

The Magazine of the Mackinac Center for Public Policy JULY/AUGUST 2015

IMPACT

The End

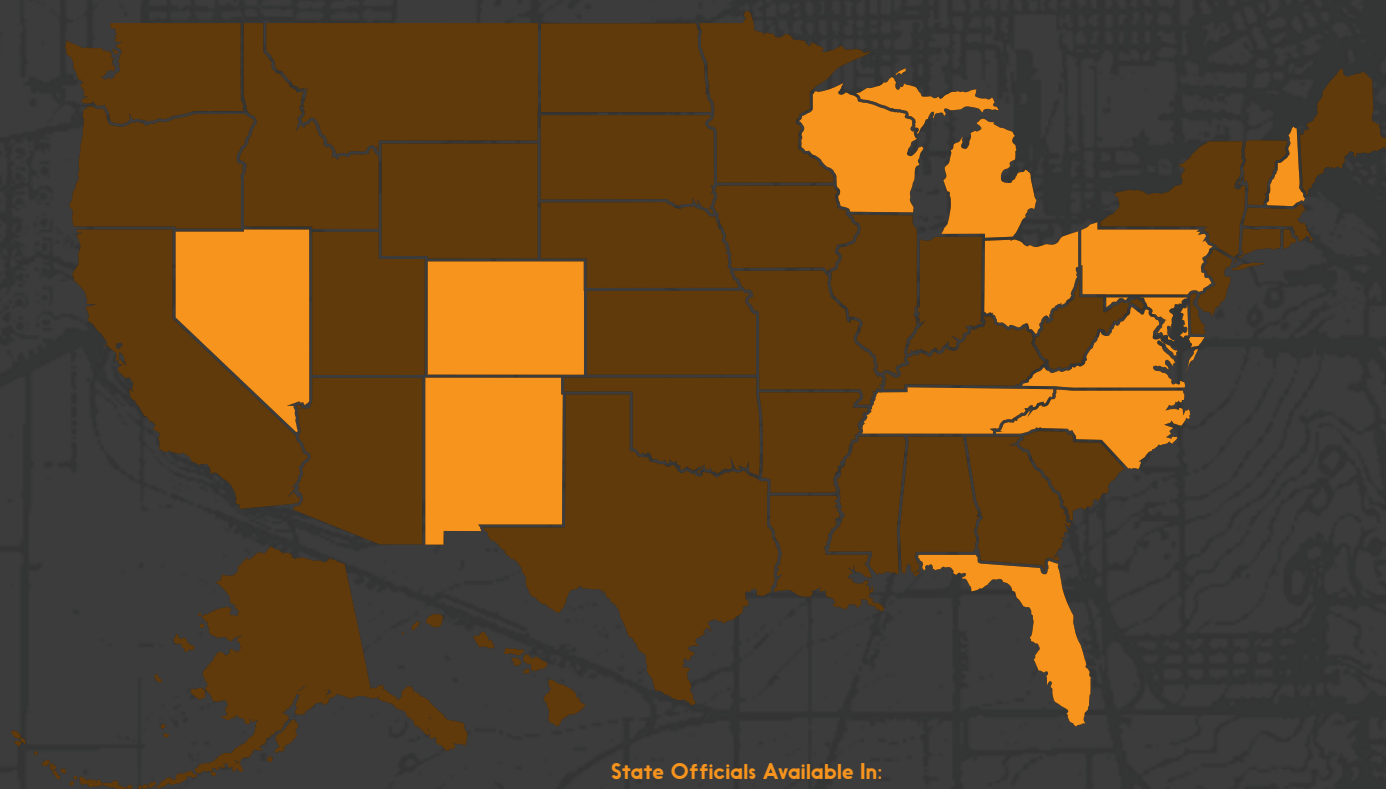
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Supreme Court, Civil Asset Forfeiture and Silver Screen Subsidies

July brings a celebration spirit to the Mackinac Center. Our first senior vice president, the late Joseph P. Overton, cemented the 4th of July's significance to all Mackinac Center employees by writing in the organization's operating practices manual that "All staff are encouraged to celebrate Independence Day with passion and verve, remembering it as the signatory day of a document embodying the most sublime of political ideas, an apogee in mankind's quest for liberty of thought and action, the restoration of which is the vision of our organization."

Freedom makes what we do possible, and freedom makes it possible for you to support the free-market ideas that the Mackinac Center recommends to make Michigan a better place to live.

Missouri, the "Show Me" state, could soon celebrate becoming the nation's 26th right-to-work state. The governor vetoed a right-to-work bill, but lawmakers will try to override that veto later this year. Missouri's lieutenant governor supports right-to-work and co-authored a Washington Times essay with Mackinac Center Director of Labor Policy F. Vincent Vernuccio pointing out how it gives workers more freedom and economic opportunity. Page 8.

The Mackinac Center celebrated the U.S. Supreme Court's decision to hear the case *Friedrichs v. California Teachers Association*. Vice President for Legal Affairs Patrick Wright wrote an amicus brief recommending that the high court hear the case and rule in favor of teachers who believe they should not be forced to financially support a union with which

they do not agree. The case could mean right-to-work for all public sector employees. Page 14.

Did you hear the one about an ACLU attorney, a Democratic state representative and a libertarian showing up at a Mackinac Center event? It's no joke. They all served as panelists, discussing how Michigan's civil asset forfeiture law should be reformed. Following the event, that legislation moved forward. Page 8.

State Policy Network has selected Grand Rapids as the site for its next annual meeting. Hundreds of freedom-loving individuals and various organizations will be part of the conference in late September and early October. The theme of this year's meeting is "Experience Freedom." The Mackinac Center is proud to have Michigan as the backdrop of this year's event. See more details on the back cover.

