INSIDE: Preventing the government's cruel home equity theft scheme Pg. 6

PINNACLE

THE MAGAZINE OF MOUNTAIN STATES POLICY CENTER
JANUARY 2024

Getting serious about tax transparency

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Tax Transparency

From gas taxes to websites, supermajorities to receipts, there are plenty of ideas to improve transparency when it comes to the financial burden placed on citizens.

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The cruel government scheme was outlawed by the U.S. Supreme Court. Idaho, Montana and Oregon need to take note.

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College Enrollment

The number of students attending college or university in the Mountain States is falling. But some schools are doing better than others.

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About Mountain States Policy Center

Founded in 2022, Mountain States Policy Center is based in Boise and Coeur d'Alene, and is an independent think tank that believes in providing research and recommendations to lawmakers, the media and the public, based on facts – not emotion. Harnessing the power of publications, conferences, and video events, MSPC brings forward free market solutions to our region's biggest challenges and is a watchdog to improve government transparency and effectiveness. Our mission is to empower those in the Mountain States to succeed through non-partisan, quality research that promotes free enterprise, individual liberty and limited government.

Nothing in this publication shall be construed as an attempt to aid or hinder the passage of any legislation.

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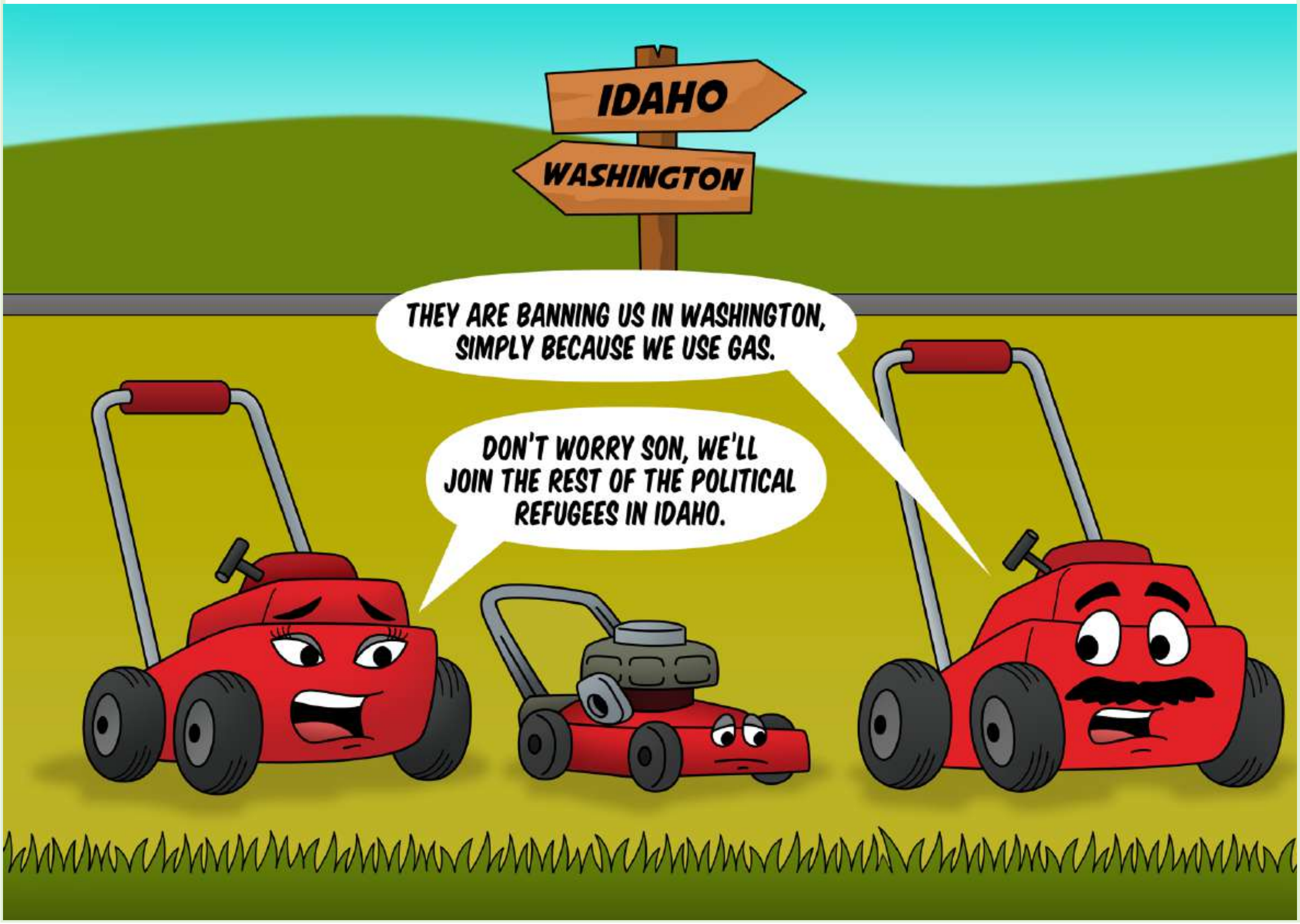

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Idaho should move to a 30-day threshold for remote income tax liability

By Sam Cardwell
Guest Writer

As a result of the COVID-19 lockdowns, remote work has been surging. According to the United States Census Bureau, the number and percent of home-based workers more than tripled between 2019 and 2021, from 5.7% (roughly 9 million workers) to 17.9% (about 28 million workers). Consequently, this trend towards remote work needs the proper policy actions to allow these employees to both thrive in their positions and incentivize them to work in the state.

There is a great administrative advantage for employers to have the option to choose from job candidates all around the country without experiencing hesitations around state's tax policies. One of the areas of policy involved is an income tax obligation or withholding threshold. This is the limit that employees must exceed in a state before they are either liable to pay the state income tax, or employers are required to withhold income taxes on the employees' behalf.

Around the country, states have been looking at ways to increase this threshold to make their state attractive for remote and nonresident employees to work out of. Idaho should follow suit.

As it stands in Idaho, a nonresident employee must make $1,000 while in Idaho, to have their employer withhold their income tax for the state. While this policy is mainly associated with remote workers, it also affects those who engage in frequent business travel, and those who desire to work in a hybrid model in a different state.

Several states are acting to reform their nonresident income tax thresholds. In May of 2023, Montana passed a 30-day threshold for income tax liability.

While the issue of income tax relating to nonresident workers is treated differently throughout the country, Idaho should consider moving to a 30-day income tax obligation threshold. The state needs to both encourage remote and nonresident workers to operate in Idaho and ensure that employees aren't taking advantage of a tax loophole.

A 30-day threshold would accomplish both. A wage threshold proves to be very

complicated in the case of an employer with employees in multiple states. The employer must take all the specific wage thresholds into consideration while making hires and sending employees to other states for meetings, conferences, and other forms of business engagement.

The 30-day mark provides adequate time for nonresidents to collaborate with residents while participating in the local economy. The current threshold standard of $1,000 earned in Idaho is lacking compared to the 30-day-specific direction that states like Montana are following.


1205

Home Equity Theft

STOPPING THE CRUEL GOVERNMENT SCHEME

By Madilynne Clark

If someone were to borrow a cup of sugar to make a cake and doesn't return a similar amount, is the lender entitled to the cake? The lender would be viewed as excessively greedy to acquire so much in recompense. A fairer outcome would be for the borrower to offer a slice deemed equivalent to the value of the sugar.

Yet, prior to the Supreme Court ruling in *Tyler v. Hennepin County* in May 2023, governments were allowed to "take the cake" from many citizens through home equity theft.

Home equity theft is a method by which governments can remediate property tax debt by acquiring a person's home, selling it to a third party, and keeping all the money, including any excess above the debt. The equivalent of taking the cake in payment for one cup of sugar.

As ruled in 2023 by the U.S. Supreme Court, this practice violates the Fifth Amendment's takings clause. Legal traditions of our nation and state laws recognize that home equity is private property. When a government confiscates this type of private property and keeps the surplus for public use without compensation, a taking occurs. These takings can and do occur for tax bills of only a few dollars, with many states delivering poor notification to the debtor.

