

The Magazine of the Mackinac Center for Public Policy MARCH/APRIL 2015

IMPACT



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Spring, Suing and Celebrating

Eighteenth Century English poet Alexander Pope said, “Hope springs eternal in the human breast.” That can be interpreted to mean that humans continually look for a reason to be optimistic.

In Michigan, there’s a wonderful reason for hope to spring. Spring! Warmer weather, longer periods of sunshine and beautiful blooming landscapes greet those who have been cooped up indoors for the last several months.

But the changing season isn’t the only reason to be optimistic. Freedom gives all of us the opportunity to pursue happiness and create a better world for ourselves. The Mackinac Center gives liberty a voice in the realm of public policy.

To be effective, organizations not only have to be right, they have to be persuasive. In this issue of IMPACT, you’ll read about the effectiveness Arthur Brooks is having in the freedom movement. He’s the president of the American Enterprise Institute and recently spoke at a Mackinac Center event. He stresses that those who want to be persuasive have to be for people, rather than simply against things. (Page 5)

You’ll read about a document the Mackinac Center submitted to the Supreme Court in support of California teachers who wish to have a choice regarding whether to pay union dues to keep their jobs. (Page 9)

You’ll read about three Taylor teachers who, with the help of the Mackinac Center Legal Foundation, stood up against a union and won the freedom to choose whether to financially support that union. (Page 12)

This year marks the fifth year of Michigan Capitol Confidential’s digital product.

The news service of the Mackinac Center represents the electorate above the elected and tells stories from the perspective of the governed rather than the government. Numerous mainstream national media outlets have cited the award-winning CapCon team over the past five years. (Page 7)

Before you head to the polls on May 5, read what Assistant Fiscal Policy Director James Hohman discovered while researching Proposal 1. (Page 8)

The Mackinac Center Legal Foundation fought for the public’s right to public information in its lawsuit with the Michigan Liquor Control Commission. The MLCC charged the Mackinac Center more than \$1,550 for documents that could have been easily transferred to a flash drive. The MCLF sued and got the charge down to around \$50. (Page 10)

The Mackinac Center fights for the rights of parents to send their children to the school of their choosing. Recently, the center hosted a telephone town hall, reaching out to tens of thousands of people and educating respondents on the issue of school choice. (Page 14)

I buried the lead. The Mackinac Center welcomes Wisconsin to the right-to-work club. Prior to the Badger State becoming the country’s 25th right-to-work state, Mackinac Center Director of Labor Policy F. Vincent Vernuccio testified for a Senate public hearing about the advantages of right-to-work. (Page 13)

These stories, and the nicer weather to come, should give you plenty of reasons to be optimistic. ■

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



Blog

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

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WHAT FOLKS ARE SAYING
ABOUT THE MACKINAC CENTER

“The review process for research at the Mackinac Center is as or even more thorough than the academic journals I have published in.”

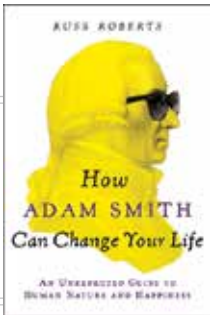
— Christopher Doughlas, Ph.D.

Member of Mackinac Center Board of Scholars and associate professor of economics at the University of Michigan-Flint



JARRETT SKORUP RECOMMENDS “HOW ADAM SMITH CAN CHANGE YOUR LIFE: AN UNEXPECTED GUIDE TO HUMAN NATURE AND HAPPINESS” BY RUSS ROBERTS

Adam Smith is known as the father of economics, but this book reminds us that he was also, a perhaps primarily, a moral philosopher. Russ Roberts explores this side of Smith by dissecting the Scottish philosopher’s book, “The Theory of Moral Sentiments.” In it, Smith reasons out a philosophy for living the good life: be loved and be lovely. By this, Smith means to earn the genuine respect and admiration of others and win the approval of our “impartial spectator” — or our conscience. And finally, Smith warns that money and the newest gadgets will never bring real happiness.





Michigan Legislature Can Pursue Free-Market Agenda

The 2015-16 session of the Michigan Legislature is underway, and like a new baseball season anticipation and hope are in the air. House Republicans recently unveiled an ambitious action plan that seeks to continue Michigan's recovery. Many of the proposals in the House agenda are ideas recommended by Mackinac Center experts:

- Safeguard public employees' retirement and protect taxpayers by closing the underfunded pension system and moving public employees to a 401(k)-style system. The school employee pension system is \$25 billion in the red, while Michigan's 50 largest cities have an additional \$3.4 billion in unfunded liabilities.
- Stretch public resources by repealing Michigan's prevailing wage law. Prevailing wage laws set artificially high prices for public construction projects. The Michigan Freedom Fund estimates that eliminating prevailing wage for school construction would allow schools to hire 3,600 new teachers.
- Provide new educational opportunities for students by expanding school choice. The Legislature should also resist the attacks on existing options, including efforts to halt the expansion of charter schools or limiting enrollment options for Detroit families.
- Improve educational outcomes by promoting early literacy, a robust evaluation system for teachers and an "A through F" school accountability system.
- Reducing the personal income tax rate from 4.25 percent to 3.9 percent.
- Reforming the Michigan Economic Development Corporation by requiring greater transparency. The Mackinac

Center recommends eliminating the MEDC entirely, but improved transparency would allow policymakers and taxpayers to better evaluate what they're getting for \$300 million in annual corporate welfare spending.

