

The Magazine of the Mackinac Center for Public Policy MARCH/APRIL 2016

# IMPACT



## MAJORITY OF STATES NOW RIGHT-TO-WORK

**How the Mackinac Center spreads  
worker freedom in other states**

Page 7

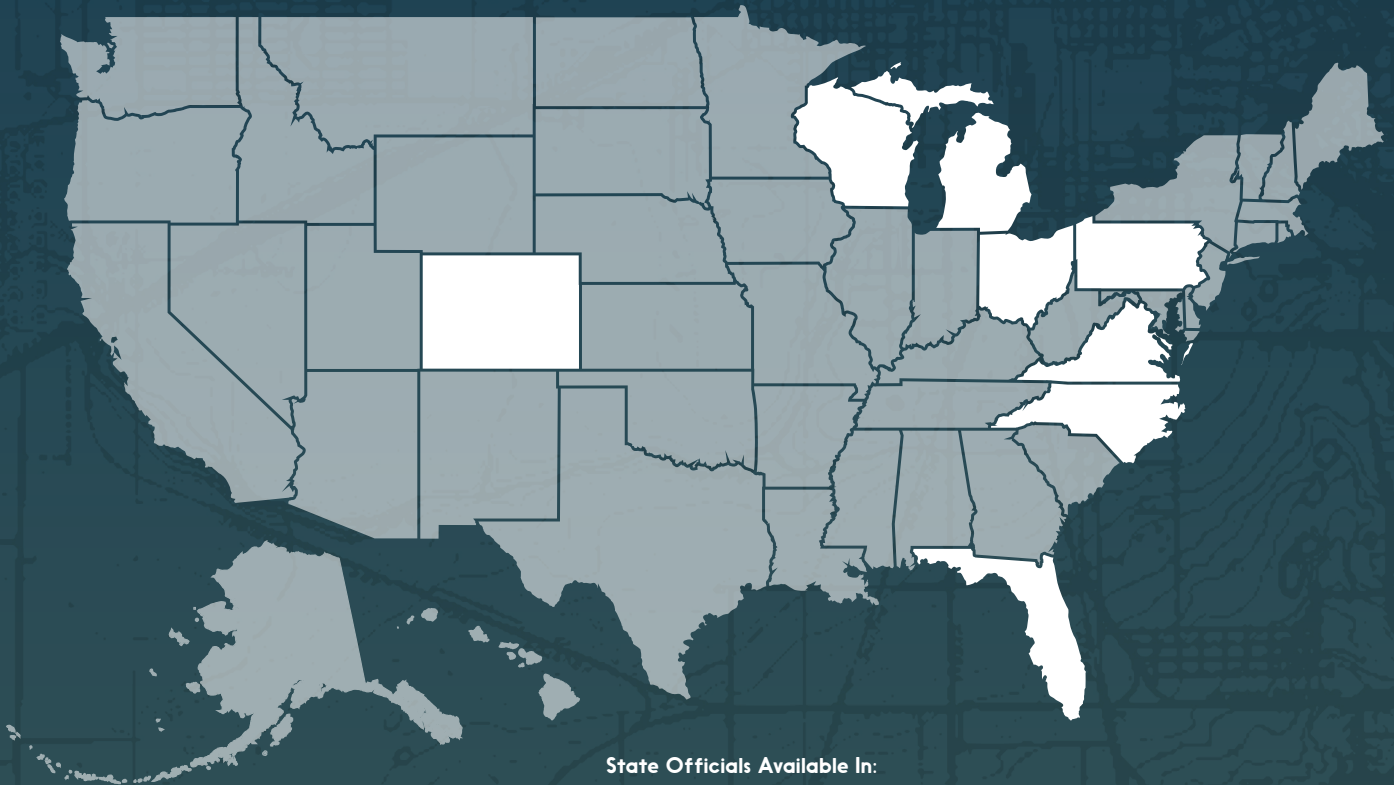
**REPORT IDENTIFIES SCHOOLS  
THAT OVERCOME POVERTY**

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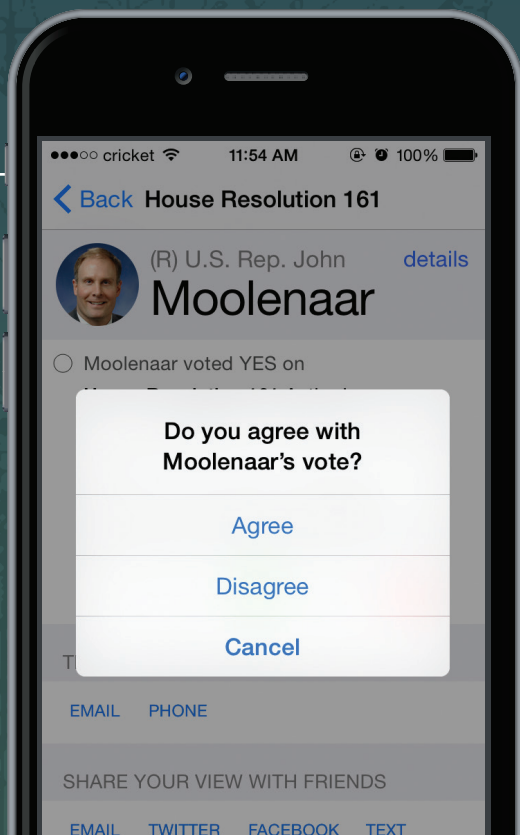
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## Blog

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WHAT FOLKS ARE SAYING ABOUT THE MACKINAC CENTER

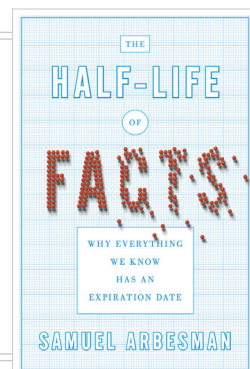
**“In Michigan, the Mackinac Center played a key role in promoting right-to-work in 2012, and later received [the] State Policy Network’s top award for that effort. ... In 2015, the Mackinac Center’s [F. Vincent] Vernuccio testified in Wisconsin [and] West Virginia...in favor of right-to-work.”**

— The Center for Media and Democracy’s PRWatch



**MICHAEL VAN BEEK REVIEWS** THE HALF-LIFE OF FACTS: WHY EVERYTHING WE KNOW HAS AN EXPIRATION DATE

Mathematician Sam Arbesman explores how and why established facts change regularly. Indeed, many of the truths you learned in school are no longer the consensus view, such as how many chromosomes we have, what dinosaurs looked like and how many planets there are in our solar system. Arbesman shows that there are patterns that describe how established facts emerge, change over time and then decay. He argues that we should embrace these changes — a sort of creative destruction of facts — because we inch closer and closer to learning the truth about our physical world with each fact that is overturned.







## On Persuasion

Perhaps you've complained, as I have, that the quality of public discourse seems to degrade during a presidential primary. Shouts, insults, arguing with opponents ... persuasion takes a back seat to scoring points.

Advocates for free-market policies are given many opportunities to communicate, whether in debates, radio programs, discussion panels, point/counterpoint articles or simple conversations. But communication, if measured only by the volume and intensity of words, is insufficient. True persuasion requires more.