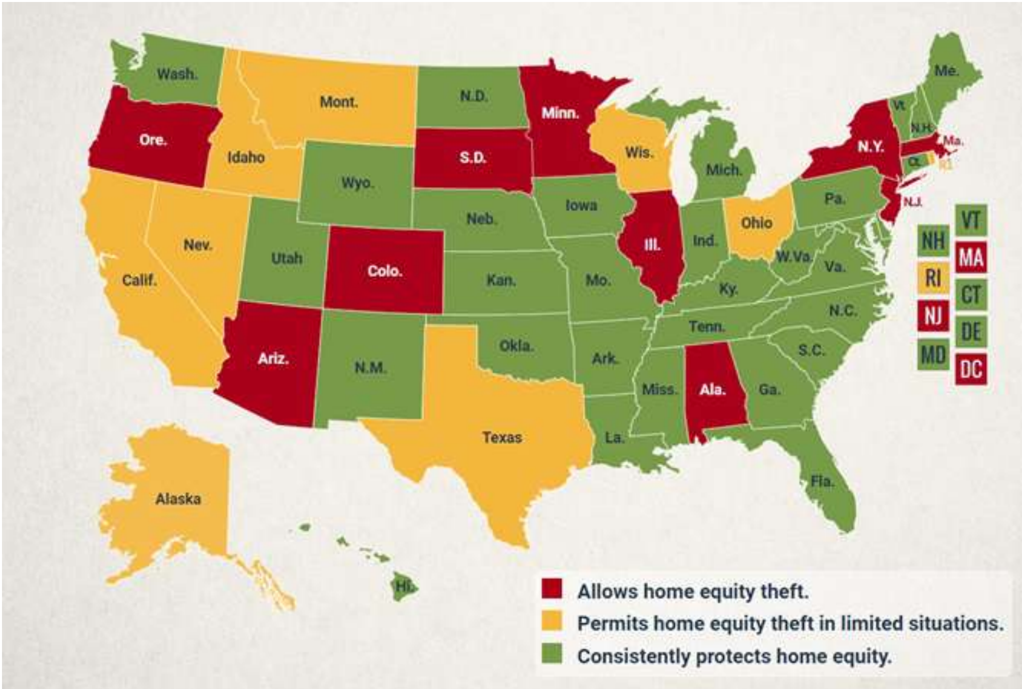
The majority of states already recognize the unconstitutional nature of home equity theft, prohibiting the sinister funding method. These states recognize that permitting home equity theft creates a double standard for government and private creditors. In every state, private creditors are required by law to return excess value to debtors after seizure and debt satisfaction have occurred. However, for the twelve states with home equity theft and the nine with loopholes, there is an exception for government lenders.

Among the 19 states that still have unconstitutional home equity theft provisions on the books are Idaho, Montana, and Oregon.

Idaho is referred to as a loophole home equity theft state. Home equity theft is not permitted within the state unless a government entity gifts the property to another government body.

If this occurs, the state law does not require compensation to the debtor. Idaho lawmakers need to remove this exception and require that all property owners and other lien holders be fairly compensated.

Montana is a peculiar case because it wholly protects residential property equity but leaves all other classes of property unprotected. As the state law leaves all non-residential property open to equity theft, the law still violates the takings clause. To become compliant with



If this occurs, the state law does not require compensation to the debtor. Idaho lawmakers need to remove this exception and require that all property owners and other lien holders be fairly compensated.

Montana is a peculiar case because it wholly protects residential property equity but leaves all other classes of property unprotected. As the state law leaves all non-residential property open to equity theft, the law still violates the takings clause. To become compliant with the takings clause, *all property*, including commercial should be recognized as exempt from home equity theft.

Oregon's use of home equity theft is particularly egregious. Victims of home equity theft include children who have lost parents and were unaware of the property until fines were accumulated and the children had no means of resolving the debt. Oregon lawmakers should ensure that government officials are not allowed to keep the equity above the tax debt owed.

Letting home equity theft go unaddressed by state legislatures is a problem for citizens and governments. As home values increase, so does the incentive for equity theft. Property owners already encumbered by rising inflation, high housing costs, and poor wage growth are more at risk for governments to target their equity to fund public budgets.

Governments are also at risk if their budgets use home equity theft dollars. Budgets will be exceeded when court fees and repayments come due, to compensate home equity theft victims. It is better for both property owners and governments to abolish the existence of home equity theft laws quickly.

Protecting property owners from home equity theft does not mean protecting them from repaying tax debts owed to the government. Ending home equity theft means preventing governments from taking advantage of property owners through nefarious means. Just like taking the whole cake after loaning one cup of sugar, the government taking all the equity for a few dollars in debt is sinister.

U.S. Supreme Court Chief Justice John Roberts said it best: "The taxpayer must render unto Caesar what is Caesar's, but no more."

It is time for Montana, Idaho, and Oregon to *fully* ban home equity theft and protect the interests of vulnerable property owners from governments seeking to take more than they're owed.

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Sending Idaho across the

It’s a new, creative box business that all started in the aisle of a grocery store.

Ian Lambert and Porter Anderst, students at Mountain View High School in Meridian, Idaho, noticed the lack of local products on their local grocery store shelves. They wanted to make it easier for local business products to get into the hands of Idahoans – and beyond.

And so, Idaho in a Box was born. Lambert and Anderst didn’t wait for government permission or handouts – they had an idea and a dream and are using the free market to make it work.

Idaho in a Box is all about the Gem State. Each month, those who subscribe get new products from roughly 60 Idaho-based businesses. Food, candles, crafts and décor are just a few of the items contained in each box.

Customers can make one-time box purchases or sign up for a subscription. VIP guests who attended MSPC’s Fall Dinner in Boise this past year received their very own box.

Porter and Ian say it’s all about bringing the community together. We sat down to learn more about their story, and their dream.

What is Idaho in a Box?

Idaho in a Box is a business built around the idea of supporting local businesses and giving a way for businesses throughout the state of Idaho to promote their products and services. We make and sell boxes that contain a variety of locally made products from the state of Idaho that we deliver locally and ship nationally as well as internationally.

How did you come up with the idea?

We both worked in grocery prior to the start of Idaho In a Box and working there helped us realize the scarcity of local goods on the shelves of these big brand stores. We later brainstormed in May of 2023 on ways to promote these local goods in a fun and inviting way which led to the idea of Idaho In a Box.

How many customers do you have?

We have just under 200 customers at the end of 2023.

What’s the biggest challenge you’ve faced?

I would say the biggest challenge we have faced is brand recognition. Following the initial launch of Idaho in a Box, we spent almost if not all of our time reaching

nation – in a box

out to businesses, realtors, newsletters, etc. to try and find routes of promotion and customers. However, after lots of networking, we've started to reach a point of stability so we can delegate more of our time to the business side of things.

What are your personal stories?
I (Porter Anderst) was born in Cabo San Lucas Mexico and lived there for several years before we moved to the US. I've lived in Idaho for 12 years and am an Idahoan at heart. Ian Lambert was born and raised in the beautiful state of Idaho. Ian and I have known each other since elementary school and have been entrepreneurs for as long as we can remember. We have started small businesses such as selling candles, animal products, skin products, and so on. However, after the launch of Idaho in a Box we have learned a lot about each other on the business side of things and how compatible we are as business partners. We plan to take up more business ventures in the future.

How has the free market helped your startup?

The free market has helped us and our business extraordinarily as it provided us the opportunity to grow our business without the hassle of government regulations. It also helped us set our prices to a fair market value which gives our customers and suppliers a price they can't say no to!

What do you want to do with your life?

Ian and I both see a future of prosperity and success. Just like Idaho in a box, we want to start or join businesses that can create better lives for not only us but others. The both of us strive for greatness and we believe that a free market is essential for the success of us and everyone around us.

Where do you see the company in five years?

The outlook for Idaho In a Box is to keep steady growth as we plan to expand to other states creating more opportunities for us and other local businesses

What is a dream scenario for the company?

Our dream Scenario for Idaho in a Box is to help as many local businesses as possible which will give us the opportunity to expand as far as we can.