The Mackinac Center has been a consistent critic of corporate welfare, even when it was alone in showing the harms of Michigan's film subsidy program. The Mackinac Center exposed left-wing filmmaker Michael Moore for receiving Michigan taxpayer money to make the film "Capitalism: A Love Story." (Ironically, the film condemns those who get sweetheart deals with taxpayer dollars.) The Mackinac Center also showed how Michigan has fewer film jobs now than it did before the film subsidy program started. The result of our work? Film subsidies have ended. IMPACT indeed. ■

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



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

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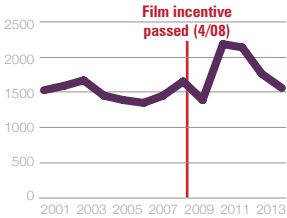


WHAT FOLKS ARE SAYING
ABOUT THE MACKINAC CENTER

"It's an unpopular position with people I deeply care about but I agree with this."

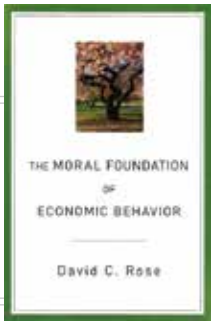
— Joe DiSano, Democratic political consultant, agreeing with the Mackinac Center's analysis of film tax credits not growing the economy

Film Jobs in Michigan



MICHAEL VAN BEEK RECOMMENDS "THE MORAL FOUNDATION OF ECONOMIC BEHAVIOR" BY DAVID C. ROSE

David C. Rose, a professor at the University of Missouri-St. Louis, does something not many economists do: He thinks and writes a lot about morality and culture. And in this book he outlines the moral preconditions that must exist before a society can benefit from wealth-generating institutions such as capitalism, economic liberty, free trade and property rights. People, he says, must be trustworthy, duty-based and morally restrained to participate effectively in a free market economy. An economist writing about moral behavior may seem like a recipe for disaster, but Rose pulls it off, and his insights will enlighten your view on how markets work in a free society.





The Assault on Free Speech

We Americans have long enjoyed the right to financially support our favored causes. Whether our favorite voluntary association is a food bank, church or public policy organization, we value their work to build social capital. Concomitant with the ability to donate one's resources is the right to do so privately, without the scrutiny of government regulators.

A loud and insistent movement seeks to force all private giving into the public eye. Complaints about "dark money" and the "undue influence of money" inflame concern, but these attacks are designed to squash thoughtful debate about how we should govern ourselves.

The enemies of debate would require individuals report charitable giving; personal information, donation amounts and the names of organizations would be recorded in a government database, available to employers, neighbors and political operatives, not to mention all branches of government.

Political retribution is one consequence of the forced disclosure of one's private views; polarization is easier than persuasion. A maze of punitive regulations can also be used to stifle speech. Concerns about government surveillance, perhaps once dismissed as paranoid, have been validated by the misdeeds of the IRS and NSA.

Examples of overreaching regulation and retribution abound:

- A woman in California was forced to quit her job at her family restaurant after protesters boycotted the restaurant because of a \$100 donation she gave to an issue campaign.
- A woman in Arizona recruited her neighbors for a sign-waving effort protesting a local bond. Officials sent her a cease-and-desist letter, demanding that she register a political action committee and comply with electioneering laws.

MICHAEL J. REITZ

- In 2011, a Wisconsin woman was awakened by armed agents threatening to cave in her door. They swarmed in, burst into the bathroom where her partner was showering, and ransacked drawers and closets. Her crime? Serving as an advisor to Gov. Scott Walker, who was being targeted by Milwaukee County District Attorney John Chisholm, a political opponent.
- The Michigan Education Association sued the Mackinac Center in 2002 in an attempt to secure a list of our donors, presumably to launch intimidation campaigns. We fought back successfully with the help of the Institute for Justice.
- In 2013, U.S. Sen. Dick Durbin sent a letter to the Mackinac Center, demanding to know whether we supported the American Legislative Exchange Council and inviting us to defend our views at a Senate judiciary subcommittee hearing.
- This year the Montana Legislature enacted a law that requires groups to disclose their donors if they spend money on communications that mention a candidate or ballot measure close to an election.

Using the arm of the State to squash debate isn't new; in the 1950s, officials in Alabama sought to put the NAACP out of business by suing to obtain its membership list. The U.S. Supreme Court ruled that the right of free association protected the NAACP from such demands.

Enemies of debate like to conflate government transparency and private giving. The decisions and actions of government agencies should be open for review. It is quite another matter, however, for government to require the disclosure of private views and donations.

Let's celebrate — not penalize — the decision of individuals to support causes and improve their communities. ■

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Most Voters Want MEDC Money to go to Roads

Following Proposal 1's knockout by a 4-1 margin, lawmakers and the public began looking for ideas of how to fund roads. The Mackinac Center was quick to give suggestions, like eliminating ineffective programs such as the Michigan Economic Development Corporation and using that money to fund roads.

It's not a new idea. In fact, the Mackinac Center has been calling for an end to corporate welfare for years.

Following Prop 1's historic loss, the Mackinac Center released a poll showing the sentiment of likely voters regarding the MEDC and road funding. The question asked if the hundreds of millions of dollars that go to the MEDC every year would be better spent on roads.

Two-thirds of respondents (66 percent) wanted MEDC money to go to roads. Nearly 70 percent of Democrats who responded said the money would be better spent on roads, while just under 63 percent of Republicans agreed.

The Mackinac Center has been critical of the MEDC since its inception in 1999, arguing that subsidizing select businesses is unfair and ineffective in creating jobs.

The June poll followed a May poll, conducted by the Mackinac Center and Michigan Chamber of Commerce, which revealed that 66 percent of likely voters favored reprioritizing \$50 million from Michigan's film subsidy program to go to roads.

Statewide and national news outlets featured the Mackinac Center polls, including WJR 760AM's Frank Beckmann, The Daily Caller and Michigan's Big Show starring Michael Patrick Shiels. ■

Law Opening Up Labor Negotiations Inspired by Mackinac Center Work

When people think of Idaho, a handful of images come to mind: Our famous potatoes, Boise State University's legendary blue turf football field and our wide open spaces comprised of unspoiled forests, mountain lakes and sprawling sagebrush-covered deserts.