- Credibility is key. You cannot persuade effectively when your credibility is in doubt. Facts matter. Tell the truth and know that people will quickly detect exaggerations. Mackinac Center policy recommendations are rooted in our research, and our Guarantee of Quality Scholarship invites rigorous scrutiny of our data, assumptions and methodology.
  - The human mind is hard-wired for stories. If you cannot explain how a policy proposal would help (or hurt) individuals, your idea won't persuade many people. Facts matter, but imagination, emotion and moral judgments can be engaged through a fable or anecdote. "Once upon a time" remains one of the most powerful phrases we know.
  - Seek earnestly to understand the other side of the argument. Be curious. Ask questions. Examine your own assumptions. Social psychologist Jonathan Haidt wrote in "The Righteous Mind" that most moral systems are rooted in six fundamental values: care, fairness, liberty, loyalty, authority and sanctity. Liberals, conservatives and libertarians tend to emphasize different sets of these values, says
- Haidt. Understanding the other side of the argument sharpens your own and can illuminate common ground.
- Simplify. Not to be confused with oversimplification, simplification eliminates distractions. Don't talk above the heads of your audience. Eliminate jargon. MichiganVotes.org Senior Editor Jack McHugh does this when he describes legislation using concise, plain language. He calls it the "demystification" of bill descriptions. For example, the official bill description of House Bill 4418 says: "A bill to amend 1949 PA 300, entitled 'Michigan vehicle code,' by amending section 722 (MCL 257.722), as amended by 2012 PA 522." The MichiganVotes.org description: "To allow an exception to seasonal road weight limit restrictions for trucks hauling tree sap used to make maple sugar." Which one tells you more?
  - Substance matters, but so does style. Debates over ideas are rarely a closed-circuit conversation; debates have observers and the observers generally apply a standard of decency to those in the arena. Communicate respect, even in disagreement. An attack on the character, motivation or intelligence of your opponent is a lazy and off-putting device. On a related note, even a rudimentary understanding of logic and common logical fallacies can elevate a civil debate.
  - Learn from your mistakes. A persuasive communicator doesn't hammer the same point repeatedly. Knowing one's audience provides the ability to fine-tune or abandon a point that doesn't resonate.
- There are no guarantees in the battle for ideas, but communication that conveys respect, substance and humor can dramatically elevate an argument. ■

**MICHAEL J. REITZ**

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# How to Prevent Public Officials From Advocating With Taxpayer Dollars

Earlier this year, Gov. Rick Snyder signed a bill that restricts school districts and local governments from using taxpayer dollars to advocate for tax increases. The law limits what public officials can say and do within 60 days of an election.

The need for this reform is easy to see. Even though it is technically illegal for local officials to use taxpayer resources to advocate for a particular position on a proposal, we have documented incident after incident through our news website, Michigan Capitol Confidential, where local governments were inappropriately using taxpayer resources to encourage voters to approve of hiking taxes on their neighbors.

For example, the Muskegon Road Commission sent out a flier asking citizens to “pitch in” with a road millage hike they called “the solution” for fixing their roads. Saline High School posted a video featuring a school administrator who “ask[ed] for [voters’] support” on a bond election. The Lansing School District told its taxpayers to “[p]reserve our heritage” and “[f]und our future” for one bond proposal, and it even bought a Super Bowl ad for another. Lake Orion Schools sent out an email to all its employees and asked them to make phone calls to local voters concerning a bond proposal. Do you think any of these employees gave voters on the other end of the line anything but a rosy view of this proposal?

Or consider the superintendent for Pinckney Community Schools, who used the district’s email list (which would normally be used to communicate important information to parents) to ask “voters to renew” a bond request. Galesburg-Augusta Community Schools said in a newsletter that “voters can vote yes for one, two or three (bond) proposals.”

## JARRETT SKORUP

The city of Rochester Hills wanted more money for police and fire and said a no vote might “mean the difference between life and death.” The Berkley School District was allowed by the state to understate more than \$260 million in tax increases in a newsletter. The Macomb County School Boards Association and Macomb County Schools Superintendent Association sent out a pamphlet saying a \$565 million tax increase would “boost Michigan’s employment rate and the economy.” The Southgate Community School District mailed a flier that said a millage would “secure a better future.”

Every one of these instances was supported by taxpayer dollars. And no public official was reprimanded or punished for engaging in taxpayer-funded advocacy.

So why don’t these public officials get in trouble? Because the previous law contained giant loopholes that allowed government officials to dance all over the fuzzy line between educating voters about a proposal and explicitly advocating for a certain outcome. The only clear prohibition was that they could not use the words “vote yes.” Nearly everything else was fair game.

The controversial part of the new law says,

Except for an election official in the performance of his or her duties ... a public body, or a person acting for a public body, shall not, during the period 60 days before an election in which a local ballot question appears on a ballot, use public funds or resources for a communication by means of radio, television, mass mailing, or prerecorded telephone message if that communication references a local ballot question and is

targeted to the relevant electorate where the local ballot question appears on the ballot.

Many school districts and local governments expressed outrage and turned to the courts. Shortly after the bill went into effect, a judge placed an injunction on the bill because of confusion over what public employees were allowed to do or say.

A measure passed by the House and now in a Senate committee guts the taxpayer protections of the new law. House Bill 5219 would strike the 60-day limit and would allow public officials to “provide a fair presentation of facts” as long as they do not encourage people to vote yes or no, as determined by a “reasonable interpretation.”

This bill goes too far in the other direction. It would create a new fuzzy line between “educating the public” and “persuading the public” — one that local officials will repeatedly challenge and that will provide no meaningful standard for holding them accountable. A better bill would clarify that government officials, if asked, could provide citizens with the date of an election and the exact language of the proposal within 60 days of an election. But that’s it. The standard should be that if it’s not information a government official could provide a voter waiting in line at a polling place, it shouldn’t be allowed.

Using taxpayer money to go beyond that provides an unfair advantage to government entities. If teachers, librarians, city administrators, superintendents or anyone else wants to advocate for a tax increase, they should absolutely be allowed to. They simply have to do so on their own time and with their own money, like the rest of us. ■

Jarrett Skorup is a policy analyst at the Mackinac Center.





## INTERVIEW WITH A SUPPORTER

This issue: David Nemmers



In this issue, we hear from **David Nemmers**, president, CEO and owner of Midstate Security Company, pictured above with his family.

Not everyone thinks of owning a business as an opportunity to positively impact other people, but David Nemmers is one of those people. After working at more than half a dozen companies in his career, Nemmers bought Midstate Security Company in 2007. He says that while he can't create beautiful paintings or sculptures, he can create jobs. "[It's] my favorite aspect of this business."

Born to a World War II veteran and a woman he describes as Rosie the Riveter, Nemmers learned about the value of a job early on, when his father, a journeyman electrician with a ninth-grade education, lost his. Unable to find local work, and with five children to feed – "I was number four," says Nemmers, "They called me the bonus baby. ... Then number five came and he was the extra bonus baby!" – his father bought a one-way ticket to Alaska to work on a pipeline. When he returned months later, he found more local jobs, but the episode taught his son about taking risks and responsibility.