- Eliminating the film subsidy program. The state has spent nearly \$500 million subsidizing film productions since 2008 with no overall increase in jobs in the film industry.
- Protect public safety and individual liberty through criminal justice reforms. The Legislature should eliminate outdated and duplicative crimes, resolve disparities in criminal penalties and evaluate cost-saving measures in correctional costs.
- Reform policing for profit. Civil asset forfeiture allows police departments to seize assets and property of individuals without so much as a criminal charge. This practice represents a serious infringement on private property rights and has drawn criticism from conservatives and civil liberties groups.
- Modernize Michigan's alcohol laws to promote entrepreneurship and competition.
- Eliminate occupational licensing requirements that serve as barriers for small business creation.
- Embrace emerging ride-sharing services such as Uber and Lyft.
- Prevent county land banks from acting as development companies that cherry pick prime properties.

These proposals represent a solid free-market agenda. Accomplishing a large number of these priorities would make Michigan a freer and more prosperous state. ■

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Arthur Brooks and Overcriminalization

The Mackinac Center hosted two popular events spreading the word about limiting government – and being happy while you do it.

In January, we teamed up with the Acton Institute in Grand Rapids to host American Enterprise Institute President Arthur Brooks. The lecture took place in Grand Rapids at the beautiful Acton building.



AEI President Arthur Brooks explains the connection between free enterprise and happiness at a Jan. 29 event in Grand Rapids.

Brooks was a college professor before becoming the president of the Washington D.C.-based think tank that is one of the largest in the country. As an academic, his prominent research area was about happiness. His lecture “A Formula for Happiness” discussed the intersection between work, happiness, and human flourishing.

Brooks noted that the percentage of Americans who are unsatisfied with their lives has been increasing in recent decades – despite living in the most prosperous country in human history.

He said that there are generally two types of goals that people have when they start out their working life – intrinsic and extrinsic. Intrinsic goals are things based on relationships, like wanting to get married or have a better relationship with family or knowing God better. Extrinsic goals include wanting to be richer or more famous or more respected.

Brooks said that studies that follow people for an extended length of time show two things: That the goals are usually met and that people striving for intrinsic goals are happier.

Free markets are good because they allow people to choose their own path while getting wealthier, and public policy should ensure that. But Brooks said that civil society, things outside of government, are just as important.

“If you have markets, you will not benefit unless you have morality,” Brooks said. “It’s not good enough to get rich, there has to be a reason that has meaning and that meaning must come from what is written on your heart and what is written on your heart must come from your morals.”

The most important lesson, according to Brooks, is to “seek abundance without attachment.”

The other event took place in Lansing and discussed Michigan’s vast criminal code. The panel featured Michael Reitz, executive vice president of the Mackinac Center; Miriam

Aukerman, a staff attorney for the ACLU of Michigan; and James Copland, director of the Manhattan Institute’s Center for Legal Policy.

Michigan’s criminal code, say experts, is vast, outdated and growing, and putting citizens at risk of committing at least a crime a day.

Reitz said one main problem is that the Legislature spends most of its time adding new laws and very rarely repealing old ones.

He said Michigan’s criminal statutes suffer from three defects: The code is so overpopulated that people cannot keep track of the number of laws on the books, laws regulating to such a degree that the punishment no longer fits the crimes, and criminalizing conduct that most people at a gut level would agree is not something that is wrong.

“A state’s criminal code should protect individual liberty and private property – not be a tool to regulate every part of human conduct,” Reitz said.

Aukerman discussed some cases in which the ACLU is representing people who have been treated as criminals for acts that arguably shouldn’t be a crime. Two musicians, viola player Christopher Waechter and guitarist Gabe Novak, are college students who were trying to earn a few bucks as street musicians – both spent time in jail for their “crimes.”

Aukerman noted that people serve significantly more time in prison in Michigan than in other states for the same crimes. Just making Michigan the average of other states would save \$530 million annually in correction costs.

“Here in Michigan, we have a lot of crimes in which the punishments are excessive,” she said. “We pay the cost of that as taxpayers.”

Copland said the biggest issue may be the growth of the regulatory state. More and more crimes are established by administrative agencies rather than elected officials.

“We should worry about innocent people getting ensnared in this criminal justice system ... for something in which it is very difficult to know if they committed a crime,” Copland said.

Reitz said the problem with having so many laws is that “everyone is a criminal” and government prosecution is more discretionary. Also, he added, civil society and the rule of law are eroded because individuals are selectively choosing what to obey and what not to obey. ■



Mackinac Center Executive Vice President Michael Reitz (left), ACLU of Michigan Attorney Miriam Aukerman (center) and Manhattan Institute’s Center for Legal Policy Director James Copland (right) serve as panelists for a Lansing event on Overcriminalization Feb. 11.



INTERVIEW WITH A SUPPORTER

This issue: Bob Gallant

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 **Bob Gallant**.



MCPP: Where are you from?

Bob Gallant: I grew up on a farm in Ohio with my mom and dad, my older brother and my twin brother. Dad was a school teacher and farmed on the side. He was head of the math department in a high school. He went to college in Florida prior to moving to Ohio and said that he “still had sand in his shoes,” which meant he wanted to go back to Florida. I was in 7th grade at the time of the move and went from a class of 20 to 200.

MCPP: Talk about your professional life.

Gallant: In 1957, I hired in at the Dow Louisiana division, which is now called Dow In Louisiana. The operations started there the year before. I was there for ten years and worked in research, then manufacturing, then manufacturing management.