Western independence is a premium commodity here in Idaho. A libertarian streak runs fairly deep. The state adores politicians who promise to keep government small and unobtrusive. Yet in stark contrast, for more than 40 years, labor unions have exerted an outsized influence on Idaho policymakers. In 1974, labor unions won the ability to negotiate contracts in secret with city and school officials. That means for decades, police, fire and teachers unions were able to huddle privately with local elected officials and determine how the bulk of tax dollars were spent. And those contracts gave away a lot — big health care benefits, big annual pay increases and plenty of overtime, sick leave and extra pay to pad the payroll. Because contracts were negotiated in secret, most taxpayers were unaware of the contract terms, and they weren't able to raise objections when contracts gave away too much.

Fortunately, organizations like the Mackinac Center have been working tirelessly on a national effort to rein in the power of the unions. Mackinac created a tool kit containing policy recommendations intended to empower taxpayers over Big Labor. One of those recommendations was for government to conduct labor negotiations in the open.

In 2015, Idaho lawmakers followed that recommendation and changed state law to require open meetings whenever collective bargaining occurs. The measure passed the state Legislature unanimously after objections were raised to a similar proposal in 2014.

The breakthrough came when union officials indicated they were as unhappy with the closed meeting process as we were. Union officials complained that they were mistreated in private. They claimed that frank discussions were turned into

bullying sessions by people in official, powerful positions. Still, they worried about private employee matters being aired in public. Local elected officials, on the other hand, said they wanted open meetings, but didn't want to be at a tactical disadvantage when they considered a potential labor agreement or formulated a counteroffer.

House Bill 167 solved those problems. While the new law says all labor negotiations have to be conducted in public, a governing board can duck behind closed doors whenever there's a need to discuss a specific employee "when the information has a direct bearing on the issues being negotiated and a reasonable person would conclude that the release of that information would violate that employee's right to privacy."

To satisfy the concerns of local elected officials, the new law allows them to meet privately to consider a labor union's contract offer or formulate a counteroffer. But those documents are subject to public disclosure.

Finally, the new law assures that no matter who is doing the negotiating, meetings will be open to the public. The requirement applies not only to the governing board but also to the governing board's "designated representatives."

I believe that the revisions made to Idaho's open meeting law may be the best in the country. According to a 2013 Goldwater Institute report, most states require some level of secrecy for labor negotiations. Until Idaho's law took effect on July 1, only Florida and Tennessee required open meetings for most collective bargaining sessions, and those laws still have limitations that fall short of Idaho's new statute.

That means there's a lot more work to do to make government — and especially the role of labor unions in government — more transparent. Still, Idaho's new law is a great start, and a lot of credit goes to the work of the Mackinac Center for making the issue a national priority. ■

Wayne Hoffman is president of the Idaho Freedom Foundation.

WAYNE
HOFFMAN



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 **Ted Hennig**, pictured here with his wife Shelley (left) and his daughters Monica (right) and Julia (far right).

Mackinac Center: Where are you from?

Ted Hennig: I grew up in Redford and Plymouth, Michigan. My father worked his way up the foreman ranks to become a superintendent at Chrysler foundries in Detroit. My mother was a schoolteacher. I'm the eldest of my siblings. I'm currently an oral surgeon with locations in Saginaw and Caro.

MCPP: What shaped your work ethic?

Hennig: The most formative things for me were a result of teachers allowing and encouraging me to excel, coupled with my parents placing me in situations that fostered independence and situations that fostered this style of teaching.

My parents sent me to the Roeper School in Bloomfield Hills for a couple of years. This shaped me quite a bit. In first and second grade I was encouraged to work ahead, at my own pace on anything I wanted to work on. It was a sort of Montessori philosophy format. I loved it.

When I was eleven, I bought my first paper route; 35 customers for the Detroit Free Press. The papers were dropped at our curb at 4:30 a.m. My father woke for work about then and would get me up when he left at 5:30 or so. I would do my paper route by myself. Then I had to collect the payment going door-to-door once a week. I would end up making about 15 bucks

a week or so back then. Soon it was 70 customers.

These experiences guided part of my work ethic. The harder I worked, the more I got ahead, the more I learned. If I did a nice job delivering the paper in the location the customer wanted, and if I was polite when collecting, I received a better tip. I was rewarded for good customer service.

MCPP: What are your guiding principles in life?

Hennig: Life, Liberty, and the Pursuit of Happiness. I have a natural right to my own life and how I choose to live it through freedom in the pursuit of my own happiness. I make no demands of others. I have come to recognize these principles through reading of our Founding Fathers' documents as well as through exploration of the writings of Ayn Rand. Reading both *The Fountainhead* and *Atlas Shrugged* in my early college years was inspirational and formative. Studying history has been valuable in my understanding of the nature of man.

MCPP: When did you first hear of the Mackinac Center?

Hennig: I read the *Future of Freedom* Foundation publications, Hillsdale College publications, *The Economist*, and studied Objectivism on my own and through cassette tapes from the Ayn Rand

Institute. I subscribed to *The Conservative Chronicle*. I listened to Rush Limbaugh when he was first syndicated in the area, although I don't really listen any more. And somehow, I read some publications from the Mackinac Center. That led to me donating to the organization.

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

Hennig: The value I find with the Mackinac Center is its clarity of presentation of topics which affect Michigan. I enjoy reading "just the facts" as presented. I find that it dovetails nicely with my philosophy of Objectivism. I enjoy the CapCon publication. The information often helps me to decide my vote.

MCPP: Why have you stayed in Michigan?

Hennig: It's because of Michigan's beauty and its Great Lakes. I love the outdoors more than I do the city lifestyle. I have a great deal of family in Michigan. I have traveled all over the country and although I like the open spaces of Arizona and Montana and Idaho, I cannot see myself leaving the Great Lakes. I love the Upper Peninsula and the Mackinac Bridge. I enjoy my alma mater, the University of Michigan. I love the kindness of the people of the Midwest. ■

Rupe Debate: Money in Politics

In June, the Mackinac Center hosted a debate on disclosure of money in politics. It was held in partnership with the Michigan Lawyers Chapter of the Federalist Society and the League of Women Voters of Michigan.