Lessons from his childhood served Nemmers well in the tumultuous economic years shortly after he first took

ownership of Midstate Security. In 2009, the business struggled, and his salaried workers had to take five furlough days. By Christmas, though, business had picked back up. "It was an opportunity to pay them back," he says. "It was the first thing I wanted to do." He was able to repay the furlough time and add a Christmas bonus, an experience he calls "one of the highlights of my life."

Nemmers supports the Mackinac Center because it "espouses many of the same values that help me do what I love to do (impact people in a positive way and create jobs) through strong public policy, less regulation and lower taxes." And Nemmers' business is proof that such policies work: "When Gov. Snyder reduced the double taxation on thousands of state businesses, it was a \$60,000 impact to our company. Many criticized the governor for this 'favor' to business, but at Midstate Security we created two more jobs. With that additional money and a strong economy, we have almost doubled our workforce in the last eight years."

Married for 31 years, Nemmers and his wife Susan have two grown daughters:

Their oldest is a cancer survivor who works in health care while the youngest works in television in Traverse City. They were empty nesters for only nine months when they ended up with bonus children of their own through tragic circumstances, adopting two nieces and a nephew after they were orphaned. The oldest niece earned a degree from the University of Michigan and moved to work at the Fort Worth Texas Zoo. Their nephew is in college and their youngest niece is still in high school. All told, Nemmers says, "my wife and I have spent 18 years in high school!"

Nemmers believes his story would only be possible in America. "I live in the greatest country in the world," he says, adding that he wouldn't have been able to fulfill his dream of becoming a business owner anywhere else. "No Ivy League MBA – actually, no MBA, just a college degree." But the unique spirit of Michigan is important to him, too: "Even in a diverse state, there is a 'let's figure it out' attitude. Even in the tough times, we as a state overcame, and that is because of the people here. Just a tough bunch of individuals." ■





# Majority of States Now Right-to-Work

## HOW THE MACKINAC CENTER SPREADS WORKER FREEDOM IN OTHER STATES

As of Feb. 12, the majority of states have approved right-to-work laws, under which unions cannot get a worker fired for not paying them. On that day, the West Virginia Legislature voted to override Gov. Earl Ray Tomblin's veto, bringing the count of right-to-work states up to 26.

What's remarkable about this development is that it took place in a state that is considered by many to be the birthplace of the labor movement, and home of to the historically powerful United Mine Workers. The turnabout in that union state echoes Michigan's passage of a right-to-work law in 2012, despite its status as the home of the United Auto Workers.

West Virginia's unemployment rate is one of the highest in the nation and its economy has been struggling for years. It may now, though, see an economic rebound similar to that enjoyed by Michigan after it enacted worker freedom: Wages are up and unemployment has dropped sharply.

An op-ed co-authored by Mackinac Center labor expert F. Vincent Vernuccio was published in the Charleston Gazette-Mail during the heat of the debate in West Virginia. It noted the superior performance of right-to-work states:

"From 2012, the year Michigan passed right-to-work, until mid-2015, incomes in Michigan rose over nine percent, faster than West Virginia and the national average.

"From 2012-14, average hourly wages increased by 56 cents to \$19.94 in [the right-to-work state of] Indiana, by 56 cents to \$21.70 in Michigan, but only by 37 cents to \$18.21 in West Virginia."

Besides sending op-eds to the Mountain State, the Mackinac Center conducted a variety of educational efforts.

Starting in early fall 2015, it worked with several groups, including the West Virginia Business Industry Council, the West Virginia chapter of Americans for Prosperity, the Cardinal Institute for West Virginia Policy and others. Mackinac Center news stories, research, and the video "Labor Reform in the States" were all used by local groups to educate policymakers.

union protests, but more importantly, several articles combating union myths about right-to-work. He was also the co-author of the op-ed placed in the Charleston newspaper.

Vernuccio testified; penned op-eds; gave many media interviews, including one national broadcast and made several trips to speak in the state.

After the legislative vote, Vernuccio's interview with The Wall Street Journal

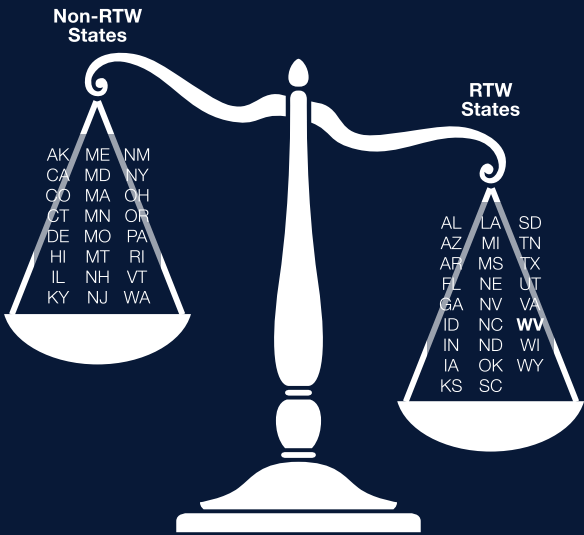
helped shaped the article "Obama's Right-to-Work," which argued that the story of West Virginia was not just about worker freedom but also a rebuff of the president's war on coal.

Mackinac Center friend and auto worker Terry Bowman hosted several town halls, gave numerous speeches, met with lawmakers and testified.

Mitch Carmichael, West Virginia Senate Majority Leader noted:

"We could not have accomplished this extraordinary measure in West Virginia without the help of so many supporters of worker

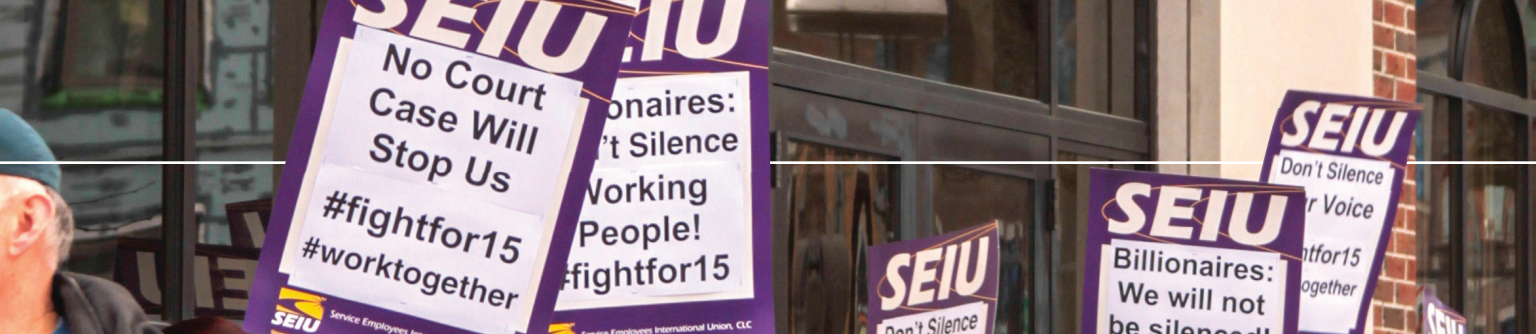
freedom, including the Mackinac Center for Public Policy. During the ongoing debate regarding workplace freedom in West Virginia, the Mackinac Center was an extremely useful resource for information about how workplace freedom laws had been successfully implemented in 25 other states. With the help of the Mackinac Center, we are proud of the fact that West Virginia's passage of SB 1 means that a majority of the states now support workplace freedom laws." ■



The Center also arranged for a film crew from one of the top political talk shows in West Virginia, "Decision Makers," to drive to Michigan for interviews with key figures in the state, including former Speaker Jase Bolger, Chamber of Commerce President Rich Studley, NFIB director Charlie Owens, and the Mackinac Center's Vernuccio.