Has college enrollment peaked? Student data holds clues

Chris Cargill
President & CEO

Is the cost of college worth it? Has the political environment at large universities driven students away?

The data shows dramatic declines in student enrollment at public universities and colleges in Washington state, consistent declines at higher education institutions (as a whole) in Montana, and stagnation at those in Idaho.

As policymakers determine the budgets and staffing at higher education institutions, it is important to consider the size of the student population.

For example, the number of full time students attending college – both university and community – in Idaho is 51,537 this year. Ten years ago, there were 52,621 full time students.

Idaho's largest university remains Boise State, where 18,119 students attend. BSU has seen an increase in enrollment every year since 2013. But both Idaho State University and the University of Idaho have seen consistent drops in attendance. Each institution now serves roughly 9,200 students.

More troubling numbers come out of Montana, where the number of students attending college or university has declined eight percent since 2014, to 33,603. Montana State University serves the most students.

At its main campus in Bozeman, the number of students attending has increased to 14,633. But the number of students attending the University of Montana has fallen to 7,218 – a drop of 29% in less than 10 years.

In Washington state, the total number of students in higher education has declined to 204,956. A decade ago, it was 249,330 – representing a decline of nearly 18%. Despite that decline, Washington state has never spent more on higher ed.

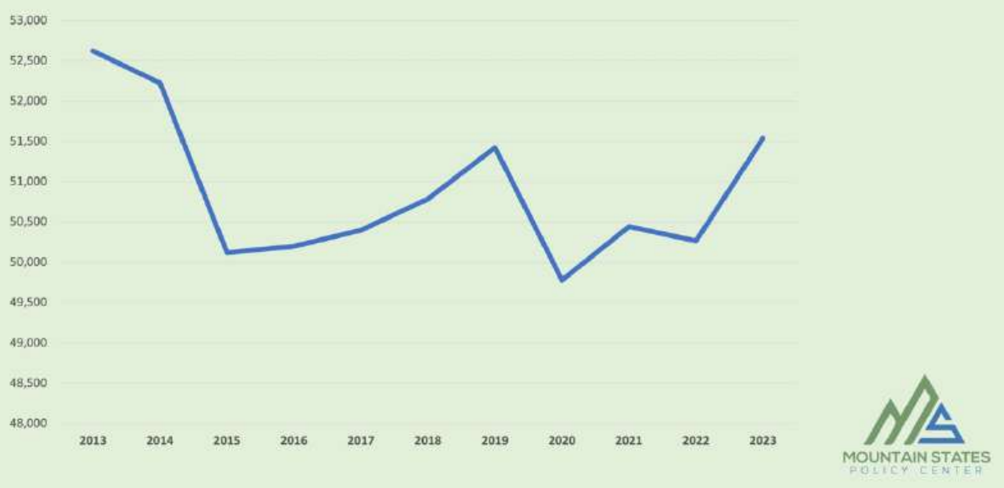
The number of students at the University of Washington has increased over the past decade to 48,501. But all other universities have seen a decline – and in some cases, a dramatic decline.

Why do these numbers matter? Policymakers determine the budgets and staffing at higher education institutions, so it is important to consider the size of the student population.

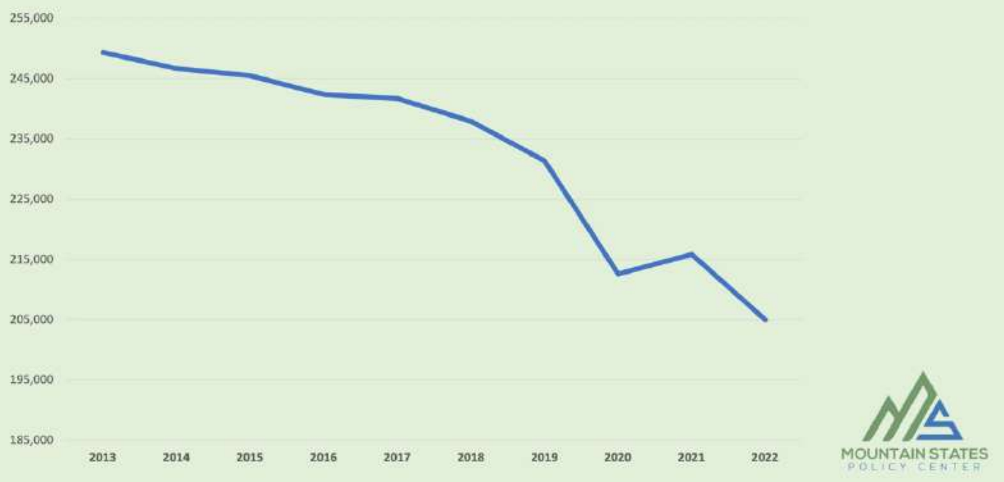
Additionally, in the last Idaho legislative session, proposals were floated to freeze tuition and create a working group to consider a new funding formula.

Given the decline in student populations across the region, as well as the heavy burden on taxpayers and students, it may be time to bring back that conversation.

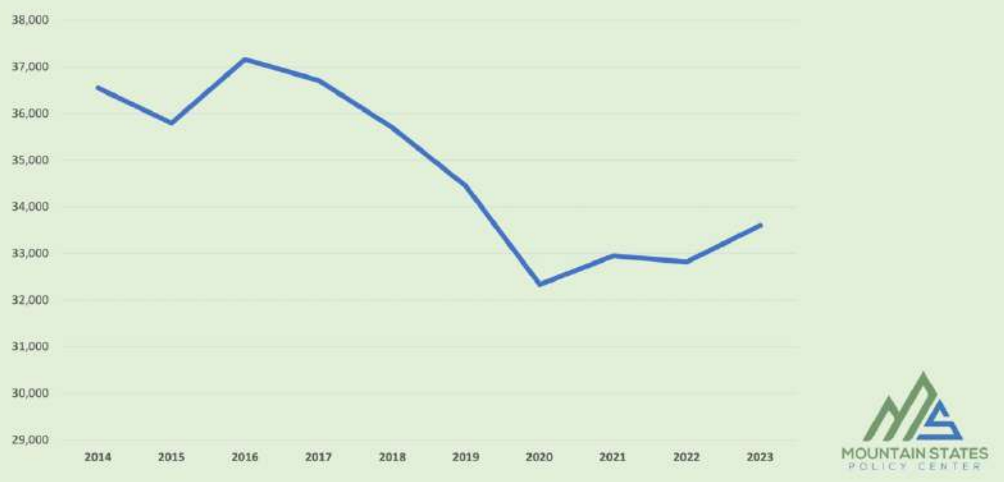
Higher Education Enrollment – Idaho *(FTE Students)*



Higher Education Enrollment – Washington *(FTE Students)*



Higher Education Enrollment – Montana *(FTE Students)*



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Those who join the Summit Club automatically become sponsors of all MSPC events and are invited to private gatherings, and meetings with top leaders both regionally and nationally.

We would be delighted to discuss whether the Summit Club would be a good fit for you. You can find more information on **mountainstatespolicy.org.**

SUMMIT CLUB

The free market way to expand broadband

As part of the Infrastructure Investment Bill and American Jobs Act (IIJA), passed in 2021, states are being provided billions of dollars by the federal government to help expand broadband.

Idaho will receive $583 million in federal funding. Neighboring states are also receiving substantial federal broadband funding with Washington state being allocated $1.2 billion, Montana $629 million, and Wyoming $348 million.

As policymakers utilize these federal funds, they should focus on best practices to ensure they are taking a free market approach that expands broadband to the greatest number of people in the most efficient way possible.

To help ensure a successful broadband expansion implementation, we have published a new study *Plugged In: Five steps for expanding broadband in a responsible way*.