From there, I continued to work for Dow in Houston, Texas. That’s where I got my first experience dealing with the government. I had discovered another company that was scamming the system. I notified the appropriate government agency, and at first the officials there did not want to do anything about it. I had to convince them that it was in their best interests to crack down on people who were not playing by the rules, and they finally agreed.

From Houston, I went back to Louisiana as a general manager. Later, I made my way to Dow’s corporate headquarters in Midland. From Midland, I made one last stop as vice president for Dow’s Texas Operations

before returning to Midland as vice president and director of operations for Dow North America. I retired in 1996.

MCPP: Do you have children?

Gallant: Yes, three boys. The oldest is an assistant principal in Shreveport, Louisiana. The middle one is a Dow electrical engineer. The youngest is a mechanical engineer for the oil industry in Houston, Texas. We have grandchildren too and love them dearly.

MCPP: What’s one of the most interesting experiences you’ve had?

Gallant: I would say my interaction with the former governor of Texas, Ann Richards. I spent quite some time in Texas in my professional life and had the opportunity to get to know Ann quite well. I knew she had a job to do, and she knew I had a job to do. We respected each other and found ways to make the economy, environment and government work together. I even helped her write a bill at her request. Being honest and open with each other, we developed a mutual respect.

There were times in my career that I had to teach officials with the environmental protection agency how we manufactured products and showed them how we made sure to be environmentally responsible. They appreciated that. Once we understood each other better, we worked so much better together. I helped them develop a standard of health and quality. I also served on a board for preserving wildlife and land.

One of the highlights of my career was being invited to the Texas Governor’s Mansion by Ann Richards when Queen Elizabeth visited. My late wife was there with me for dinner and we shared a special time.

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

Gallant: I’m so proud of you. You fight for the freedom of people to live their lives the way they want to. People should not be forced to do things.

Several people in my family have been or currently are educators. It’s a noble profession, and I think the world of teachers. But they should always have a choice if they want to belong to an organization and whether they want to financially support it. It should be their choice. I’m glad the Mackinac Center lets people know they now have a choice.

When I heard about the organization that was skimming dues from hard-working people that were simply taking care of their loved ones in their own homes, I found that despicable. Giving people the choice was the right thing to do.

MCPP: Why have you stayed in Michigan?

Gallant: Midland is an ideal city. It has great schools and activities. My wife received wonderful health care here. There’s nowhere else I’d rather be. ■

House Votes to End Film Incentives

In 2009, Michigan legislators voted on a near-unanimous basis (one Republican dissented) to start offering film producers tax money if they would shoot their movies in Michigan. The program was costly — annual subsidies exceeded \$100 million a year. Thankfully, legislators are reconsidering this program and on March 11, the Michigan House voted to end the state's film incentives on a 58-51 vote.

JAMES HOHMAN

Film incentives are ineffective. The case against them has been around at least since 1850 when Frederic Bastiat wrote about what is seen and what is not seen. If you break a homeowner's windows, you would see all the economic activity from having to replace them. This is great for the glazier, but bad for the homeowner and bad for prosperity.

Taking money from Michigan taxpayers to give to movie producers is the same idea. Taxpayers might not have a broken window that they have to repair, but they are still paying for film production.

I was given the opportunity to present on this issue and shared this insight as well as some of our other findings.

Despite the \$500 million that taxpayers have devoted to this program, the state has slightly fewer film jobs than when it began. The Wall Street Journal took note of that research and included it in a recent editorial opining against these programs.

After my testimony, a number of people on the receiving end of the spending testified — in-state producers, film crew members for the Batman vs. Superman movie and others.

It seemed like the committee chairman Jeff Farrington (R—Utica) was sympathetic to the point. After one of the beneficiaries shared his story, Farrington remarked, "Everyone loves free money."

As the House vote indicated, the money is not free — it comes out of taxpayer pockets. It's good to see that there is serious attention given to ending the program. ■

James Hohman is assistant director of fiscal policy at the Mackinac Center.

James Hohman testifying on film incentives.



2015 marks the fifth anniversary of the first electronic edition of Michigan Capitol Confidential.

Producing good news content makes CapCon a good resource for those seeking news that is often ignored by the mainstream media.

Winning awards from the Michigan Press Association and the Society of Professional Journalists reflects the credibility of CapCon's reporting.

But the most important function CapCon demonstrates is in how it keeps the powerful accountable.

Just last year, CapCon first discovered contract language in the Ferndale Public Schools that gave "special consideration" to "those of the non-Christian faith." The school district admitted the language dated back to 1979 and had never been removed. National media outlets picked up the story that CapCon initially broke. The day after CapCon ran the story, Ferndale sent out a press release saying it was striking the language.

CapCon helped educate the public on the "dues skim" that was taking money away from self-employed home help workers and day care providers and filling the bank accounts of unions. One of these skims ended legislatively; the other ended when voters rejected proposal 2012-4.

Senior Capitol Correspondent Tom Gantert says, "In our five years, the Detroit Free Press, Detroit News, MLive, the Drudge Report, Associated Press, Fox News, the Washington Post, the New York Times, the Wall Street Journal, POLITICO and MSNBC have all cited the work of CapCon. The New York Times linked to one of our stories for one of its online Sunday editorials.

"But credibility doesn't come from politicians or conventional media outlets. It comes from readers." ■

Henry Payne, columnist for The Detroit News, says CapCon is "an indispensable government watchdog. In an age of liberal herd journalism, we need more CapCons."