Michigan Capitol Confidential reporter Jason Hart covered developments in West Virginia. His work included a video of the





# Labor Union Protests Outside Mackinac Center Office

The Mackinac Center’s role in bringing workplace freedom to millions brought a small contingent of union protesters to Midland just days before the U.S. Supreme Court heard oral arguments in the landmark case *Friedrichs v. California Teachers Association*.

According to a press release sent by Progress Michigan on behalf of the Service Employees International Union, the Jan. 7 protest was a direct response to the Mackinac Center’s work in making Michigan a right-to-work state, as well as its support of the *Friedrichs* case. That case could give public employees across the country the freedom to not pay union fees as a condition of employment.

Mackinac Center Executive Vice President Michael Reitz said in a statement to the media that the SEIU protest was a fitting nod to First Amendment protections, which the *Friedrichs* case is ultimately about.

“Just as people are free to protest under the First Amendment, the Mackinac Center believes teachers should be free to choose what political organizations they want to support, which is the central issue in the *Friedrichs* case,” Reitz said.

Reitz went on to remind the media that the SEIU took over \$34 million from home health care workers, many of them simply looking after family members, by unionizing them without their knowledge or permission.

“When given a choice, nearly all of those individuals stopped paying union dues,” he said. “The organizers of this protest apparently wish to preserve their power to keep forced dues flowing.”

About 10 people paced the sidewalk outside the Mackinac Center’s Main Street entrance in downtown Midland for just under an hour. Most of the signs urged raising the minimum wage to \$15 an hour and said nothing of *Friedrichs*, unionism, or the Center.

The Midland Daily News and MLive covered the protest, which Reitz said is a testament

to the impact the Mackinac Center is having even beyond Michigan.

“The fact that a union would protest the Mackinac Center for supporting the California-based *Friedrichs* case shows that the Center is a national leader in the labor reform movement,” Reitz said, noting that in the days before the Supreme Court heard oral arguments, the Mackinac Center was the only think tank to be the subject of a protest by opponents of worker freedom. “For years, the Center has been involved in right-to-work and labor reform efforts across the country to ensure no union can get a person fired for choosing not to fund an organization he or she may not agree with.”

In the *Friedrichs* case, the Mackinac Center Legal Foundation submitted two briefs in

support of the plaintiffs. It also has been a leading source of information on the case and the possible effects of expanding worker freedom to public employees in non-right-to-work states. Additionally, the Mackinac Center created a Web page and produced a video to provide information to the media, public and other think tanks. Other employees also participated in numerous local and national interviews on the case.

Unscathed by the protest, six members of Mackinac Center’s executive, legal, policy and communications teams, along with board member Richard Haworth, traveled to Washington, D.C. to hear oral arguments in the case, rally on the courthouse steps, speak with members of the media and support teacher Rebecca Friedrichs and her fellow plaintiffs. ■





# MACKINAC CENTER LEGACY SOCIETY NEWS

## 'THIS IS A WAY TO PERPETUATE OUR VALUES'

Brian and Tamra Fromm are planners.

When it comes to world travel, they have planned their own adventures to places as varied as Thailand, Vietnam, Poland, Wales and – coming up – Croatia.

They also think ahead when it comes to leaving a legacy. That's why the couple joined the Mackinac Center Legacy Society in 2014 and provided for the Mackinac Center in their wills.

"We believe in planning," Brian said. "We donate to Catholic organizations and to the Mackinac Center because we believe in the values they stand for."

The Fromms have a deep appreciation of hard work and self-reliance, drawn from their Catholic faith and a family heritage that includes farming on Tamra's side and both farming and construction on Brian's side.

Today they live in the same Grosse Pointe Farms home where Brian grew up. Brian, 46, works in finance at the General Motors Technical Center in Warren, and Tamra, 49, is an adjunct instructor at Sacred Heart Major Seminary in Detroit.

Introduced to the Mackinac Center by a friend and neighbor, the Fromms said they were impressed with the Center's principles and the nonpartisan nature of its work.

"We could relate to free markets, the rule of law and limited government," Brian said.

Tamra also finds that free-market principles align with Catholic social teaching.

At the personal level, "the tenets of the free enterprise system are the most effective way to promote the creativity and dignity of the human person," she said.

At the governmental level, Catholic teaching holds that the authorities closest to an issue should take care of it. That aligns with the idea of local control and a state and federal government that is limited to

such core functions as infrastructure or defense, the couple explained.

When asked what they see as the major policy challenges facing Michigan, the Fromms named Detroit Public Schools and the Flint water supply.

"Education is always a concern, but it's not solved by throwing money at it," Tamra said. "I would love to see education vouchers. I really think that's critical. Why should free markets be limited to corporations?"

On the situation in Flint, Brian said that lawmakers should focus on solving the problem and avoid partisan finger-pointing.



Brian and Tamra Fromm, Legacy Society members

"We need to dive into what went wrong, but we also need to get a plan to make it better. We need to move forward," he said. "Right now things are so politicized. What we like about the Mackinac Center is that it tries to offer facts and evidence and propose accountability in government."

The imbroglio in Flint also points to the larger need for government transparency, and the couple appreciates the Mackinac Center's efforts to advance open government, Brian said.

"The governor and legislature should open themselves to the people," he said.

For the Fromms, joining the Mackinac Center Legacy Society is a way to preserve the values of hard work, limited government and free enterprise, which they support.

"We've always believed in hard work and responsibility," Tamra said. "This is a way to perpetuate our values." ■

*The Mackinac Center Legacy Society is open to supporters who name the Mackinac Center for Public Policy in their estate plan. This can be as simple as naming the Mackinac Center in one's will, or through such vehicles as life insurance plans or charitable gift annuities. Legacy Society members are honored each year at a special luncheon. For more information, please call 989-631-0900 and ask to speak with an advancement officer.*

## IRA CHARITABLE ROLLOVERS NOW PERMANENT

The Protecting Americans from Tax Hikes Act of 2015 was signed into law on Dec. 18, 2015. A key provision of this legislation was a permanent extension of the IRA charitable rollover.



John T. McFarland

Under current law, an IRA owner aged 70½ years or older may donate up to \$100,000 per year to certain charities through transfers called “qualified charitable distributions.”

These transfers are tax-free and not included in the taxpayer’s adjusted gross income.