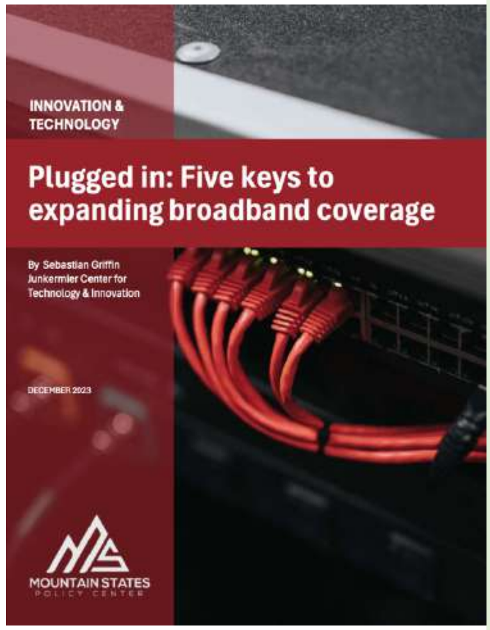
Step one: **Understand your market.** Broadband, with its high-speed internet capabilities, has become an indispensable tool, weaving its way into the very fabric of our daily lives and operations. Engaging industry experts can provide invaluable insights into the latest advancements, challenges, and the promising future of broadband.

Step two: **Find the right projects.** State and local governments often rely on comprehensive broadband mapping. These maps, developed in collaboration with the FCC or independent organizations, provide detailed insights into areas lacking adequate broadband access.

Step three: Maximize investments. Traditional fiber optic networks, while effective, have been found to not always be the most cost-efficient solution for remote areas. Exploring alternative technologies, such as fixed wireless, satellite internet, or low-power wide-area networks, can offer more economical solutions for challenging terrains or low-density regions. Companies like SpaceX's Starlink are aiming to provide broadband access via low-Earth orbit satellites.

Step four: Don't treat federal suggestions as mandatory. While federal guidelines are designed to ensure a uniform approach to broadband expansion, local legislators and implementers need to know they have the strategic autonomy to adapt these suggestions to the community's specific needs. A one-size-fits-all policy may not suit the diverse landscapes and demographic nuances of different regions.

Step five: Limit government overreach. By simplifying regulatory frameworks and ensuring transparent, competitive bidding processes, local governments can pave the way for efficient broadband projects. Collaborations with utility companies to utilize existing poles, conduits, or even public buildings. But governments should not attempt to create their own broadband utilities or institute price caps.



The debate over whether the federal government should spend these funds has ended. Now, policymakers have a generational opportunity to expand high-speed internet in their states with federal broadband funds to help improve digital accessibility, economic development, education opportunities, healthcare access, and government services.

Jason Mercier
Vice President &
Director of Research

It's past time to make taxes & government spending more transparent

As lawmakers reconvene at state capitols throughout the nation, one topic will likely get more attention than any other – taxes and spending. Throughout the Mountain States, lawmakers will tackle budgets and decide your family's financial burden.

But how much should you pay? Do you even know what you're paying? And do you know what government is doing with the money? Whether you live in Idaho, Montana, Wyoming or Washington, policymakers can always do a better job of making taxes and spending more transparent. In fact, there are several policy ideas ripe for implementation throughout our region.

TRUTH IN TAXATION

Property taxes are an important part of the tax base for school districts, local governments, and many states. Though based on a relatively straightforward calculation, they are among the least understood taxes by taxpayers. Although there are variations in each state, the general formula for property taxes is the value of the property multiplied by the tax rate.

Too often taxpayers focus on assessed values instead of the spending decisions made by government officials when considering their property tax burden. With record property tax assessment increases occurring in Idaho, Montana, Washington, and Wyoming, homeowners are concerned about the potential impact on their property tax bills.

It is important for taxpayers to know that assessments are just a part of the calculation. The main driver of property taxes is spending increases approved by policymakers and voters themselves through levies.

One way to help bring greater transparency to the fact spending is the main cause of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property tax increases is with a reform called Truth in Taxation.

To bring more transparency to property tax increases, Utah was the first to adopt Truth in Taxation in 1985. Utah says "this law sets up a system that allows taxing jurisdictions (think cities, counties, school districts, water districts) to receive only the amount of revenue they collected the year before, plus whatever taxes they got from new development in their jurisdiction. If a taxing jurisdiction wants to create additional revenue to pay for things like new public safety services or water infrastructure, officials in that jurisdiction would need to hold a truth-in-taxation hearing" with proper notification to the public.

Truth in Taxation also now exists in Iowa, Kansas, Nebraska, and Tennessee.

Even though Idaho doesn't have a statewide property tax and the legislature recently enacted property tax rebates to help with the local tax burden, Truth in Taxation is still needed to help empower taxpayers to better engage and understand their property tax burden and the connection to spending.

With the cry for property tax reform getting louder, policymakers in Idaho, Montana, Washington, and Wyoming should focus their efforts on improving transparency and voter engagement with Truth in Taxation.

INCOME TAX REVENUE TRIGGERS

Over the past few years, Idaho lawmakers have twice lowered the state's income tax rate. The latest legislative action passed in 2022 brings the Gem State's income tax to a flat rate of 5.8% for all income levels.

Like Idaho, Montana lowered its income tax from 6.9% to 5.9%.

The reduction action in both Montana and Idaho follows a national trend of lowering state income tax rates. One of the only states not following the trend happens to be neighboring Washington, providing a golden opportunity for policymakers in Idaho and

Montana to take advantage of an extraordinary policy shift and solidify their state competitiveness for decades to come.

In Idaho, personal income taxes account for $2.319 billion of the state's yearly revenue – or roughly $40 million per .1% of the 5.8% rate. Policymakers could design a trigger that would automatically reduce the 5.8% based on the amount of excess, sustained revenue reported in the state's frequent revenue forecasts. This would prevent future special legislative sessions and would also remove the need to send out thousands of rebate checks – instead giving citizens immediate relief.

THE TAXPAYER RECEIPT

We're all familiar with the shopping experience that results in a detailed receipt showing the product and total sales tax – if any. This simple sheet of paper helps us remember and understand where our shopping dollars went. Now imagine if you were provided with a taxpayer receipt providing the same information for your tax dollars and spending.

Utah allows users to see what their tax dollars buy by an individual providing information on household size, income, amount of home value or rent, and type of cars and miles driven.

Here is an example of what the Utah taxpayer receipt looks like by using these data points: A family of four, with $80,000 in income, a home valued at $300,000, and two midsized cars driven for a combined 40,000 miles a year.

According to the Utah taxpayer receipt, our sample family would owe $810 in fuel taxes, pay $2,690 in income taxes, $230 in state property taxes, and $1,320 in sales taxes for a total state tax liability of $5,050.

The estimated use for these tax dollars would be for the following: $180 for criminal justice, $70 for economic development, $20 for elected officials, $80 for environmental and natural resources, $50 for general government, $560 for higher education, $1,740 for infrastructure, $1,890 for public education, and $480 for social services ($5,050 in state spending).

Users of the Utah taxpayer receipt site are also able to drill down further on the data for additional information.

Idaho State Controller Brandon Woolf is looking to add a similar feature in the future to the current Transparent Idaho budget transparency portal.