Why There's a State Tax Vote on May 5 and What It Costs

On the last day of the 2014 legislative session, state policymakers approved a constitutional question to raise money for the roads and spend additional money elsewhere. The vote will be held on May 5.

**JAMES
HOHMAN**

There has been a long-term discussion about how to fix and pay for the roads in Michigan. While 85 percent of state roads are in good or fair condition and local roads are in worse condition, they are projected to deteriorate without additional money. In 2009, Gov. Granholm proposed a fuel tax increase and legislators have been discussing the matter ever since.

Those discussions came to a head in the 2014 session when the Senate voted to increase fuel taxes while the House voted to replace the sales tax currently applied on fuel with fuel taxes. Under the House plan, taxpayers would not see higher taxes.

The compromise reached at the deadline came up with a plan to increase sales taxes, fuel taxes and registration fees that would generate \$2 billion dollars in its first year.

The Mackinac Center's briefing on the proposal explains in detail the proposed state constitutional amendment and the bills that are part of the package. It also points out its costs to taxpayers.

We found that the proposed tax increases will cost a typical household between \$477 and \$525 annually. The proposal calls for increasing the state sales tax from 6 percent to 7 percent and this will cost \$389 a year. The increase in fuel taxes will cost a typical household between \$89 and \$136.

The proposal also calls for increasing the fuel taxes annually. However, the mechanics of those increases ensure that rates will increase above inflation.

The brief gives taxpayers a look at where their dollars will go if this proposal is approved. You can find it at Mackinac.org/21128. ■



In Memory of Bob Crowner

The many friends and admirers of Robert P. ("Bob") Crowner mourn his passing, which occurred this week at the age of 87, after a long bout with cancer.

Bob was an exemplar of the balanced life. He was successful in business before he taught the subject at the university level. He believed in the education of youth, devoting his attentions to enhancing it in both the public and private sectors. He knew a lot about a lot of things but never felt he knew enough that he could crow about it. He was an engineer who knew there was another engineer who towered over all others, the Creator who made us all. He worked hard at every job he held, but still found time to work a lot more as a volunteer for worthy causes. As a long-time member of the Mackinac Center's Board of Scholars, his bio spells out some of the details:

**LAWRENCE
W. REED**

Prior to teaching, Crowner worked for four companies in engineering and manufacturing management, culminating in a role as vice president of manufacturing. He also consulted for private companies, a public school district, and city and provincial governments.

Crowner was a Registered Professional Engineer in Indiana, Michigan and Ohio. He held a Bachelor of Mechanical Engineering from Purdue University, a Master of Science in Business Administration from Butler University and a Certificate for the Middle Management Program from Harvard Business School.

He did extensive volunteer work, including 34 years on the Lodi Township Planning Commission and 12 years on the Lodi Township Board of Trustees. He served as the director of the Center for Entrepreneurial Stewardship for the Acton Institute. He served on two private Christian school boards and a charter high school

board. He also did volunteer counseling for SCORE, an organization which provides free consulting for small businesses.

Bob was an early friend of the Mackinac Center. In the very early 1990s, I met both Bob and his delightful English wife, Christine, and became instant friends. My assistant at the time, Kendra Shrode (now assistant to my successor Joe Lehman), and I enjoyed the many opportunities we had for lunch or dinner with the Crowners. The conversation, graced by Christine's English accent, was always lively and uplifting. Bob's broad smile, twinkling eyes and generous wisdom left a memorable impression every time.

I share with my former Mackinac colleagues a sadness at the news of Bob's passing, but with the knowledge that he left the world a better place and left it for a better place. We extend our heartfelt condolences to his widow and our friend, Christine. ■

Lawrence W. Reed is president emeritus of the Mackinac Center.

Court Watch:

Friedrichs case could extend right-to-work to public sector employees

Does the U.S. Constitution prevent unions from essentially having veto power over who can be a public employee? We think so, which is why the Mackinac Center Legal Foundation has asked the United States Supreme Court to rule that the decades-old practice of requiring “agency fees” from employees is unconstitutional. If the Supreme Court were to make the fees unconstitutional, it would have the practical effect of extending right-to-work to all public sector employees.

In a 1977 case involving Detroit school teachers, *Abood v. Detroit Board of Education*, the Supreme Court first allowed unions to extract agency fees. These fees are paid by public employees who are within a bargaining unit, but who do not want to be associated with the union. The court held that there were two reasons that the employees could be forced to pay a fee, which is typically 80 percent of the dues amount. One, a government could value exclusive representation and not want to have to bargain with multiple unions or individuals. Two, agency fees would prevent so-called “free riders,” which the Court has defined as people who share “the employment benefits obtained by the union’s collective bargaining without sharing the costs incurred.”

Based on this ruling it became common for collective bargaining agreements in the public sector to include a clause that allowed the union to demand the firing of an employee who did not pay the fee. Then came a series of cases that reached the Supreme Court about which union expenses could be included in determining the fee. But the fee itself was presumed proper as late as January 2009, when the Supreme Court decided extra-unit litigation costs could be included.

Early that same year, Sherry Loar walked through the doors of the Mackinac Center and told us that she — as a home-based day care provider, or private business owner — was being forced to pay dues to a public sector union. She became the Mackinac

**PATRICK
J. WRIGHT**

Center Legal Foundation’s first client, and her case received immense publicity. We wrote an op-ed on her plight for the *Wall Street Journal*, John Stossel of Fox News ran a piece on it, and Rush Limbaugh discussed the matter on his radio show. Our allies, like the National Right to Work Legal Defense Foundation, took up the fight and filed their own lawsuits.