Since these gifts are made with pretax dollars, a taxpayer cannot gain an income tax deduction (usually applied to charitable gifts) from them. However, they may be applied to the taxpayer’s required minimum distribution (RMD) amount in the year of the gift.

IRA rollovers of this type may be made only to public charities. The qualified charitable distributions may not be made to a supporting organization or a donor-advised fund. Private foundations are also excluded, with the exception of conduit private foundations.

Many people in the philanthropic community had hoped the new provision would allow for funding charitable remainder trusts, charitable gift annuities, and pooled income funds with IRA assets. Unfortunately, the current law does not do that. The current IRA rollover provisions are solely limited to outright gifts to public charities.

If an IRA owner aged 70½ or older wishes to make an IRA rollover gift, they should contact their IRA custodian and request the appropriate distribution form. Most IRA custodians, after they receive the completed distribution form, will distribute the money by a check paid directly to the qualified charity.

The permanent extension of the IRA charitable rollover option has opened the door for many gift opportunities for public charities across the country, including the Mackinac Center for Public Policy.

*John T. McFarland is a Member at Miller Johnson, Grand Rapids. He has been practicing law since 2000, concentrating in the areas of estate planning, trust and estate administration (including fiduciary litigation), business succession planning, nonprofit and tax-exempt organizations, and tax law. Mr. McFarland has extensive experience in the area of charitable giving and planned giving and advises both individuals and nonprofit and tax-exempt organizations.*

## CALENDAR OF EVENTS

Did you know that if you leave no directions regarding your will or estate plan, the government may step in?

Yet government has no idea of your achievements, faith, devotion to family or love of liberty. In government’s hands, your hard-earned assets can be unnecessarily taxed, and heirs can be left with little or nothing.

To help our supporters learn more about creating a will or estate plan by design, and not by government, the Mackinac Center will host three Planning for Life workshops in the coming year.

At these free events, our guest expert will present information about estate planning in a friendly, no-pressure atmosphere. We invite all Mackinac Center supporters — and their friends and family members — to join us for these informational talks.

No sales are made during our workshops. We sponsor these events as a way to thank our friends for their support.

### Planning for Life Workshops 2016

#### Wednesday, May 11, 2016

11:30 a.m. – 1:30 p.m.  
Detroit Athletic Club  
241 Madison Street, Detroit  
Luncheon provided

#### Tuesday, June 28, 2016

11:30 a.m. – 1:30 p.m.  
Frederik Meijer Gardens & Sculpture Park  
1000 East Beltline NE, Grand Rapids  
Luncheon provided

#### Thursday, July 21, 2016

5:30 p.m. – 7:30 p.m.  
Black Star Farms  
10844 E Revold Road, Suttons Bay  
Heavy hors d’oeuvres provided

Attendance is free, but space is limited and pre-registration is required. To register, please call our event manager, Kim Fischer-Kinne, at 989-698-1938 or send an email to [events@mackinac.org](mailto:events@mackinac.org). You also can register online at [Mackinac.org/Events](http://Mackinac.org/Events). We look forward to seeing you soon!





# Right-to-Work Case Will Be Reargued

The passing of Justice Antonin Scalia was a seismic political and legal event and the naming of his replacement could have far-reaching consequences for the law. In particular, many point to *Friedrichs v. California Teachers Association* as a case where his replacement could provide the deciding vote. At issue are the free speech

**PATRICK WRIGHT**

Perhaps due to the Mackinac Center's work in exposing the home day care dues skim, the Supreme Court had begun to question the assumptions behind the *Abood* ruling. Just two years ago, in *Harris v. Quinn*, the Supreme Court chose to not apply the logic of *Abood* to home health care workers, meaning they no longer had to pay agency fees. Both

union membership is around 90 percent in worksites that have a union. In right-to-work states, it's around 80 percent. These findings contradict the Harris dissenters' claim that right-to-work necessarily destroys unions because everyone will eventually refuse to pay the union. The briefs show that the contention is just wrong.

The court heard oral arguments on Jan. 11. Mike Reitz, Vinnie Vernuccio and I were the first three people in the lawyers' line and Joseph Lehman was one of the first in the general population line. Board member Richard Haworth also attended. We all had great seats for an invigorating argument.

During the oral arguments, the unions, state of California, the United States Solicitor General and the Harris dissenters themselves largely abandoned the idea that unions would not survive. Instead, they claimed that when acting as an employer, a government can limit First Amendment rights.

The union-survival issue was instead initially raised by Justice Scalia. Time and again, those in favor of forced union support were unwilling or unable to argue that unions could not exist without agency fees. In fact, the solicitor general explicitly abandoned the idea during his presentation. The teachers' counsel indirectly referenced the Mackinac Center's brief during his rebuttal. It appears that our work had taken the union-survival argument away.

Most commentators believed that the case was headed to a 5-4 decision in favor of the teachers. But Justice Scalia was one of those five votes. Given the importance of the case, it will now likely be held over until there is a ninth member of the court, and then reargued. Justice Scalia's passing and the uncertainty surrounding the *Friedrichs* case remind us of the tenuous nature of some of our most-cherished rights and highlight our need to have multiple avenues to establish and protect them. ■

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



Michael Reitz, Joseph Lehman, Patrick Wright, F. Vincent Vernuccio, Richard Haworth and Chantal Lovell attend oral arguments for *Friedrichs v. California Teachers Association* at the U.S. Supreme Court.

and free association rights of over 7 million public employees.

The lead plaintiff, Rebecca Friedrichs, and nine of her California schoolteacher colleagues brought a suit to challenge a policy that forces them to financially support the California Teachers Association through agency fees. A ruling in their favor would essentially make all unionized public sector employees throughout the country right-to-work. Nearly 40 years ago, the Supreme Court approved mandatory agency fees in the case of *Abood v. Detroit Board of Education*, believing that the state had an interest in having one entity to bargain with. At that time, the court uncritically accepted the claim that an agency fee was needed to make sure that unions were financially viable to act as a bargaining agent.

the five-member Harris majority, which included Justice Scalia, and the four-member minority discussed *Abood* at length. The primary issue the dissent focused on in its defense of *Abood* was whether unions would survive without agency fees.

The *Friedrichs* case sped through the lower courts, which, due to *Abood*, had to rule in favor of the union. The Mackinac Center filed two amicus briefs on *Friedrichs* at the Supreme Court – one as the court was deciding whether to hear the case and a second one after it decided to do so. Both briefs directly addressed whether unions could survive without agency fees.

The briefs we filed looked at Current Population Survey data from the Census Bureau to determine what impact right-to-work has had on union membership. We found that in states with agency fees,

Stay up to date with what we are working on and follow legislative issues more closely in Michigan by signing up to receive emails.

There are two ways to sign up:  
Send us an email at [info@mackinac.org](mailto:info@mackinac.org) or go to [Mackinac.org/subscribe](http://Mackinac.org/subscribe).

Ben DeGrow is education policy director at the Mackinac Center.

# Report Identifies Schools That Overcome Poverty

For the fourth time since 2012, the Mackinac Center has generated a report that provides a much-needed analysis of how Michigan public schools really perform.

Our Context and Performance Report Card makes the best use of publicly available data to provide insights that reveal what the raw numbers alone may not.