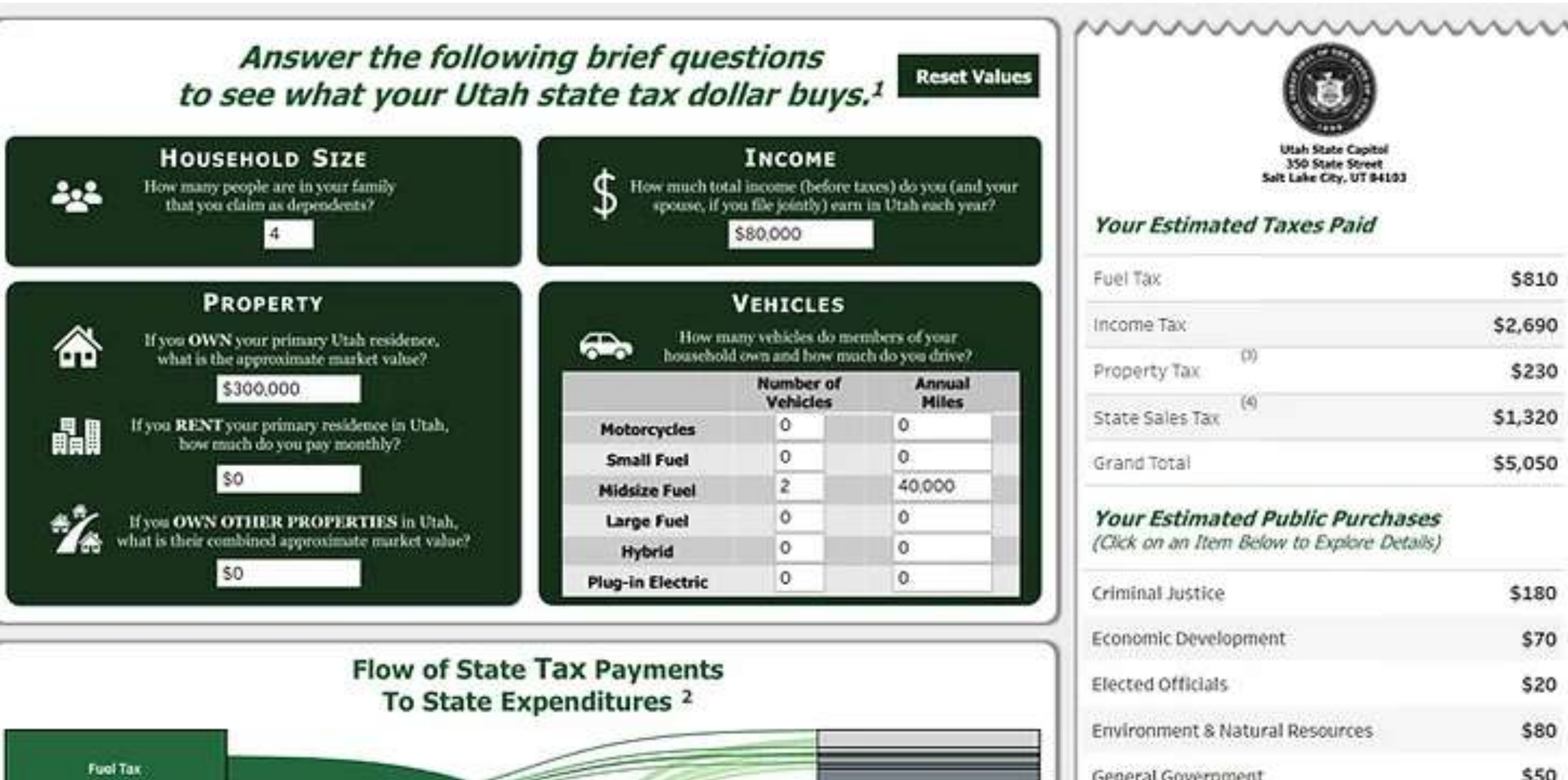
By combining a taxpayer receipt with a tax transparency website and state budget transparency resources, policymakers can help put taxpayers in the driver's seat to understand where their tax dollars are going and how much they are paying for those government services.

TAX TRANSPARENCY WEBSITE

To be fully engaged in our governance, we need to be able to evaluate the level and value of service we receive for the taxes we pay. One of the ways to do this is with budget transparency resources like Transparent Idaho and Washington State Fiscal Information. Spending details, however, are only part of the equation. Meaningful transparency on the amount of taxes we pay and to whom is often the missing component.

Consider just how many taxing districts (entities with the authority to impose taxes) there are in each of the Mountain States:

- Idaho's Controller's Office says there are a minimum of 1,261 taxing districts in the state
- Montana's Department of Revenue reports there are nearly 1,400 taxing districts



- Washington's Department of Revenue says there are approximately 1,800 taxing districts in the state

- Wyoming's Department of Revenue reports there are more than 600 taxing districts in the state

This means the typical home and business in these states could be subject to numerous taxing districts at the same time. The ability to hold the appropriate level of government accountable for that tax burden means knowing how much of the total tax bill they are responsible for and if the cost is worth the level and quality of service provided.

Now imagine if you could go to a tax transparency website and enter your home or business address to quickly see all the taxing districts you are subject to, at what rates, and perhaps be provided an educational calculator on your total estimated tax liability based on where you live.

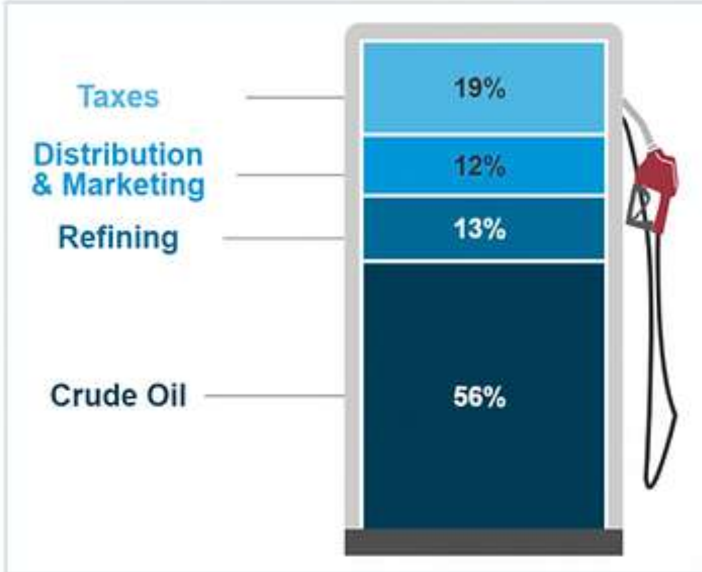
One state is already moving in this direction. Lawmakers in Washington State adopted a budget proviso "to develop an implementation plan for an online searchable database of all taxes and tax rates in the state for each taxing district."

By combining a taxpayer receipt with a tax transparency website and state budget transparency resources, policymakers can help put taxpayers in the driver's seat to understand where their tax dollars are going and how much they are paying for those government services.

GAS TAX TRANSPARENCY

Do consumers in the Mountain States really know what they are paying when they fill up at the gas station? The answer is likely no, because gasoline is one of the few products we purchase where taxes and fees are built into the price. This means there is no transparency about the true financial burden placed on consumers.

The U.S. Department of Transportation says gas taxes make up about 19% of the overall cost of a gallon – but this will vary depending on the state and the



current price. For example, if the gas price is high, the gas tax percentage will be lower. Likewise, if the gas price is low, the gas tax percentage could be much higher.

Gas taxes vary by state, but the Mountain States do charge more than average. In Idaho, the state gas tax is 32 cents per gallon. It was last increased in 2015.

In Montana, the state gas tax costs consumers 31 cents per gallon. And in Washington, the state tax hits nearly 50-cents per gallon. Washington also recently implemented a carbon tax and low carbon fuel standard that dramatically increased the cost of a gallon of gasoline – and forced more border drivers to Idaho to find cheaper options.

The state-by-state tax burden does not include the federal gas tax of 18.4 cents per gallon. When you add it all together, Idaho, Montana and Washington all have gas taxes that rank among the highest 16 states.

In most states, gas taxes are mostly used to fund roads, bridges and a state's transportation system. And, so long as the money is being used wisely, most drivers are okay with that. However, when policymakers adopt gas tax hikes, there is no accountability built into the system. The cost is hidden in the price.

This is unusual when purchasing almost any product. After all, the price of a loaf of bread at the grocery store does not have the sales tax built in. Neither does

the purchase of a bottle of water. Most consumers can see the tax burden they face on their receipt.

If they don't like it or don't think it's being used properly, they can talk to their elected officials. But with gas taxes, consumers are left in the dark.

The fix to this lack of transparency is what has been called "truth-in-labeling" – a law that requires the state to produce a sticker that would be placed on every gas pump near the weights and measures certification. The sticker would simply inform drivers of their state and federal tax burden.

In Ohio, state workers began placing the stickers on gas pumps in 2019, as part of a deal to increase the gas tax. In Utah, gas tax stickers are being placed at stations beginning last year.

This simple, transparent idea should be considered in Idaho and across the Mountain States. Since government taxes and fees make up such a large portion of the overall cost of a gallon of gas, a "truth-in-labeling" policy is a reform worth pursuing.

