percent**

Proportion of cigarettes consumed in Michigan that the Mackinac Center estimates are smuggled.

**138,000**

Preliminary estimate on the number of Michigan household job gains from December 2013 to December 2014.

**1997**

Last year that the state added more than 100,000 jobs to the economy.



# BY THE NUMBERS:

## The Mackinac Center had a stellar year in 2014

We welcomed **hundreds of new supporters**, saw **a rapid increase of more visitors** at our website, helped **tens of thousands of friends** download our Votespotter smartphone app, added **three members** to our Board of Scholars ... and the list could go on!

But these are so much more than numbers to us, because behind every number is a person like you.

Every new member of the Mackinac Center — and every continuing member — is someone willing to invest personally in protecting liberty, and advancing free markets and a limited government.

Our web visitors are looking for information on policies that support freedom. Votespotter users are keeping an eye on what their legislators are up to in Lansing and Washington, D.C. The experts on our Board of Scholars share their time and expertise on the policy issues of the day.

Your investment and that of so many others is helping to advance freedom through research, education, outreach, and litigation. Here are just a few examples of how you are making a difference:

**Votespotter, our free smartphone app, alerts you to how your legislators voted on key bills in Lansing or Washington, D.C., and lets you send feedback to them. Knowing that their constituents are watching is a powerful incentive for lawmakers. Votespotter is available at the iPhone App Store and at Google Play.**



**Our unique web feature, “Michigan’s Pension Underfunding Problem,” is raising awareness of the problems that come from the state (and many cities) having not set aside enough funds to pay for workers’ pensions. You can see this at [mackinac.org/20884](http://mackinac.org/20884).**

**AugustOptOut.org is an information-and-action resource for workers who want to learn more about right-to-work and how to exercise their choice. More than 24,000 users came to this website in 2014.**



**These and other efforts are only possible because of your support.**

Thank you again. Please tell your friends about the effort to bring greater freedom and opportunity to our state and country, and encourage them to join the Mackinac team!