This study is available online at [Mackinac.org/s2016-01](http://Mackinac.org/s2016-01)

The latest edition, released in February and co-authored by former education policy director Audrey Spalding and me, rates more than 2,200 elementary and middle schools statewide. All the reported scores on the last three years of MEAP tests

provide a credible and consistent foundation for the rankings.

As with previous editions, the raw test scores are weighted against student participation in the federal free lunch program. Currently, a family of four earning less than \$31,525 qualifies for free school lunches. On average, these students tend to bring extra challenges with them and start out behind their more affluent peers.

A strong statistical link exists between student poverty rates and state test results.

The report card's results serve as a reminder not only that poverty rates generally affect learning outcomes, but also that schools vary in how well they surmount the challenges low-income families present. Demography does not have to equal destiny, and the bar for learning can be raised.

In contrast, the state's official Top-to-Bottom School Rankings obscure some meaningful distinctions between schools. On that list, Martin Luther King, Jr. Education Center Academy, a Detroit charter, and Dearborn's Lowrey Middle School blend into the middle of the pack. But on our new report card, the two schools stand out as first and seventh in the state, respectively. Both get exceptional results with high-poverty student populations.

Nor is overcoming large-scale poverty challenges exclusively an urban phenomenon. Dowagiac's Sister Lakes Elementary earned the distinction of being Michigan's top-performing rural school on the new report card.

The release of our latest Context and Performance Report Card has garnered a fair share of attention – from a metro Detroit news radio station to a Traverse City talk show personality and newspapers from both the Lake Michigan and Lake Huron sides of the state.

Clearly an appetite exists for information that distinguishes great schools from mediocre and poor ones. Not to mention how hard it can be to resist a good list.

Local media outlets are mostly interested in providing acclaim for local schools that earned an A (those that finish in the top 10 percent), or are the top performer in a city or county. But concerns also emerge around the bottom 10 percent of schools that receive an F grade.

One media figure asked me on air if there is a track record of low-graded schools making a serious effort to turn things around in response to our past report card's findings. Although these reports are not the strongest incentives schools face, we would be glad to see them motivate focused efforts on academic improvement.

Perhaps our work could also inform improvements in the official rankings. Some state lawmakers have touted the idea of making the school accountability system more transparent and accessible by converting it into an A-to-F grading format. In so doing, the Legislature also ought to look at how schools are rated, not just how they are reported.

The Mackinac Center's report card does not offer explanations for why some schools do better than others. Other research tells us the in-school factors that are likeliest to change the trajectory for disadvantaged students. High-quality teaching and school leadership remain at the top of the list.

Unpacking the numbers could start a deeper investigation that leads to productive changes. You can start an investigation, or just satisfy your curiosity, by checking out the complete searchable school context and performance database at [www.mackinac.org/CAP2015](http://www.mackinac.org/CAP2015). ■

## National Celebration Puts Focus on Educational Choice

Every year, the grass-roots celebration of families' educational options continues to grow. This year, National School Choice Week (January 24-30) featured more than 16,000 events in all 50 states. The Mackinac Center did not sponsor a big bash this year, but did seize the opportunity to tout existing options and to press the case for more.

You may not have heard about our new website [ChoosingCharters.com](http://ChoosingCharters.com) on TV or radio, but email and social media advertising attracted thousands of visitors during the big week. The site is an antidote to the misleading attacks Michigan charter schools still face.

At Choosing Charters, visitors can learn some overlooked facts and watch real families tell their satisfied stories about finding better learning environments for their children. They also can learn about top-performing charters such as Star International Academy, where 100 percent of the students graduate and go on to college.

Charters certainly were not the only option featured during School Choice Week. On January 24, the Lansing State Journal published an op-ed by Macomb Township's Liz Roe, a friend of the Mackinac Center. Liz told how her two daughters with special learning needs have excelled in a private school setting, and called on the state to help families who lack the means to exercise the same choice.

I also used the platform provided by The Detroit News to show how Florida points to a brighter future for Detroit students. The Sunshine State's celebration of a popular and successful scholarship program, headlined by Martin Luther King III, contrasts with the Motor City's recent sickouts and deplorable building conditions.

Michigan had plenty to celebrate during School Choice Week, but the need for more learning options remains great. ■



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

# Why You Should Care About Government Employee Pensions

In the past five years, we have published three studies and hundreds of articles on government employee pensions. I may have said the words “unfunded liabilities” more than anyone else in Michigan. But there’s a reason for it – the promises made to retirees are now the largest debt obligations we have in the state, and fixing the broken pension system can save taxpayers billions.

Pensioners are the largest group of creditors that governments have. Unfunded liabilities in the school pension system

alone are 13 times larger than the state’s debt in general obligation bonds.

The gains from the state’s economic recovery are being absorbed by these pension systems, without providing any return to residents.

Consider that the state and its local governments will likely spend more than \$3 billion on closing unfunded liability gaps this year. That is more than we spend on our entire prison system. It’s around one-third of what the state raises from the income tax.

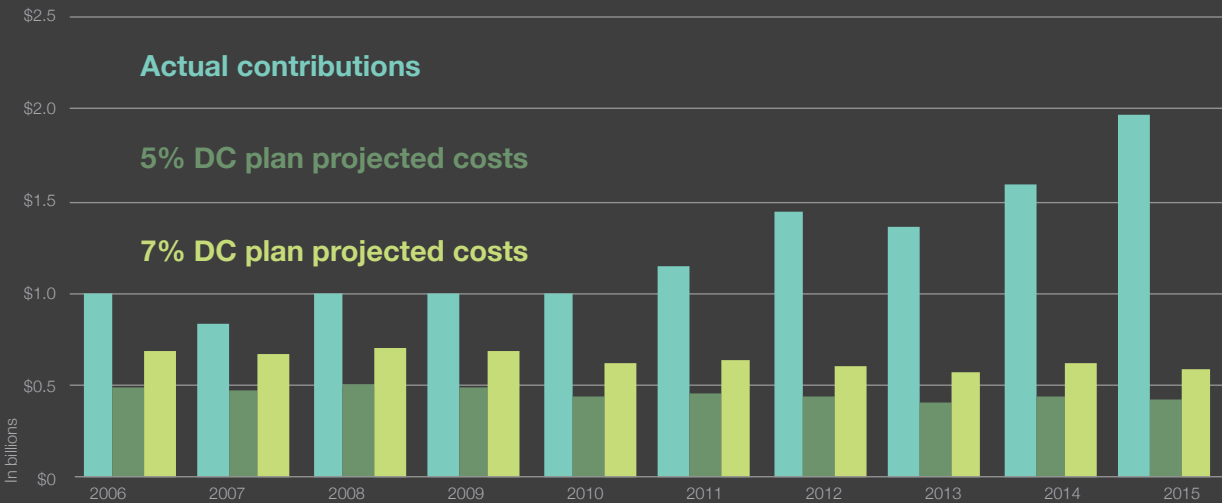
The underfunding even hurts the people inside the system. The ever-rising payments

to the pension system do not go to benefit employees directly, but instead drain resources available to hire workers or pay them more. Pensioners themselves question whether their employers will keep their promises.