PUBLIC SCHOOL TRANSPARENCY ACT

Have you ever tried to read a school district budget? Often, they are a maze of numbers and legal jargon – if you can even find them. Depending on the district, they can be hidden on websites, and only accessible if you know where to look.

When you finally do track down the document, it can be very difficult to read and understand – sometimes hundreds of pages long with dozens of accounts.

Unless they have an accounting degree, the average parent or taxpayer cannot take the time to read through and understand all the details. School leaders know this. So, too, do legislators.

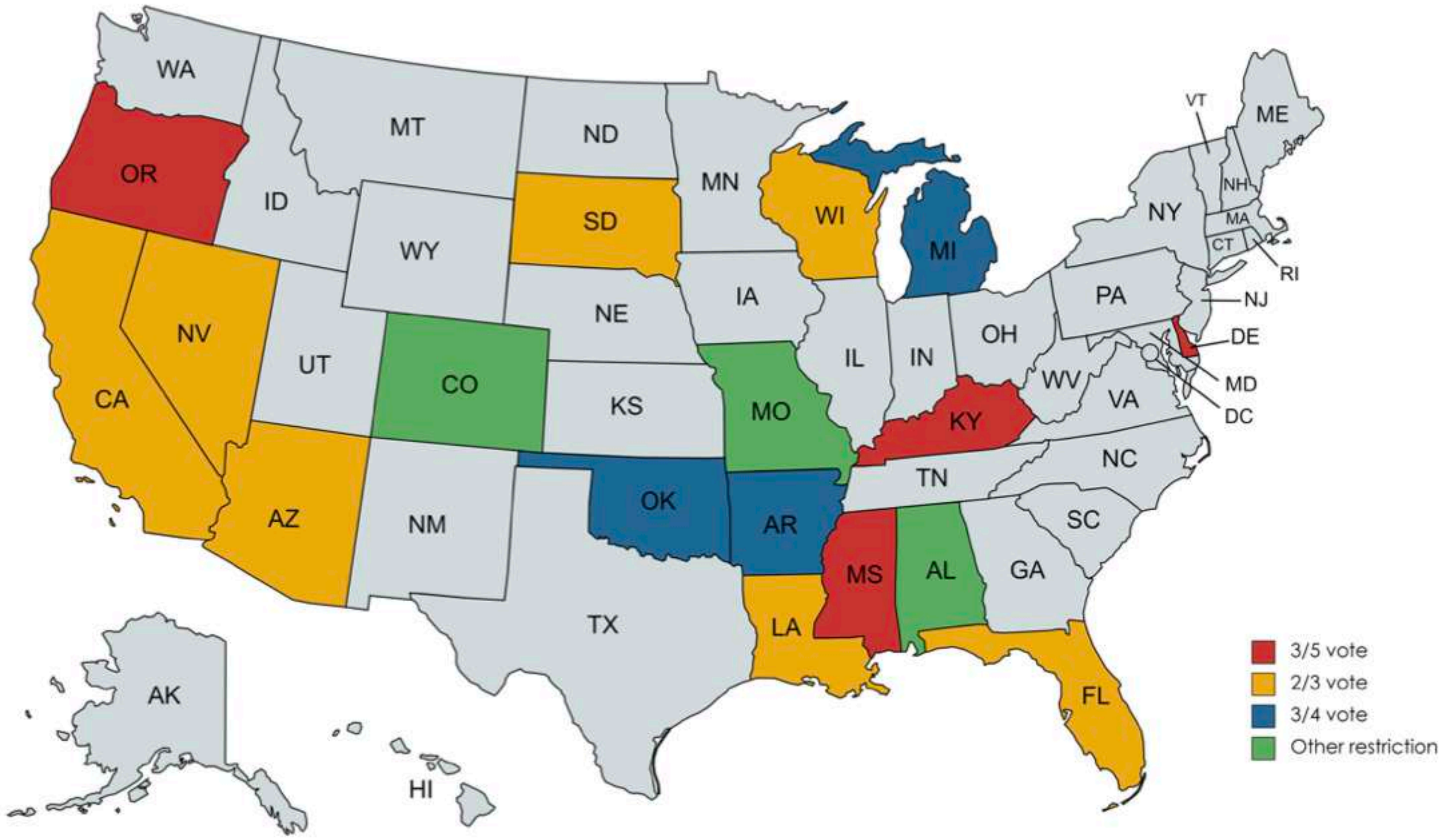
One policy idea is a Public School Transparency Act, which would require all public school districts, both on the first page of their budget and also on the front page of the district's main website, to clearly report six simple things: (1) the total amount of dollars being spent, (2) how much is being spent per student, per year, (3) the percentage of dollars getting to the classroom, (4) the average administrator salary and benefits, (5) the average teacher salary and benefits, and (6) the ratio of administrators to teachers to students.

Very little extra work would be needed to provide this data and make it assessable on paper and online. Most districts already have it hidden somewhere in their budget documents. They know where to look, whereas parents and taxpayers can get lost.

Parents and taxpayers may see this data and conclude their school districts need more resources. Others may see it and believe that not enough is being done to spend money in the classroom. Regardless, the community will have a broader sense of the results being achieved, and what – if any – changes need to be made.

SUPERMAJORITY REQUIREMENTS

With the exception of Washington state, policymakers in the Mountain States (Idaho, Montana, and Wyoming) have been very active the last few years prioritizing tax relief for citizens while making fiscally conservative budget investments. While this ongoing tax relief effort is to be commended, more can be done to help provide taxpayers the peace of mind that tax increases will



always be the last resort when budgeting.

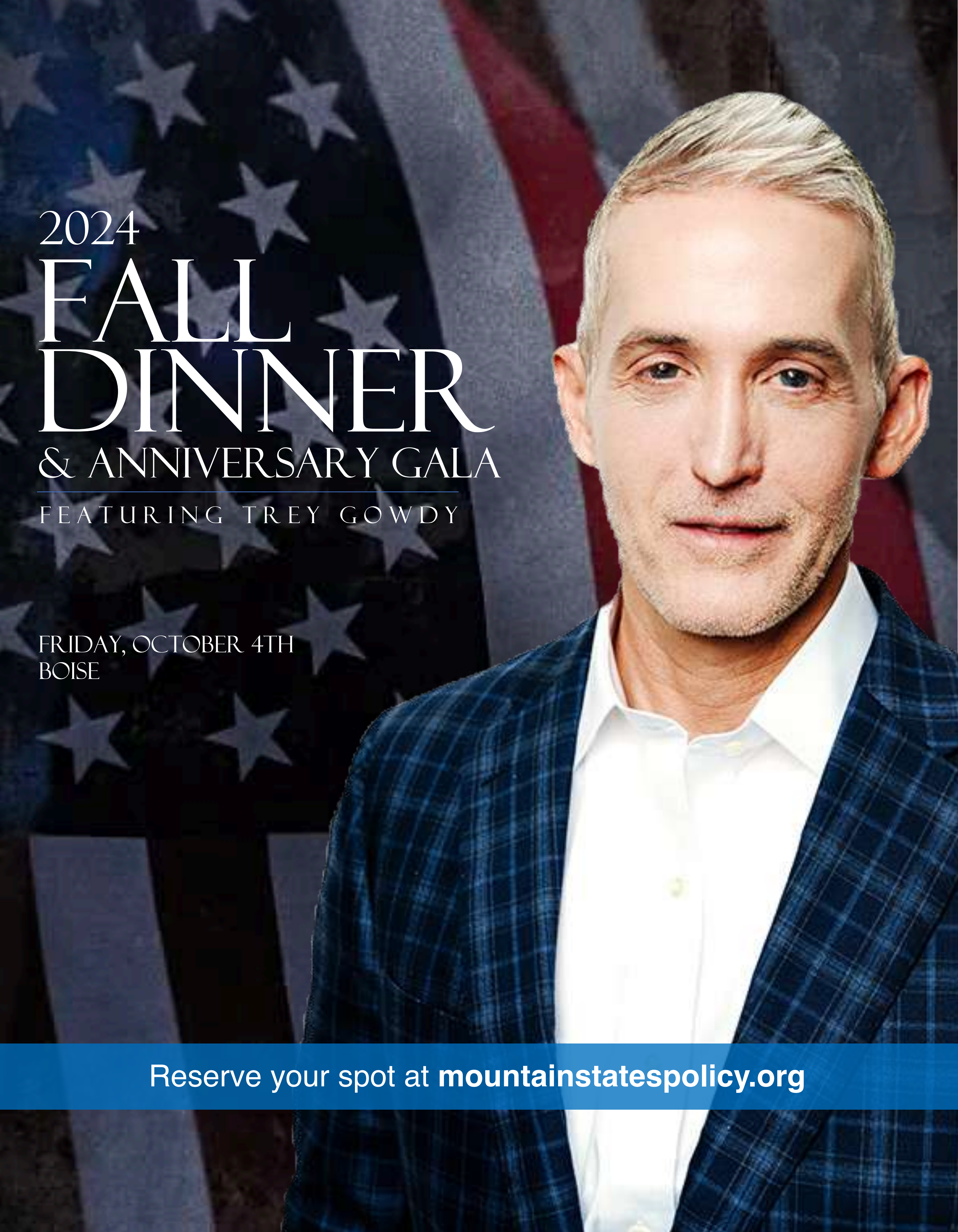
One way to do this is by adding requirements to a state's constitution that require a supermajority vote or voter approval to raise taxes. Now you may say that the current makeup of the legislatures in Idaho, Montana, and Wyoming are already sufficient to avoid tax increases. While that may be true today, it may not be tomorrow as experienced by taxpayers in Washington state.