Perhaps not coincidentally, the Supreme Court began to show renewed interest in the question of agency fees. When the case of *Harris v. Quinn* reached the Court, many people hoped that *Abood* would be overruled. Instead, the Court held that home-based day care providers and home-help workers could not be forced to pay agency fees. (We had filed a brief in this case.) *Abood*’s underpinnings were challenged by the majority opinion, which noted that there is no reason that a state that wants the benefit of exclusive representation must require payment of an agency fee. The dissent argued to the contrary and claimed that without agency fees unions would not exist. But the Court left a reversal of *Abood* for another case.

Friedrichs v. California Teachers Association may be that case. We filed an amicus brief seeking to assist the plaintiffs in convincing the Court to hear the case and in the process re-examine *Abood*. Our brief took on the dissent from *Harris*. We looked at Michigan’s experience as a right-to-work state and in particular the effect of that law on the Michigan Education Association. Further, we looked at data from all the states that showed well-run unions have nothing to fear from right-to-work (or its constitutional equivalent). The data show that the *Harris* majority was correct: A state that wants the “value” of exclusive representation need not allow pay-or-be-fired clauses in collective bargaining agreements. *Abood* should be overruled and its decades-long effect of unjustly enriching public sector unions should be cast in the dustbin of history. ■

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

Mackinac Gets FOIA Fees Lowered in Liquor Commission Lawsuit

On Jan. 22 the Mackinac Center Legal Foundation filed a lawsuit at my behest against the Michigan Liquor Control Commission. The commission attempted to charge \$1,550 to copy a spreadsheet from an office computer onto a thumb drive. Or just email it. This spreadsheet, which contains a price list for beer and wine sold in the state, is the same one that a staffer had earlier offered to copy free of charge.

MICHAEL D. LAFAYE

Six weeks after the foundation filed the lawsuit (March 6), the commission lowered its price from \$1,550 to \$50. The Mackinac Center issued a news release announcing its victory on March 16, the Monday of Sunshine Week, which celebrates open government and the public's right to public information.

Even though we have prevailed, valuable research has been delayed by four months (versus the 10 days specified in Michigan's Freedom of Information Act). And if this is what an established and well-known institution like the Mackinac Center has to endure to obtain supposedly open records from a state agency, the prospects are not bright for regular citizens seeking information from their state government.

The commission's actions stem from a November 2014 visit I made to its Lansing office. I was seeking a review of papers from the agency's files. A staffer offered instead to simply download newer data onto a thumb drive, since it had already been assembled on a spreadsheet. I did not have one of those compact information-storage devices on me at the time, so we agreed that I would submit a Freedom of Information Act request.

After I did so, the commission's response included this sentence: "The FOIA request you submitted will require an estimate and a deposit before we can continue to process it."

Incredulous, I responded, "[You] must do an estimate to ascertain the cost of sticking a thumb drive in your computer?"

The process apparently involved determining the most awkward and costly method possible for providing the information. That turned out to be

estimating the actual cost of physically collecting and copying some 6,000 paper pages of price information submitted by wholesaler cartel members, rather than simply providing the spreadsheet from which they came. At 25 cents per page, the cost came to \$1,500.

In contrast, the amount of staff time and expense to copy that spreadsheet onto a thumb drive or email it would probably be less than \$1. At that point the response from me and my Mackinac Center colleagues was, "See you in court."

For years the Mackinac Center for Public Policy has undertaken empirical research into the real impact of alcohol control regulations on consumers, and their supposed public health consequences. Recently, we have zeroed in on archaic and inexplicable "post and hold" rules. No public policy rationale has been offered for these rules. Their effect and possibly their intent is to enrich a handful of fortunate families in the beer and wine wholesaler cartel at the expense of consumers who must pay higher prices.

These rules mandate that beer and wine manufacturers and wholesalers post product price changes at the Liquor Control Commission, an act that lets other manufacturers and wholesalers see the prices. Under the rules, the posted prices must then be left unchanged for a period of time that varies depending on the product. The practical effect is to alert potential competitors to price changes and suffocate the impulse for rapid moves.

This is tantamount to not only legal price collusion, but officially required collusion. Its harmful impact on consumers is not hypothetical but is demonstrated with empirical research. One nationwide study suggests that such rules artificially raise the price of beer and wine products by 6.2 percent to as much as 30 percent.

Lawmakers cannot craft good public policy when government agencies act to keep secret the information needed to determine what those policies should be. This is why Michigan has a Freedom of Information Act, and why courts should be diligent and firm in enforcing it on administrative agencies. ■



IMPACT All Over

Paul Gessing, president of the Rio Grande Foundation, received last month's issue of IMPACT in his post office box.



Miss an issue of IMPACT? Want to catch up? All of our previous issues are online at Mackinac.org/pubs/IMPACT.

CapCon Investigates Steve Cook's Pension

Near the end of February, Michigan Capitol Confidential broke the story of a union president using his private union salary to inflate his public pension.

Steve Cook, president of the Michigan Education Association, works full time for the union, yet he's listed as an "educator on loan" from the Lansing School District. Lansing schools says the "educator on loan" has no job responsibilities in the district. Cook's public pension is based on his salary, which the Lansing School District pays, of \$201,613, or more than \$20,000 more than the district's second-highest paid employee the superintendent.