A defined-contribution retirement plan would stop governments from pushing the costs of retirement benefits to the future, as happens now. Pension plans need to stop gobbling up so many taxpayer dollars, and we will continue working on the issue until taxpayers and employees are protected. ■

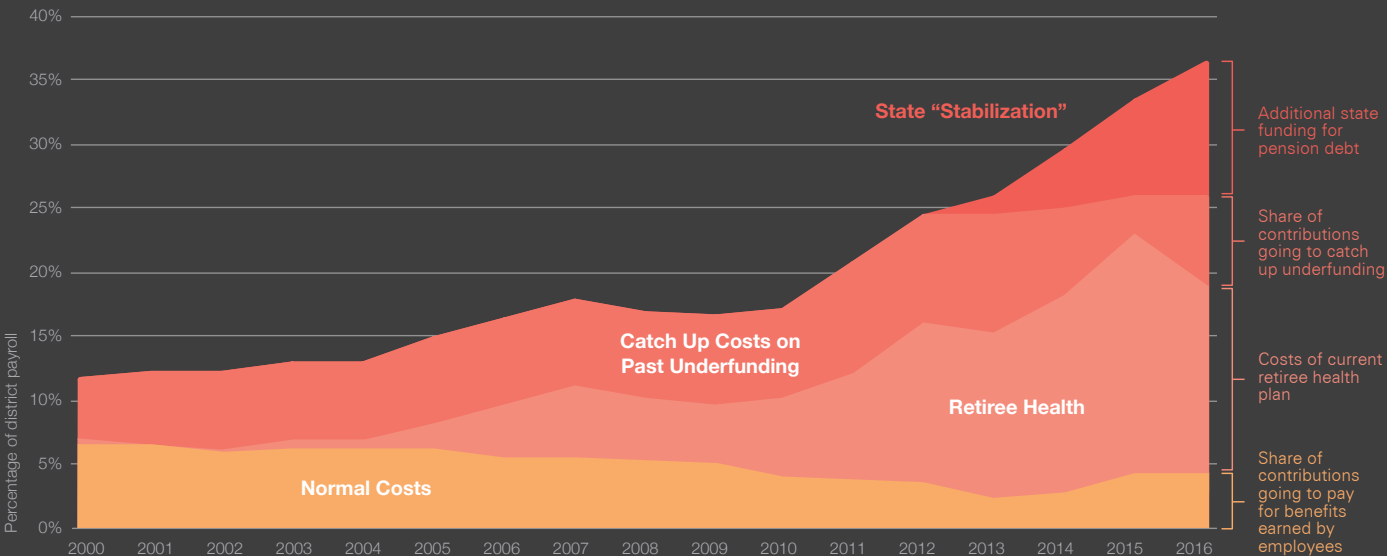
## School Pension Costs and Hypothetical Defined-Contribution Costs

Source: MPSERS comprehensive annual financial report and author’s calculations



## School Pension Fund Contribution Rates

Source: Michigan Office of Retirement Services



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

# Legislature Considers Limiting Undemocratic Tax Hikes

Every tax in Michigan is restricted in one way or another. At least that was the intention of the people when they approved the state’s Headlee Amendment. But some loopholes have popped up over the years. Now it’s up to state lawmakers to close them.

Every once in a while, a local unit of government gets sued and loses a monetary sum. In some cases, judges can mandate that the government raise its taxes to pay for damages. Senate Bill 630 proposes to close that loophole and require that a local government’s voters approve a judgment levy.

The Headlee Amendment made increases in taxes by a local government subject to voter approval. However, it only applied to new taxes. With the law allowing for judgment

levies in place before the Headlee Amendment was approved, courts interpreted that judgment levies do not need a vote.

The trouble is to figure out what happens if voters do not approve millages to pay for damages. But Michigan already has an answer to that in statute – the most comprehensive anti-insolvency policy in the country.

It requires balanced budgets, deficit elimination plans, offers temporary support and borrowing assistance, all with increasing state support. And if all of these fail, the state can appoint an emergency manager, who is given special powers to lower government expenses and fix mismanagement problems. If all of this fails, an emergency manager can take

a government into bankruptcy, as we saw in Detroit.

Some governments may be tempted to stop paying bills, hoping that a court will give them a new revenue source. This apparently happened in Pontiac, where school board members stopped paying the district’s health insurance premiums, were sued and then given a new property tax to levy.

Yet taxpayers may not be supportive of those levies. The failure to get support for the taxes levied by governments in the first place caused the movement that led to the Headlee Amendment. Popular support is an adequate and fair check on taxation powers, and Lansing should close one of the loopholes to unlimited taxation. ■



James Hohman testifying before the Senate Appropriations Committee on the need to close tax loopholes.





Lee McGrath, an attorney for the Institute for Justice, discusses the problems of occupational licensing at a Mackinac Center event.

## Let Them Work

SOLUTIONS FOR MICHIGAN'S  
OVERBEARING LICENSING LAWS

In Michigan, it takes 26 days of training to become an EMT, but years of education to become an athletic trainer. This is just one example of inane licensing requirements outlined by Institute for Justice attorney Lee McGrath, who spoke at a Mackinac Center event on the issue in February.

Compared to some, Michiganders have it lucky. People who practice traditional hair braiding here are not forced to spend time and money on irrelevant cosmetology courses. Florists needn't pass a license test with a fail rate higher than that of the state bar exam. But many of Michigan's neighbors in the Midwest have less restrictive licensing regimes, and following suit would improve unemployment numbers and the state's economy as a whole.

McGrath made a compelling case, demonstrating the true origins of occupational licensing. Most people think of licenses as a way to ensure public health, or as a safeguard against criminal or unethical conduct – why else would we license doctors and lawyers? But in truth, most licenses were created at the behest of professional organizations with an interest in limiting competition and erecting barriers to entry.

Licensing does not improve the safety of consumers, McGrath pointed out. It is inherently elitist, forcing low-income individuals out of the market for jobs everyone but the licensing board feels they are qualified for. He suggested a number of alternatives to occupational licensing – alternatives that would allow for experience and innate talent to shine through.

Michigan has taken some steps to reduce the licensing burden on its workforce. Gov. Rick Snyder sent a letter to leadership in the House and Senate in 2015, outlining his criteria for determining which licenses are necessary and which aren't, promising to veto proposed licenses that don't meet his standards. That's a fine first step. But there are still plenty of regulations on the books that ought to be reformed. ■



Kevin Cotter, (R-Mt. Pleasant) Speaker of the House, at the Mackinac Center's Friends of Freedom event.

## An Evening Talking Policy with Speaker Cotter

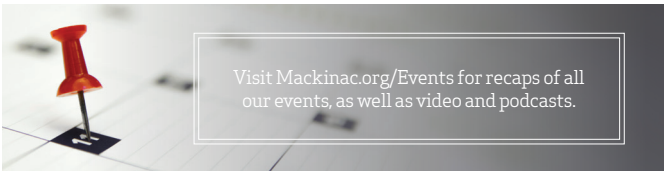
The Mackinac Center hosted Michigan Speaker of the House Kevin Cotter as part of its Friends of Freedom lecture series on Feb. 3, 2016. A crowd of about 70 joined the center's staff for the event at its headquarters in Midland.