Kyle Melinn, editor and vice president of the MIRS Newsletter, moderated the debate, which featured lively discussion between Rich Robinson and Brad Smith. Robinson advocated for limits on giving and strict

disclosure laws, while Smith argued that disclosure invades privacy and that so-called “dark money” is only five percent of political gifts nationwide.

The debaters discussed several nuanced aspects of campaign finance law. Robinson, executive director of the Michigan Campaign Finance Network, focused on how recent elections to the Michigan Supreme Court had been financed, with large amounts of undisclosed money. He

suggested that allowing large private donations to judicial candidates could result in special considerations for people and companies in court. Adding that “disclosure is inoculation against corruption,” Robinson supported an amendment to the U.S. Constitution considered last summer in the U.S. Senate that would

allow Congress to put limits on political giving and speech. Smith discussed how his experience as a commissioner at the Federal Election Commission turned him against disclosure as he saw how complicated laws keep incumbents in office and potential newcomers out. He pointed out that disclosure laws are a relatively recent development and that the vast majority of money in politics has an easily identifiable source. Describing how extreme disclosure laws have resulted in people being harassed and fired from their jobs for relatively small political donations, Smith made the case for encouraging people to give and participate in politics without fear of retribution. The event was well-attended, enlightening and thought provoking, and provided a clear understanding of the competing ideals surrounding political giving – a debate that will no doubt continue. ■

Brad Smith (left), Kyle Melinn (center), and Rich Robinson (right).



DEBATE WORKSHOP WINNERS 2014-2015

Since 1992, more than 10,000 high school students have completed the Mackinac Center’s annual high school debate workshops, where we train young people how to present arguments effectively.

Students who attend one of the workshops are also invited to submit essays related to the annual debate topic. We select up to four of the best essays and award those students \$1,000 scholarships.

This year, all four winning essays, including a two-time winner, came from Hudson Area High School. The Hudson debate team is led by its teacher, Cathy Schoonover. ■



Gov. Snyder’s Much-Needed Move on Licensing

Gov. Rick Snyder recently sent a letter to Michigan House Speaker Kevin Cotter and Senate Majority Leader Arlan Meekhof explaining some of the problems of occupational licensure. This is a much-needed move.

Regulatory rules in Michigan, particularly for small business owners, are onerous. Occupational licensure laws require people to pay a fee and complete state-approved training before they are legally allowed to practice a trade. The public benefits of these laws have widely been found to be dubious.

The governor’s letter lists his principles for new laws. Most importantly, this includes ensuring that not requiring a license would be harmful to the public, licensing fees would cover the state’s costs, and no alternative to state regulation exists (like private accreditation). We applaud these principles and urge legislators to apply them to proposed future laws as well as licensing rules already on the books. ■

Editor’s Note: This is a shortened version of a Mackinac Center Viewpoint, available online at Mackinac.org/v2015-14.



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WAITING FOR LICENSE

Mackinac Forum Addresses the Problems of Civil Asset Forfeiture



Pictured: Lee McGrath, legislative counsel for the Institute for Justice

In May, the Mackinac Center for Public Policy hosted a forum at the Capitol to discuss the state's civil asset forfeiture law and some of its glaring problems.

Lee McGrath, legislative counsel for the Institute for Justice; Dan Korobkin, deputy legal director of the American Civil Liberties Union of Michigan; and Rep. Jeff Irwin (D-Ann Arbor) comprised the panel. Despite hailing from dramatically different political backgrounds, all three participants agreed on the problem facing Michigan citizens and the preferred method to solve it.

While the criminal justice system grants individuals the presumption of innocence until proven guilty, they face a different standard when their property is placed in the civil justice system. The law forces a person who wishes to redeem his or her belongings to prove a negative — that the car, cash, or other seized object taken by authorities was not used to commit a crime, nor was it the proceeds of a crime.

The outcome of the criminal case — assuming charges are even filed — has no impact on the disposition of the individual's property. All three panelists cited instances of abuse, including citizens losing cars or large amounts of money without ever being charged with a crime.

In some cases an owner must pay a fee (called a bond) even to get a hearing before a judge. While the indigent have the right to a public defender in criminal proceedings, they have no such right in asset forfeiture cases, which Korobkin argues unfairly "punishes [defendants] for being poor."

McGrath pointed out that one reason prosecutors and law enforcement continue to unjustly seize property under this law is the strong incentive it provides them: The proceeds from any seized property supplement local police budgets.

Another factor in departments' willingness to abuse the law is the lax reporting requirements and weak enforcement. Korobkin decried the current system as having "no legitimate control and oversight."

To correct these abuses, Irwin and his colleagues in the Michigan House have passed a bipartisan package of reform bills. The bills await consideration in the Senate Judiciary Committee. ■



Missouri: WORKER FREEDOM'S TIPPING POINT

May 13, Missouri was poised to become the nation's 26th right-to-work state when the General Assembly approved a right-to-work bill. However, the stroke of Gov. Jay Nixon's pen vetoed the measure.

Missouri Republicans could override the veto this fall. They have supermajorities in both chambers, and a two-thirds vote is needed from both chambers for the worker freedom measure to take effect. The original vote in the House was 92-66, while the Senate vote was 21-13. Supporters of the bill will need to find more votes for the override, which will need 109 and 23 votes, respectively.

Right now the country is split down the middle with 25 right-to-work states. Missouri could make a majority of the states right-to-work if the veto is overridden.

While Missouri's governor is very much against worker freedom, its lieutenant governor is very much for it. In fact, Lt. Gov. Peter Kinder co-authored an op-ed with Mackinac Center Director of Labor Policy F. Vincent Vernuccio. The op-ed, published in the June 5 edition of the Washington Times, argued for the benefits of right-to-work. ■

Watch a replay of the Mackinac Center's forum on civil asset forfeiture at Mackinac.org/Events.





Welcome aboard!

Every summer, we expand our ranks with college students who are passionate about advancing liberty. This year we have seven interns from five schools, bringing new ideas and enthusiasm to the Mackinac Center.