Consider the fact Washington voters over the years passed ballot measures requiring a supermajority vote to raise taxes not once, twice, or thrice, but six separate times. Yet today this taxpayer protection does not exist in Washington because it was not added to the state constitution. Instead, Washington taxpayers now face tax increases on an annual basis without this protection.

Rather than leave certain taxpayer protections subject to changing political winds, lawmakers in Texas have acted in recent years instead to forward voters constitutional amendments on various tax restrictions.

Proactively acting to protect taxpayers by sending voters a supermajority for tax increases constitutional amendment is a prudent thing for policymakers to do. As occurs in Oregon and Colorado, this type of policy could also be coupled with automatic tax rebate triggers based on revenue growth to help avoid the temptation of overheating a state budget and increasing the pressure for tax increases.

Whether requiring voter approval for all tax increases like in Colorado or needing a 2/3 legislative threshold as occurs in Florida, increasing the tax burden imposed on families and businesses should first secure a broad consensus and always be the last resort when budgeting.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This young mom & lawmaker led Utah – now she has advice

Utah State Representative Candice Pierucci first took her seat in the Utah Legislature in 2019 - when she was just 27 years old. Four years later, she was front and center during Utah's debate over education choice - and she led the effort to get it passed.

As Utah legislators advanced HB 0215 - to increase teacher pay and adopt education choice - all the typical predictions of doom and gloom were put forward. But the bill passed and was signed by Utah's Governor Spencer Cox.

We asked Rep. Pierucci about her experience - from the beginning to the end - in hopes that legislators throughout the Mountain States can learn how to achieve more education options for all families.

Why did you feel it so important to advance education choice in Utah?

It was time that we made education more customizable for each child in Utah; one in which parents could tailor their child's learning experience to better meet the needs of their students. In the wake of COVID-19 and the shutdowns that occurred, it was clear that parents craved additional options for their kids to learn and grow. The Utah Fits All Scholarship empowers families to make the best decisions for their kiddos in providing opportunities to learn in a way that makes sense for them.

Even though there is evidence to the contrary, some claim education choice takes away from public schools... how did you address this issue?

In 2022, we spent a total of $7.3 Billion for public education, of that amount, $4.7 Billion came directly from state funds. The Utah Fits All program is less than 1% of the entire state budget for education, and less than half a percent of the total education spending. We increased spending on public education, yet again, and didn't reduce program funding or the WPU to pay for the scholarship. Additionally, additional legislation was run that froze student enrollment and funding for districts for the next five years.

Another issue critics pounce on is the impact in rural areas... how was that dealt with?

Interestingly, some of our biggest supporters were from rural Utah. Additionally, we had polling to show that rural districts were overwhelmingly supportive of the program. Choice in education is especially important in

the fight for education choice in for other state leaders

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Interestingly, some of our biggest supporters were from rural Utah. Additionally, we had polling to show that rural districts were overwhelmingly supportive of the program. Choice in education is especially important in rural communities as it expands students learning options. Additionally, we made sure the scholarship could be used for travel to get to/from an alternative education choice. Including a historic teacher pay increase was critical in demonstrating the state's support for both teachers and students, and it increased support for the bill from rural legislators.

Are there strong accountability measures in your ed choice law?

The program managing entity will be audited annually and required to report back to the Education Interim Committee annually. Additionally, the program managing entity and scholarship program will be audited regularly by the Utah State Auditor. The program managing entity has clear guidelines as to what is an approved educational expense and how to ensure the scholarship goes to approved educational expenses.

Scholarship recipients are required to submit a portfolio at the end of the academic year to demonstrate their growth and learning throughout the year. If a parent requests their child take an assessment, that test can replace the portfolio requirement.

How did you convince skeptical lawmakers and your governor that this was the right thing to do?

Working with the Governor, we made sure to include a historic pay increase for teachers across the state, this increased support for the bill...Additionally, adding the portfolio requirement was helpful from an accountability perspective. Also, having grass roots support from families all over the state was critical.

What surprised you most about the debate and the process?

I genuinely was surprised that the education "establishment" and opponents of the bill didn't want to talk about students, they wanted to talk about the system, and employees of the system. Meeting students' needs wasn't something opponents were interested in talking about.

What advice would you give to lawmakers in other states considering education choice?

No matter the size of your school choice program, whether it be universal or capped, or income-based, you will face the same opposition. So, with that in mind, craft the absolute best policy that will empower the students and families in your state and think big.

Three keys to making sure regulations don't stifle economy

This commentary was printed in the Washington Examiner in Washington, D.C., December 2023.

Like it or not, regulations play a role in our everyday lives. Some dictate where and how we can eat. Others place restrictions on what we can sell or how we can operate a business.

For example, in Tamarack, Idaho, it was once illegal to buy onions after dark without a permit. Nationally, 18 U.S. Code 2074 makes it a crime to "knowingly issue or publish any counterfeit weather forecast." Bacon processing plants in California still require a fax machine.

Whether they be at the local, state, or federal level, all laws and regulations have a cost. In fact, a study by the Journal of Economic Growth concluded that regulations have slowed economic growth by as much as two percent per year. Economists at the Mercatus Center at George Mason University found the size of the regulation state significantly slows economic growth and has translated into a $13,000 loss in real income for every American.

Rules and regulations come in all shapes and sizes. They can be tallied by pages, words, and even economic significance. Luckily, policymakers in the Mountain States have recognized the need to limit the regulatory burden. Idaho Governor Brad Little has touted his Red Tape Reduction Act – an effort to make Idaho one of the least regulated states in the nation. Numerous national reports give Idaho top marks for the effort.

Montana Governor Greg Gianforte has labeled red tape reduction as one of his top priorities. In the most recent Montana legislative session, he signed into law more than 100 bills to eliminate commissions, streamline applications, and do away with burdensome and outdated requirements.

These efforts should not be confused with an attempt to do away with every law, rule, and regulation. On the contrary, those that are well-designed and consistently reviewed protect not only business owners and workers but also consumers and citizens. Still, lawmakers in the region and across the nation can and should do more. Thousands of rules and regulations no longer relevant or needed remain on the books.

As policymakers consider the rules that govern rules and regulations, they should take care to ensure they are simple, predictable, and reviewable.

The fight to reduce ineffective and burdensome regulations has received the most traction at the state level. In 2023 alone, Idaho legislators have reviewed more than 120 new or updated rules from state bureaucracy, on topics including daycare licensing, bail agents, insurance fees, corporate governance, juvenile detention centers, podiatry, physical therapy, invasive species stickers, and more.