The district also contributed \$51,976 on behalf of Cook to the Michigan Public School Employees Retirement System (MPSERS) in 2014.

This sweetheart deal could net Steve Cook a taxpayer funded pension of \$105,000 a year for the rest of his life, despite Cook

spending just 15 years in the classroom. When Cook worked in a classroom, his title was "paraprofessional." According to a recent union contract, that position pays between \$7.69 to \$16.52 an hour. Using his private salary of more than \$200,000 as a basis for his public pension, Cook will likely receive \$97,000 more each year than what his pension would have been based on 15 years working in the classroom as a paraprofessional.

Lansing schools says the MEA reimburses the district for Cook's expenses. But that would not include state pension fund contributions.



MEA President Steve Cook. Image via MEA.org.

State Director of the National Federation of Independent Business Charles Owens said of the sweetheart deal, "If it's not illegal, it should be."

Jim Perialas, president of the Roscommon Teachers Association, says, "I think it is absolutely absurd he is able to do that."

On March 5, WLNS 6 News covered a story titled "Retirement Pension Deal Stirs Controversy In Lansing." Two weeks later, The Detroit News ran a story about Cook's pension titled, "MEA boss scores hefty state pension." ■



Near the end of February, Michigan Capitol Confidential broke the story of a union president using his private union salary to inflate his public pension.

Cigarette Study Shows High Smuggling Rates

The Mackinac Center for Public Policy released the fifth edition of its popular cigarette tax and smuggling study – performed this year in concert with the Tax Foundation – on Jan. 14. It reported that 25 percent of Michigan's cigarette consumption was due to tax evasion and avoidance.

The model found that New York State was once again the No. 1 smuggling state in the nation, with 58 percent of its market built from either tax evasion or tax avoidance behavior.

Rounding out the top five states were Arizona, Washington, New Mexico and Rhode Island. Michigan ranked 10th overall. On the opposite end of the spectrum, we found that New Hampshire had an outbound smuggling rate of nearly 29 percent. That is, for every 100 cigarettes consumed in that state, an additional 29 were smuggled out.

The Mackinac Center's study was not the only one released this year that contained state-by-state estimates. The Institute of Medicine and National Research Council published

"Understanding the U.S. Illicit Tobacco Market: Characteristics, Policy Contest, and Lessons from International Experiences."

That study reports a national range of smuggling rates from a low of 8.5 percent (the authors' own estimate) to a high of 21 percent. The same report used Mackinac Center data to calculate a national smuggling rate – something we did not do for our publication – of 13.5 percent.

The Mackinac Center's report has been well received in national news stories and has been part of cigarette tax debates in both Minnesota and Ohio. In just seven weeks, one of the authors alone completed 22 interviews with reporters from the Wall Street Journal, Associated Press and Seattle Weekly, to name a few. Data from the study was also used in a recent edition of the highly respected Economist magazine. ■

Read more at Mackinac.org/20931.





Taylor Teachers Post a Win Over Union, District Coercion

The Michigan Court of Appeals recently sided with the Mackinac Center Legal Foundation and struck a major blow to a high-profile attempt by a labor union to thwart right to work for ten years in the Taylor School District.

A lot can change in ten years. Ten years ago we didn't have smart phones, for example. The way we do things can change dramatically in just ten years. Yet if one union, the Taylor Federation of Teachers, got its way, one thing would not change in the next ten years for the members it represents. For ten long years, they would be bound by the same dubious contract that denies them their freedom under right-to-work, and for ten years they would be forced to pay union dues and fees while teachers in other districts exercised their freedom and saved thousands of dollars. The Mackinac Center Legal Foundation made sure that this union wasn't allowed to keep those teachers trapped in the past.

When Michigan passed its right-to-work law in December of 2012, unions immediately mobilized to thwart this policy any way they

could. Because the law would not take effect until three months later, they had time to renegotiate and make new contracts that would thwart workers' freedoms and force them to continue paying union dues and fees for years. At the same time the Mackinac Center Legal Foundation was gearing up to defend workers' rights and take on any contract which exceeded what the law would allow.

Three teachers in the Taylor School District, Angela Steffke, Nancy Rhatigan, and Rebecca Metz, approached the legal foundation with one of the most egregious collective bargaining agreements around. Totally apart from the usual collective bargaining agreement, the federation and the school district made a so-called "union security" agreement which forced teachers to pay dues or fees to the union for ten years after right-to-work was enacted to end this practice.

After almost two years of litigation, the Michigan Employment Relations Commission ruled that the security agreement was invalid and that the teachers could exercise their

rights under right-to-work. The commission expressed its view of what the union had done this way: "Imposing a lengthy financial burden on bargaining unit members, in order to avoid the application of a state law for ten years, is arbitrary, indifferent and reckless. Therefore, we hold that the union committed an unfair labor practice. ..."

The union and school district, of course, immediately appealed the decision. As soon as they filed their appeal, they also filed a request for a 'stay' – a judicial order which would have frozen the status quo so that the Taylor teachers could not enjoy their hard-won freedoms until at least the appellate process ended a year or more later.

But the Court of Appeals agreed with us and denied the stay. These three Taylor Teachers and their colleagues can exercise the same freedoms that other teachers around the state now enjoy. To be sure, there is always a chance that the Court of Appeals will agree with the union and overturn the victory gained in the commission. But for now, the Taylor teachers have their freedom. ■



WISCONSIN GOES RIGHT-TO-WORK

On March 9, Gov. Scott Walker signed right-to-work into law making Wisconsin the 25th state in the nation to give workers the freedom to choose.