Left to right: Wyatt Bush, Jonathan Moy, Chris DeLuca, Phil Schlosser, Janelle Cammenga, Nathaniel Lehman, Anna Pfaff

Wyatt Bush joins us from Central Michigan University, where he double majors in economics and online journalism and writes for several online publications. He will spend the summer on the research team.

After years of summer work from her older sister, Shelli, we're happy to welcome **Janelle Cammenga** to the team conducting the school privatization survey this summer. She will be a freshman at Dordt College in the fall, where she plans to major in English and minor in chemistry.

Chris DeLuca is a senior at Michigan State University double majoring in political theory at James Madison College and economics. He calls himself passionate about liberty and boxing, and will be joining the communications team.

Continuing the family affair, **Nathaniel Lehman** is following in his father's footsteps and joining the Mackinac Center for a second summer, this time on the school privatization survey. Nathaniel is a sophomore at Hillsdale College.

Jonathan Moy is another sophomore at Hillsdale College, where he plans to major in political economy and study public policy. On campus, he is involved with the Student Federation board and PRAXIS, a political-economic club.

Anna Pfaff is a senior at Hillsdale College majoring in American Studies with a minor in Spanish. She joins the CapCon team after previous work at the National Rifle Association. After graduation she plans to pursue a master's degree in political philosophy.

Finally, **Phil Schlosser** is a senior at Northwood University, double majoring in economics and finance. He joins the research team as a Koch Fellow and is active in local politics and the Michigan Campaign for Liberty. ■

When Money Doesn't Get You Better Schools

One of the biggest considerations in determining where to buy a home is the quality of local schools, and no doubt, school districts love to tout their academic performance.

Their newsletters are filled with stories of student achievement and parents respond accordingly, paying thousands of dollars extra in districts with reputations for giving children a leg up on the academic ladder.

But are schools in these districts performing as well as their reputations would suggest?

The answer is "not necessarily so," according to a study by the Pacific Research Institute titled "Not as Good as You Think: Why Middle-Class Parents in Michigan Should Be Concerned about Their Local Public Schools." The Mackinac Center for Public

Policy reviewed the study and invited author Lance Izumi to present his work to Michigan lawmakers, media and interested parties.

The study looked at the 677 public schools in Michigan in which one-third or fewer of the students qualified for free or reduced-price school lunches under federal guidelines. (Researchers commonly use eligibility for lunch subsidies as a marker of socio-economic status.) Students from higher-income households tend to do better on standardized tests because they get more educational support at home.

Nearly half the schools in the study, or 47 percent, had at least one grade level of students with subpar performance. In these grades, fewer than half the students were proficient on state assessments.

To account for school performance alone, apart from any advantage it might get from

financially well-off parents, the study used a technique called linear regression-line modeling. That technique allowed the study to show just where a school stacks up to its peers with similar populations and scores.

Additionally, the study looked at how these schools performed on the National Assessment for Education Progress, considered the nation's report card. Michigan's reading scores at these higher-income schools were far below those of similar schools in other states, including Ohio.

The study boosts the case for a universal tuition tax credit program in Michigan. By reimbursing families, businesses or relatives for public school alternatives, families would not have to wait years for their neighborhood public school to improve or for a charter school to open. ■

Anne Schieber is the senior investigative analyst at the Mackinac Center.

ANNE SCHIEBER



The End

SUBSIDIES STOP FOR MICHIGAN'S FILM INDUSTRY

On July 10, 2015, Michigan was officially out of the business of handing out film subsidies. A bill supported by nearly every Republican in the House and Senate (and joined by one Democratic House member) prevents the state film office from handing out any new incentives.

This is quite a turnaround for the state.

In 2008, in the midst of Michigan's "Lost Decade," legislators voted 145-1 across both chambers to send a bill establishing a film subsidy program to Gov. Jennifer Granholm.

Only Sen. Nancy Cassis (R-Novi) resisted Hollywood's allure. Granholm, a huge promoter of the incentives, enthusiastically signed the most generous film subsidy program in the nation.

"This program is designed to attract studio lots and production houses that will be employing people and growing an industry to support the short-term filming that happens on location," Granholm said in a news release announcing the signing. "We've seen the excitement that is generated when a movie is filmed on location. ... We want to turn that excitement into jobs."

It didn't turn out that way — at all. Instead, politicians' excitement turned into no permanent jobs, special favors for politically connected big players, the raiding of funds from necessary government services and 475 million wasted taxpayers' dollars.

Initially, the state's program granted a refundable tax credit (essentially a subsidy) of up to 42 percent of a film's cost. Over the life of the program, the vast

majority of this money went to out-of-state production companies. For the first three fiscal years, with no legislative cap on spending, the Michigan Film Office was spending over \$100 million per year on the program.

As measured by the federal Bureau of Labor Statistics, the state had 1,663 direct film jobs in 2008 and 1,561 in 2014. While there was a small uptick in film jobs in Michigan for a brief moment over this period, these jobs didn't last.

That's been the typical story nationally — Hollywood production companies play states off each other to garner the best deal possible. In other states, when lawmakers want to eliminate or even cut back on incentives, powerful special interest groups representing production companies threaten to avoid the state altogether.

The Mackinac Center has long questioned all special tax credit and subsidy programs, but filmmaking is an especially transient industry. For that reason, many scholars consider state subsidies of the industry to be one of the worst uses of public funds. Our research shows the Michigan program to have high costs and few gains. The Senate Fiscal Agency found in 2011 that the state spent \$125 million for a return of about \$13.5 million — meaning taxpayers got back 11 cents on the dollar.

Nationally, experts across the ideological spectrum agree. The fiscally conservative Tax Foundation notes that movie production credits result in "small returns and take unnecessary risks with taxpayer dollars."