Speaker Cotter praised the Mackinac Center for being a "tremendous resource" in helping educate lawmakers and the public about positive policy reforms. He mentioned the work the Legislature has done in recent years to improve the state's regulatory structure, tax structure and overall business climate and reputation. Even with these improvements, the speaker admitted that he didn't initially think it was possible to make Michigan a right-to-work state or to eliminate the state's ineffective film subsidy program – two successful policies the Mackinac Center pushed for many years.

The speaker also discussed internal improvements that have been made during his tenure in the Legislature that he believes has made state government more responsive and accountable to voters. He cited the fact that the legislatures he has worked in have successfully agreed to a state budget on time every year since 2011 – something that was rarely accomplished in the preceding decade.

Additionally, Speaker Cotter trumpeted the House Republicans' use of a published agenda. This agenda is a list of legislative priorities and is made public at the beginning of each session. He said that voters can use this agenda as a yardstick to measure the effectiveness of their representatives.

During the long Q&A session following his talk, Speaker Cotter also stressed the importance of pension reform and ensuring long-term financial stability for local government units. ■





2015 Summer Interns, from left to right: Wyatt Bush, Jonathan Moy, Christopher DeLuca, Philip Schlosser, Janelle Cammenga, Nathaniel Lehman and Anna Pfaff.

**Do you know any young adults  
who are passionate about the  
cause of liberty?**

*Send them  
our way!*

Every summer, the Mackinac Center employs a team of interns to assist with our research, communications and other projects. Interns work full time for 10 weeks with competitive pay and have access to a series of lectures designed to help them make the most out of their experience in the professional world. Many current staff members started through our internship program.

**The deadline to apply is  
March 31, so don't delay!**  
**For more information,  
go to [Mackinac.org/1549](http://Mackinac.org/1549).**

# CapCon Receives 2015 Better Newspaper Award

Every year, the Michigan Press Association recognizes outstanding journalism. This year, a contributor to our own Michigan Capitol Confidential was one of the honorees.

Anne Schieber's collection of stories on civil asset forfeiture highlighted the troubles of Michiganders who lost property at the hands of law enforcement even though they were not charged with a crime. She tackled the policy from all angles, even interviewing



a retired state police officer. Her work on the topic contributed to the passage of stricter forfeiture laws in fall 2015 and earned second place in the category of News Enterprise Reporting (Weekly/Specialty A) in the Better Newspaper Contest.

Judges of the contest described the entry as “a good topic that is certainly of importance to the public.” ■

# CAPCON





# The Value of Treating Others Better Than They May Deserve

For the past few months, I've thought a lot about the presumption of good will. It's one of the principles of the Mackinac Center: Assume that the people and organizations disagreeing with us do so with the best intentions.

This principle challenges us to work smarter. It forces us to examine the issues we deal with from multiple sides, and to acknowledge that nearly all of our so-called opponents actually share our goals: higher employment, less poverty, better education and more. It causes us to see weaknesses in our own approach, so that we can address them.

It also allows us to approach discussions from a position of well-reasoned calm: "I want to raise people out of poverty, too, Aunt Sally. Did you know that free markets have done that better and faster than any other system in the world?" Aunt Sally may never be convinced, but she's been given a perspective she may not have considered, and she can attribute good will to her niece. That good will, in turn, may be the key to turning her opinion on another day. At the least, you've done your best to keep the relationship intact — a good testimony to the proposition that some things are too important to be left to politics.

When we fail to assume good will, we start from an adversarial position. Rather than remembering a shared goal, we assume our opponent has a sinister motive. When we don't bother to get inside the world of those who don't already see things our way, we usually fail to win a new ally or even make incremental progress to our goal. Our arguments suffer because they start at an incorrect assumption, and so fail to address the concerns of anyone who isn't on our side.

The applications for the good will principle are endless. I've managed to cut down on the stress of driving by reminding myself that most people on the road with me want to get where they are going quickly and safely. When someone cuts me off, they probably have a good reason — having to make a turn sooner than they thought, for example. It might be the result of poor planning, but they probably weren't trying to be a jerk. This brings me to a close cousin of the good will principle: Hanlon's Razor. "Never attribute to malice that which is adequately explained by stupidity."

Unfortunately, in election season it gets harder and harder to attribute good will. Humans often define themselves not only by "who is in my group?," but "who is not?" Media outlets build market share by nursing grievances for ideological communities. My social media feeds are filled with political commentary spilling out of highly partisan echo chambers, making it that much easier to live in a bubble. Not everyone I meet is happy to assume that my political beliefs come from a genuine desire to make the world a better place, and it can be so tempting to return mudslinging and baiting in kind.

As we survey the state of affairs in this country, it's easy, and right, to be angry at the injustice and folly we see. The divisiveness of people who respond to what they see is real and it's frustrating, but it's also an opportunity. It's an opportunity to examine and present alternatives in ways others can hear rather than ignore.

No, not everyone acts with good intentions, and not everyone who acts with good intentions succeeds in doing good. But the world is a better place when we start by assuming good and then wait to be proven wrong. ■

## BY THE NUMBERS

91,000

Workers represented by unions in West Virginia who now cannot be fired for choosing not to pay dues or fees to a union they do not support.

6.3 percent

Unemployment rate in West Virginia as of December, the 5th highest in the nation.

14,800

Increase in the number of jobs from 2005 to 2014 in West Virginia. This 2.0 percent employment growth was 31st among the states.



## Pursuing Cooperative Solutions in an Age of Political Food Fights

“May you live in interesting times,” the old curse says, and it seems to be in force this election year. The elites of both major political parties appear baffled as voters buck their agendas and flock to feel-good echo chambers that amplify and bounce their frustration back to them. Pollsters and pundits obsess over every candidate’s gaffe. It’s both fascinating and frightening to watch.



**KAHRYN  
RILEY**

But the pro-liberty community is in the habit of acting with purpose. In Michigan, the Mackinac Center network has adopted a bold commitment to a principled vision for our state and our culture. Mackinac Center supporters demand the right to take responsibility for their own affairs, relying on their families, friends, religious organizations and community associations to advance a vibrant, prosperous Michigan. Together, we build strong families and supportive communities. We reject the assumption that any government bureaucracy can deliver better solutions than can the creative energy of free people who are closest to a problem. We strive for self-reliance, innovation, and integrity.

Join us. Or, if you’re already with us, step closer. Compare the steady effort of this movement to what firebrand politicking has wrought. In Michigan, we’ve lightened the tax burden on people and businesses, expanded the range of education options for children and eliminated the forced unionization of day care workers, graduate student research assistants, and in-home caregivers, among so many other accomplishments. We have carried the torch for individual liberty and civil society for more than 25 years, and that flame is burning brightly. The election cycle will tumble on, but the liberty movement stands fast. Thank you for your unwavering support, without which our achievements would not be possible. It is an honor to work with you. ■

Kahryn Riley is an advancement officer at the Mackinac Center.