Wisconsin joins Michigan (24th right-to-work state) and Indiana (23rd) in putting workers and job creators ahead of special interests. In February the Missouri House passed right-to-work in the Show-Me state as did the New Mexico House and in Kentucky several counties passed local right-to-work ordinances.

According to a January National Right to Work Committee newsletter, West Virginia, New Hampshire, Montana, Delaware and Maine "are some of the states where legislative debates and roll-call votes on Right to Work measures are likely or very possible this year."

In short, the fire of worker freedom is burning brightly across the country and it is spreading.

This is no surprise since governors and legislators across the nation are seeing the benefits of right-to-work. As I testified before the Wisconsin Senate on Labor and Government Reform Committee in late February, right-to-work states see higher population growth, higher wage growth, higher job growth, lower unemployment, and when cost of living is factored in, workers are making more.

In my written statement to the committee I detailed the impact right-to-work is having on Michigan:

According to the Bureau of Labor Statistics' household survey, from March 2013, when Michigan's right-to-work law took effect, to December 2014, Michigan's employment levels increased by 141,990 people. This is a

3.3 percent growth rate giving Michigan the 15th highest in the country.

Among those states in the Midwest, only Indiana, another right-to-work state, outpaced Michigan, growing by 5.1 percent. Only Colorado and North Dakota surpassed Indiana over this period.

The Wall Street Journal has noticed this trend as well. In January, it reported that between March of 2013 and November last, Michigan had seen "4 percent payroll manufacturing growth, beating an average of 2.8 percent in right-to-work states and 0.9% in non-right-to-work states."



F. Vincent Vernuccio, Director of Labor Policy, testifies at a Wisconsin Senate hearing days before the right-to-work vote.

The gains of right-to-work weren't simply limited to Michigan:

According to statistics derived from the U.S. Bureau of Economic Analysis, between 2003 and 2013, right-to-work states experienced 21.5 percent growth in inflation-adjusted GDP versus 14.7 percent in non-right-to-work states. In manufacturing, the spread was even more pronounced. There was 26.1 percent growth in manufacturing GDP, versus only 13.8 percent growth in non-right-to-work states.

States with growing GDPs are adding jobs, and lots of them. According to research of Bureau of Labor Statistics data by my colleague James Hohman, from 2003

to 2013, right-to-work states added 4.3 million jobs while non-right-to-work states added only 2.4 million. Add to this the fact that the average right-to-work state has a smaller population than the average non-right-to-work state, and this contrast is quite remarkable and telling.

Finally, right-to-work isn't just good for employers and employees; it may even be beneficial for good unions. Last year Indiana added 50,000 new union members. Last year the Washington Post quoted Gary Casteel, an organizer in the South for the United Auto Workers, on his view about unions and right-to-work:

"I've never understood [why] people think right to work hurts unions," Casteel said. "To me, it helps them. You don't have to belong if you don't want to. So if I go to an organizing drive, I can tell these workers, 'If you don't like this arrangement, you don't have to belong.' Versus, 'If we get 50 percent of you, then all of you have to belong, whether you like to or not.' I don't

even like the way that sounds, because it's a voluntary system, and if you don't think the system's earning its keep, then you don't have to pay."

The brave lawmakers of Wisconsin took these and many other facts into account and came to the clear conclusion that right-to-work was right for the Badger state. Thanks to their efforts, for the first time since unions gained the ability to fire workers for not paying them, half the states in our country are giving workers the right to choose whether or not to support a union. ■

Editor's note: This article first appeared online at IllinoisPolicy.org.



☎ THOUSANDS PARTICIPATE IN 🏛 TELEPHONE TOWN HALL ON SCHOOL CHOICE

The Mackinac Center recently conducted a large experiment: How many new people in Michigan could we reach with a live event by doing things differently? In a world of increasingly quick technological advances, it can be a struggle for nonprofits to keep up. We typically hold live, classroom-style events to feature leading researchers on important topics of public policy. These events can attract as many as 70 attendees — no small feat.

In March, the Mackinac Center had the opportunity to host a panel discussion with Dr. Michael McShane, research fellow at the American Enterprise Institute, and Bruce Braun, representing Michigan Lutheran Schools, to discuss the future of private school choice in Michigan. This issue, we suspected, would be interesting to many people throughout Michigan.

Instead of hosting a typical live event, we chose to host a “telephone town hall.” On the evening of the panel discussion, the Mackinac Center used a service to call thousands of Michigan residents, and extend an invitation to stay on the line to hear more about private school choice policies.

Incredibly, more than 3,000 individuals stayed on to hear a portion of the talk. Approximately 250 people — our largest live audience to date — listened to the panel discussion in almost its entirety. That evening, our panelists spoke to three different audiences: Our telephone town hall audience, a live audience, and people watching the event on the web.



Director of Education Policy Audrey Spalding (left), AEI Research Fellow Michael McShane (center) and Assistant to the President of Lutheran Day Schools Bruce Braun (right) participate in a telephone town hall March 18.

During the discussion, Dr. McShane spoke about policies that would allow high-performing schools to expand quickly, and to ease restrictions on schools that commit to achieving high levels of academic performance. These types of policies, he argued, would make good schools available to students more quickly, while weeding out schools that fail to serve their students. Bruce Braun spoke about the role he sees for Michigan nonpublic schools. Both McShane and Braun answered audience questions, with a focus on whether private school choice is even possible in this state.