JARRETT
SKORUP



The Center on Budget and Policy Priorities is a left-leaning think tank. Robert Tannewald, a professor at Brandeis University and former economist and officer at the Federal Reserve Bank of Boston, wrote a 2010 study for the CBPP which reports:

“Like a Hollywood fantasy, claims that tax subsidies for film and TV productions – which nearly every state has adopted in recent years – are cost-effective tools of job and income creation are more fiction than fact. In the harsh light of reality, film subsidies offer little bang for the buck.”

In addition to the poor return on taxpayer investment, Michigan’s film subsidy program encouraged bad behavior. At least three major movie studios were launched and failed. For instance, Hangar 42 in Walker barely got off the ground before faltering amid felony charges and fraud allegations against the developers of the property. The Mackinac Center broke the story leading to the studio being shut down.

Unity Studios in Allen Park received tens of millions of taxpayer dollars – a combination of local and state funding – and promised thousands of jobs. But the middle-class suburb of Detroit nearly went bankrupt after the studio failed. An emergency financial manager had to clean up the mess, resulting in major cuts to city services.

The Pontiac-based company Michigan Motion Picture Studios entered into a special deal with former Gov. Jennifer Granholm putting the state pension systems on the hook if it missed bond payments. When the studio flopped, the state’s pension funds for state workers and public school employees were raided to pay off the studio’s creditors.

Despite these disasters, Michigan’s film incentive program did lead to some economic development. If the government pumps enough money into any industry, there are bound to be some economic effects. But the question remains: Is subsidizing one politically favored industry a good use of taxpayer’s money? The state could, for example, successfully attract new investments in agriculture by subsidizing the growing of oranges on Belle Isle. Michigan’s orange industry would certainly grow, but wouldn’t it be better to leave that business to farmers in Florida and California?

To evaluate the real economic effects of any government program one must consider both, in the words of the

19th-century French political theorist Frederic Bastiat, “what is seen and what is not seen.” In other words, any positive economic effects resulting from giving \$475 million to the film industry must be weighed against the effects of that same money being spent on different government programs or being spent or invested by taxpayers themselves.

In the end, politicians’ hopes of using the film subsidy money on a different government program may have been what finally killed Michigan’s film program.

Michigan’s May 2015 ballot proposal, Proposal 1, would have hiked taxes \$2 billion in order to generate \$1.2 billion more in funds for roads. It suffered a historic loss – 80 percent of voters rejected it. Reeling from this, legislators were forced to look elsewhere for road funding, and the \$50 million per-year film program was low-hanging fruit.

Abiding by our free market principles, the Mackinac Center fought the film incentive program from the beginning. In an article titled “Legislators’ Hollywood Dreams Defy Economic Reality” and written shortly before the program was created, policy analysts Jack McHugh and James Hohman wrote:

“Like all such targeted subsidy and tax break programs, the main purpose of the film handouts will be to give the appearance of ‘doing something’ while legislators avoid the heavy lifting of passing the broad-based tax, regulatory and labor law reform that would genuinely fix our broken economy. If they were less star-struck, legislators would finally begin the transformational restructuring and downsizing of government needed to make possible lower taxes for all job providers – not just those who hire movie stars.”

Even as the credits roll on the film program, this lesson is still relevant. It is not glitzy, big-government programs that lead to true prosperity. Real economic development is spurred by the millions of decisions and negotiations by private individuals, who risk their capital in hope of future gains. Encouraging more of this activity means less government involvement in the free enterprise system. ■

Jarrett Skorup is a policy analyst and digital engagement manager at the Mackinac Center.



MACKINAC CENTER LEGACY SOCIETY

What does the word “legacy” mean to you?

Is it the values handed down from your own parents and grandparents? Or the business you’ve built and nurtured over the years? Perhaps it’s the principles you live by and want to pass on to your own children.

In ancient Rome, the word “legatus” meant a diplomat or an envoy.

That’s how we think of it here at the Mackinac Center. When you join the Mackinac Center Legacy Society, you become an envoy for freedom not just in our time, but for generations to come.

Members of the Mackinac Center Legacy Society do this by naming the Mackinac Center in their estate plans, with the assurance that their gift will be used to advance liberty in the future.

We understand that the practical aspects of writing your plan – one that reflects your wishes and values – can be overwhelming. That’s why the Mackinac Center is hosting another Planning for Life workshop on Oct. 21 in Midland.

This complimentary workshop and luncheon is open to any Mackinac Center supporter or friend. Whether you are just beginning to think about your will or estate plan, or need to update your current documents, you will leave this workshop

energized and equipped to collaborate with your own professional advisors.

Imagine the relief of knowing that your family, your assets and your legacy are secure.

Please join us in a comfortable, small-group setting to learn about the myths and misconceptions, pitfalls, opportunities, current tools and the techniques of planning. Our guest speaker is Greg Demers of the firm Braun Kendrick, a specialist in estate planning.

This event is fully complimentary, and nothing is sold. Greg will answer your questions and offer an independent perspective on the importance of making your wishes known to friends and family.

You also will have the opportunity to meet other Mackinac Center supporters and hear more about how your investment in liberty is bringing greater freedom and opportunity to the people of our state.

If you would like to be added to the invitation list for this event, please send an email to Kimberley Fischer-Kinne at LegacySociety@Mackinac.org. You also can reach her by phone at 989-631-0900 for more information. ■



MERC to Find August Window Illegal

Unlike the Eagles’ “Hotel California,” where you can check out any time you want but you can never leave, many of Michigan’s public sector unions will reluctantly allow their members to exit. But the unions make that difficult by erecting needless resignation windows. The Michigan Education Association limits resignations to the month of August and when right-to-work passed it chose not to inform any of its members of this until the September after the law went into effect. Other unions have a roving resignation date that is based on a short annual time period related to the employee’s hire date. The Michigan Employment Relations Commission recently indicated that due to litigation

brought by the Mackinac Center Legal Foundation it will likely put an end to the unions’ chicanery.

**PATRICK
WRIGHT**

On behalf of some Saginaw Public School District teachers, the foundation filed an action at the commission challenging the MEA’s resignation window. Based on Michigan’s new right-to-work law, an administrative law judge held the window was illegal and that public employees should be able to resign at any time. But, the judge also indicated that the unions could draft a membership agreement that traps members for most of the year.

In June, the MERC indicated that it was working on an official decision that would allow any-time resignations and

that would prevent the unions’ lawyers from drafting any document that would overcome this statutory right to resign. We hope that this will provide some relief for the thousands of MEA members who had stopped paying dues after right-to-work passed, only to find out about the window after it closed for another year. Many of these people have been sent to collections.

Borrowing from another Eagles’ song, “Already Gone,” Michigan’s public sector employees will likely be able to sing their “victory song” in the next couple of months when MERC formally issues its decision. ■

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



PROGRESS IN EDUCATION:

Teacher Performance Considered in Layoff Decision

In May, Bridge Magazine reported that Hazel Park High School would be laying off some of its best teachers.

The district's union contract, Bridge said, required that the district follow a "last-in, first-out" policy — meaning that younger teachers would be let go, even if they were some of the school's best.

This was surprising news, because in 2011 Michigan legislators passed a law to forbid this all-too common practice. Michigan districts must now consider student classroom performance when making personnel decisions.

The Mackinac Center Legal Foundation is prepared to represent teachers who have been laid off simply for being new to the district. As a first step, the Mackinac Center filed a Freedom of Information Act request to see whether Hazel Park was, as reported, ignoring the law.

As it turned out, Hazel Park had considered performance when making layoff decisions. The all-too common story of a school firing its newest teachers had been repeated in the press — but had not actually occurred at Hazel Park.

Four years later, it is heartening to see school districts making decisions in the best interest of students by working to keep the best teachers in the classroom. ■

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

AUDREY SPALDING

Making Public Employee Unions More Transparent: Good for Workers, Good for Citizens

Most public sector unions in Michigan are as transparent as a steel door. It's nearly impossible for public employees in this state to get their hands on information about their unions' finances — making it difficult to hold union officials responsible for how they spend members' dues. The Mackinac Center released a new study that aims to be the first step in changing all of this and making government unions more fiscally responsible to their members.

The Mackinac Center couldn't have found a better person to author this new study, titled "Bringing Financial Transparency to Michigan's Public Sector Unions." Nathan Mehrens is currently the president of the Americans for Limited Government Foundation, but before that he worked at the U.S. Department of Labor and helped implement the very union financial reporting requirements the study recommends bringing to Michigan. Former U.S. Secretary of Labor Elaine L. Chao, for whom

Mehrens worked, wrote the foreword to the study.

This issue is about financial transparency and accountability, but it's also about fairness. All private sector unions must adhere to robust financial reporting rules set by the federal government. These rules have been instrumental in discouraging and rooting out fiscal corruption by union officials. But public sector unions, because they are regulated by state law, face no such requirements. In Michigan, all they have to do is report spending in three broad and vague categories (and many don't even do this!) — leaving their members in the dark about how good they are as stewards of their members' money.

Mehrens makes a simple recommendation: Michigan lawmakers should enact financial reporting requirements that mirror those already being used by the federal government. This will finally allow public school teachers, state and county workers, and all other unionized public employees in Michigan a chance to determine if their union officials are working in their best interests, or if it's time for new union officers. ■

This study is available online at Mackinac.org/s2015-04.





SUPREME COURT TO HEAR FRIEDRICHS CASE

The end of June is always an interesting time at the United States Supreme Court. It is usually when the court announces decisions in its most important and controversial cases. This year was no exception, as the end of June saw the release of *King v. Burwell*, which upheld the Obamacare subsidies, and *Obergefell v. Hodges*, which announced a constitutional right to same-sex marriage. A case that many are pointing to as one of next June's blockbusters is *Friedrichs v. California Teachers Association*, which the Supreme Court will decide next term.

At issue in *Friedrichs*, which is being litigated by the Center for Individual Rights, is the question of whether the First Amendment protects public sector employees from being forced to pay agency fees to unions. Around 40 years ago in *Abood v. Detroit Board of Education*, the Supreme Court held that such fees were proper. Over the years, that decision has allowed the unions to corral tens of millions of dollars from employees who do not want to associate with them.

This concept of agency fees is a constitutional anomaly that runs counter to the great weight of First Amendment case law. The Supreme Court permitted it as a means to support states that seek labor peace through mandatory bargaining. The theory was that if all members in the bargaining unit did not pay (even if they did not want to associate with the union or receive its services), unions would be unwilling to be a mandatory collective bargaining agent.

The Supreme Court began to reexamine *Abood* around the time the Mackinac Center was exposing the imposition of those fees on home-based day care providers and home help workers. In *Harris v.*

Quinn, the court held that unions could not demand agency fees from such workers. In the process, the court criticized *Abood*, but decided not to overrule it at that time.

The dissenting justices recognized that mandatory agency fees were on shaky legal footing and tried to defend them. In her dissent, Justice Kagan claimed agency fees ensure that where there is mandatory bargaining, government will have a "viable counterpart." She also said that "basic principles of economics" naturally show that there is "no basis for thinking that absent a fair-share clause, a union can attract sufficient dues to adequately support its functions."

Banning agency fees for all state and local workers in mandatory bargaining situations as a matter of constitutional law would practically create a right-to-work environment. With Michigan recently becoming right-to-work and with the Mackinac Center Legal Foundation's efforts related to implementing it despite the Michigan Education Association (and others) chicanery, we were in a unique position to test some of Justice Kagan's theories.

Our amicus brief asking the Supreme Court to hear *Friedrichs* and overturn *Abood* showed that right-to-work will not end unions. To prove this, we looked at the MEA's experience after right-to-work passed in Michigan and at 14 years of national numbers from an annual federal labor survey. We showed that freedom for individuals who want nothing to do with the union and the state's interest in mandatory bargaining – however misguided – can coexist.

The case will likely be heard in either December 2015 or January 2016. It is likely that the Mackinac Center will file another amicus brief on the merits. ■

Measures Would Ban Steve Cook-Style Schemes

A pair of bills currently in the Senate would prohibit schemes that require taxpayers to pay for work done by real or putative school employees on behalf of unions. Both measures are sponsored by Sen. Marty Knollenberg, R-Troy, and were approved by the Senate Education Committee on June 17.