The fact is, Michigan’s Constitution prohibits public funding for nonpublic schools. However, 77 percent of telephone

town hall participants said they favored private school choice. Their support fits with larger polls of public opinion on school choice. In the summer of 2014, the Mackinac Center surveyed 800 Michigan residents, and found that 67 percent said they would favor a tax credit scholarship that allowed all students, regardless of income or need, to attend the school of their choice.

We hope to engage more Michigan residents on important issues of public policy, and will likely hold another telephone town hall in the future. With this new tool, the Mackinac Center can connect with more people who care about public policy throughout the state of Michigan. ■



“Don’t you get discouraged?”

The title of this article is one of the most frequent questions I receive when people find out what I do for a living. It is the same question I received in my previous job. In both cases, it’s easy to think that discouragement will set in.

No doubt, it’s difficult to spend ten years in television news, as I did, and not have some heartbreaking stories to tell. Negative news seems to spread faster and be remembered longer than positive stories, and I’ve told plenty of them. I cried with victims’ families as they experienced the worst day of their lives while the cameras were rolling. Those are the days you go home after work, hug those close to you and tell them you love them.

I think of folks that work in the health care industry who see people that are ill every day. That would be difficult. I think of teachers who work hard to educate their students and see some of their students who do not apply themselves. That would also be trying.

Scottish philosopher Thomas Carlyle said, “All work, even cotton-spinning, is noble; work alone is noble. ...” And while some work is more public, it is not any more valuable for being more readily seen. Even the most favorable job position has some negativity to it and some bad days.

Today, I help tell the stories of those helped by good public policy and those hurt by bad public policy. The latter seems to draw more public

attention than the former. As in journalism, bad news sells. No wonder people look at public policy and get discouraged. Governments are spending more, borrowing more, and becoming less accountable.

Seeing a trend away from freedom and more toward coercion is unsettling. Seeing elected officials serving the system rather than “we the people” is also worrisome.

If there were no way to change our circumstances, then we should be discouraged. But there is hope – hope derived not merely from the fact that we have tools at our disposal, but hope from the fact that our work is achieving results. We have seen our state go from one of the least-friendly states on school choice to one of the most friendly.

We have seen the elimination of dues taken by force from at-home caregivers and day care providers. We have seen our people empowered to say “no” to unions, should they wish, and still keep their jobs. We have seen public entities become more transparent with the people’s resources.

We celebrate the victories of liberty in our state and in our nation. And while there are plenty of negative things around us, it’s difficult to get discouraged when we see the positive advances freedom has been making – thanks to people who won’t give up. ■

BY THE NUMBERS

\$1,950,800,000

—
The amount Proposal 1 will increase taxes in its first year.

\$500

—
The expected increase in a household’s taxes if Proposal 1 passes.

\$2.39

—
What the federal Energy Information Administration predicts will be the average price of gasoline in 2015.

\$0.10

—
The increase in the per-gallon price of fuel if Proposal 1 passes and prices were \$2.39 prior to the tax change.

85

—
The percentage of Michigan trunkline roads that are in good or fair condition. This is expected to decrease without additional investment.

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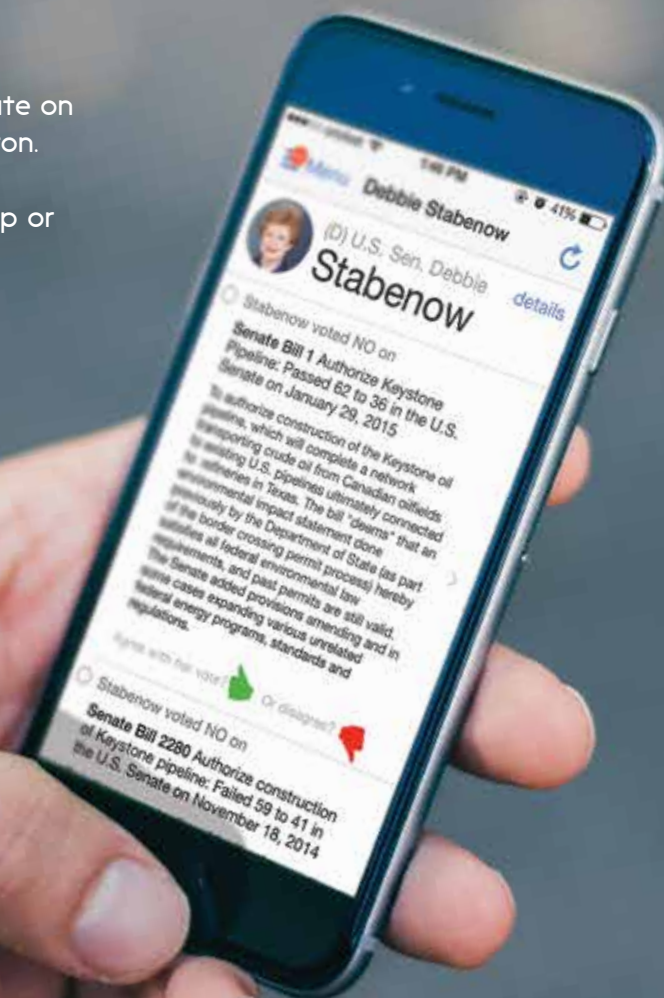
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