JACK SPENCER

Senate Bill 279 would outlaw pension spiking of the type Michigan Education Association President Steve Cook is using to pad his taxpayer-funded pension. Michigan Capitol Confidential broke the story about how, beginning in 1993, Cook has been permitted to accrue higher benefits from the school employee pension system, even though he has been working as a full-time union official. The arrangement lets Cook use his \$201,613 MEA salary as the basis for calculating his public employee benefits.

In addition to the pension contributions the school district makes on Cook's behalf (whether reimbursed by a union or not), the state is directly paying more than a quarter of the system's annual costs. Due to chronic underfunding of the pension system, taxpayers are at risk for future costs that Cook's benefits incur. Actuaries estimate that school employees are promised \$63.8 billion worth of pension benefits, but only \$38.0 billion has been set aside to cover these.

Cook's situation wouldn't be affected by Senate Bill 279, but the bill would prohibit such schemes in the future.

Senate Bill 280 would ban school employee union contracts that contain "release time" provisions that stick taxpayers with the tab for time some employees spend on the job conducting union business.

In 2011, documents obtained by Capitol Confidential showed that taxpayers were spending millions of dollars on these arrangements. Thirty-nine districts had employees who were released from their normal job to spend at least half their time working for the union at a cost of at least \$2.7 million. ■

Jack Spencer is capitol affairs specialist for Michigan Capitol Confidential.



We Remember What People Did Kindly and Freely

It's been a tough year for my family and me, but a year that makes me recall deeds that demonstrated compassion, dedication and perseverance — character traits that make any society work.

In March, we received the news that my 62-year-old father had passed away. I remember the good times of going to Cedar Point with him as a child and wondering why he fell asleep while watching one of the live shows. Dad worked a lot of overtime to provide for us, which kept him from sleeping a lot. A live children's show at Cedar Point was the perfect opportunity for him to catch up on his rest. It wasn't until I was older that I began to appreciate the many sacrifices he made.

My dad coached Little League baseball in the summertime. Many families are now lifelong friends of my own family because we built connections with each other through the teams he managed and taught. I remember seeing dad working on the hitting lineup and assigning defensive positions in his playbook during his downtime at home. It was quite a time commitment, but he never complained and genuinely enjoyed the time spent with his baseball community.

He would wrestle with my brothers and me. We turned our parents' bed into a professional wrestling ring. We had some pretty epic matches.

I remember him helping me get up the sledding hill when I was too tired to make the trek on my own. He attended my school plays and sports functions, not because they were high-quality entertainment, but because it was what fathers did to encourage their children.

Less than a month after my father's passing, my maternal grandmother passed away at the age

of 89. She was the kindest soul I ever knew. When I hear the word "grandma," I see her face. My paternal grandmother, who knew a lot of people, said Grandma McCarrick was the nicest person she had ever met.

When my parents divorced, Grandpa and Grandma McCarrick helped raise my siblings and me, making sure we were at church, school and work. They put hundreds of thousands of miles on their vehicles taking us where we needed to go. They provided countless meals for us in the form of Sunday lunches after church. They packed grocery bags full of food and drinks for our workdays and put on exemplary holiday feasts. They made every holiday, every birthday, the most special day for us grandkids. They sacrificed to make sure we had everything we needed.

My grandmother loved children and she loved books. She served in the nursery at Clarkston United Methodist Church for many decades and helped establish the Clarkston Elementary School library.

She also loved the "old folks" as she would call them. I'm sure many of them were younger than her, but she would visit senior centers and deliver flowers to brighten their day.

The similarities here are that my dad and grandmother did not have to do any of these things. They freely chose to do them. That's what makes their actions so special to me.

They were never forced or coerced to actively participate in my life. And rather than look for someone else or something else to fix a problem, they voluntarily stepped up themselves. In other words, they practiced the kind of self-government that characterizes a free and moral society. ■

BY THE NUMBERS

\$8,690,500,000

Revenue from the state income tax estimated for the current fiscal year.

\$2,273

Estimated revenue per household in Michigan.

32 percent

Proportion of Michigan filers that receive refunds worth more than tax liabilities.

0.7 percent

Percentage of filers reporting more than \$500,000 in annual income.

15 percent

Proportion of Michigan income taxes paid by those top filers.

Experience Freedom

State Policy Network 23rd Annual Meeting

In Partnership with the Mackinac Center for Public Policy

Sept. 29-Oct. 2, 2015 | Grand Rapids, Mich.

The Mackinac Center for Public Policy is honored to be the host organization for the 23rd annual meeting of State Policy Network, the largest network of free-market organizations in the country. This year's meeting will take place in locations throughout Grand Rapids, Michigan.

The last time the SPN Annual Meeting was in Michigan was its inaugural year in 1993, in Traverse City. Now SPN is returning to the state where it all started, bringing together more than 1,000 leaders, CEOs, trustees and free-market policy experts to advance the liberty agenda.

These freedom fighters are gathering in Grand Rapids to develop the solutions and skills to advance freedom at both the state and national level. Through the lens of our 2015 theme – Experience Freedom – we will consider ways to sharpen our objectives and strategies and help our core audiences envision their need for freedom.

We will inspire and challenge ourselves to give Americans opportunities to experience the benefits of freedom in their everyday lives.

The program focuses on building leaders, refining operations, cultivating excellent communication and outreach strategies, analyzing policy priorities and training top-notch communicators. The 2014 SPN Annual Meeting had 911 attendees, with 56 state-level think tanks representing 49 states.

The SPN Annual Meeting brings together leaders, problem solvers, entrepreneurs and influencers from a variety of sectors. To learn more about the SPN Annual Meeting and sponsorship opportunities that put you in front of liberty leaders at this weeklong event co-hosted by the Mackinac Center for Public Policy, please go to: SPNAM.org or contact Kimberley Fischer-Kinne at 989-698-1938 or FischerKinne@mackinac.org. ■