Idaho started on the path to its low regulatory burden with Governor Little's Red Tape Reduction Act. It

Bureaucratic Rules & Regulations by State (2022)

State	Rank (lowest)	Rules	Words
Idaho	1st	36,612	3,978,329
Montana	5th	59,908	4,761,522
Wyoming	8th	72,218	4,092,624
Washington	42nd	200,364	18,009,548
Oregon	43rd	209,207	19,057,361
California	50th	403,774	22,005,369

MOUNTAIN STATES POLICY CENTER

continued its effort with zero-based regulation – an executive order that forces regular reviews of rules and restrictions. In fact, roughly 20% of each of Idaho's agency rules are reviewed annually.

At the state level, policymakers should be doing more to reduce burdensome regulations and take responsibility for those still on the books. Perhaps the best way to accomplish this goal is to be committed to the separation of powers. In too many cases, bureaucrats take on the role of rulemaking and implementation – even though they were never elected to write laws. Legislatures should never delegate sweeping lawmaking authority to regulatory agencies.

Executives have the responsibility of signing and implementing laws, and any rule that has the force of law should be signed by the Governor. Far too often, state rules are signed and put into place by unelected bureaucrats who may not need to consider the best interests or concerns of citizens because citizens cannot remove them from office. It is more difficult for a state's chief executive to claim he or she didn't know about a controversial rule if they were required to approve the rule before it took effect.

Judges are constitutionally required to interpret the law without bias. Unfortunately, many judges have decided to defer their role and responsibilities to agency interpretation. To ensure the judiciary understands and doesn't skirt its duty, judges should interpret statutes, regulations, and other documents without giving any deference to an agency's legal interpretation. If the text is still unclear, judges should default to a reasonable interpretation that limits agency power and maximizes individual liberty. In other words, the tie should go to the citizen, not the government.

Thanks to the separation of powers, ensuring oversight and lessening the regulatory burden are achievable. As the National Governors Association writes, "well designed regulations protect workers, consumers and the environment while promoting entrepreneurship and economic growth."

Idaho and Montana deserve credit for attempting to reform the regulatory state. But as new policymakers consider the rules that govern rules and regulations, they should take care to ensure they are always simple, predictable, and reviewable. Policymaking is the exclusive prerogative of the legislative branch of our government and should never be delegated to an unelected administrative body.

Public workers deserve protection from compelled speech

A case pending before the Supreme Court of the United States (SCOTUS) has the potential to enhance the First Amendment rights of workers from being forced to subsidize union speech with which they may disagree.

In 2018, SCOTUS held that public employees forced to subsidize a union, even if they "*choose not to join and strongly object to the positions the union takes in collective bargaining and related activities*" is unconstitutional. Such an "*arrangement violates the free speech rights of nonmembers by compelling them to subsidize private speech on matters of substantial public concern.*" This decision from Janus could be strengthened by the Alaska State Employees case should SCOTUS accept and hear it.

Alaska v. Alaska State Employees seeks to resolve if affirmative consent must first be required before the Alaska state government can legally withhold from public employee paychecks for union causes within the scope of the First Amendment of the United States Constitution. There are currently two kinds of "fees" charged by public employee unions in Alaska: membership dues and agency fees, being required for both union and non-union employees working in the public sector. SCOTUS addressed both of these types of fee categories in Janus, and determined it is unconstitutional to withhold union agency fees from public employees who do not agree with or have a desire to join a specific union.

The dispute is whether the ruling in Janus extends to membership dues as well. The Alaska Attorney General argues that it does; the Alaska State Employee Association ("ASEA") argues that it does not.

The dispute in Alaska State Employees arose as a result of the Alaska Attorney General, Treg Taylor, implementing aggressive initiatives to inform employees of their workplace rights once he took office. One of those initiatives includes requiring employee consent to union dues being withdrawn from their paychecks. Under Taylor's guidelines, employees would have to provide "*clear and compelling evidence*" of consenting to union dues before they could be withheld from compensation. Paychecks could no longer support any union purposes without the employee intending their money to do so.

Olivia Johnston
Contributor

The state of Alaska initiative intends all Alaskan workers to be informed of each withholding line on their paychecks. Several states (including Idaho) have filed amicus briefs in Alaska State Employees in support of AG Taylor's initiative regarding union dues.

SCOTUS's ruling in Janus logically leads to a conclusion that public workers' income cannot subsidize a private matter on issues of substantial public concern without voluntarily waiving their First Amendment right. To voluntarily waive a fundamental right demands individual rights have been thoroughly communicated and understood.

Mountain States Policy Center firmly believes workers not be forced to provide financial support to union causes or membership without direct consent first. We'll soon know if the U.S. Supreme Court agrees.

A new, problematic federal rule

Amber Gunn
Senior Policy Analyst

While most of us look forward to the promise that a new year brings, for more than 27 million American small businesses, the clock will begin ticking for a new reporting requirement to a federal agency that most of us have never heard of.

Arising from the Corporate Transparency Act, the Beneficial Ownership Information Reporting Rule, or BOI Reporting Rule, creates a federal obligation for most entities created or registered to do business in the U.S. to disclose personal information about their beneficial owners, senior officers, and other control persons to the Financial Crimes Enforcement Network (FinCEN), unless exempt.

FinCEN is a bureau of the U.S. Department of the Treasury and most known for its administration of the Bank Secrecy Act to combat money laundering and terrorism financing. The BOI Reporting Rule is a disquieting expansion of the agency's authority and will doubtless require a significant expansion of its budget and full-time payroll.

According to FinCEN, the rule is intended to prevent "criminals, Russian oligarchs, and other bad actors" from laundering money in the U.S., but the practical effect is to punish millions of small businesses with yet another reporting requirement and layer of regulatory record-keeping with steep fines and penalties for failure to comply. Beginning January 1, businesses will have one year to file their initial report with FinCEN or face civil penalties of up to $500 per day and criminal penalties of up to $10,000 and two years of imprisonment.

If you want to know whether your business is required to report, you will need to review the agency's "Small Entity Compliance Guide," which helpfully explains FinCEN's goal to "reduce the burden on small businesses by providing comprehensive guidance and communicating information about the reporting requirements in plain language." It takes 57 pages to do that, including various Yes/No flow charts to help a business determine whether it is required to report and which officers and individuals must be identified.

NATIONAL REVIEW

This commentary was printed in National Review in December 2023.

In most cases, unless the business falls under one of 23 enumerated exemptions, it will be required to report. If a change occurs as defined by the rule, businesses will have 30 days to report them . . . American small businesses are subject to layer upon layer of government authority and taxation. As the decades fly by, it becomes increasingly costly and difficult for businesses to comply. As with most new government rules, the good intentions are always touted by well-meaning sponsors.

Who doesn't want to stop Russian oligarchs and drug lords from laundering money in the U.S.? But America's 27 million small-business owners are not the problem, and it is not the federal government's role to hijack the regulation of 100 percent of these businesses in order to identify a tiny minority of potentially problematic ones.

Building permit delays are fixed through bureaucratic fiscal penalties

During a housing shortage, permitting delays intensify scarcity and add unneeded costs. Estimates show that delays in permitting exceed 6 months and thousands of dollars in many states. The Building Industry Association of Washington estimates the average building permit delay is 6.5 months costing homebuyers $35,000, pricing thousands of families out of the market.

Similar results are seen across the country. The Wharton Index from the University of Pennsylvania measures various tactics of housing regulation in different counties across the country (building permits are one of the regulatory hurdles measured). Three of the four mountain states are above the national average on the Wharton Index: Idaho, Montana, and Washington. Wyoming is below the national average. Even so, citizens are frustrated with building permit delays.

Last fall, draft legislation from Wyoming proposed introducing a remedy to permitting delays. Any city, county, state, or local power providing permits is required to do so in the most expeditious manner possible. Capping the wait time at 180 days for building permit approvals.

The draft House Bill would create an 180-day cap on government response to building permits. The bill requires local government entities to publish an approval schedule so applicants will know how long they will be waiting on permit applications and regulators would have fiscal consequences for delays.

The draft legislation addresses the delays home builders are facing and may improve the housing shortage. One aspect the draft does not address is the length of the schedule the governing entities can propose, and Wyoming can look at efforts in other states to guide the total cap on the permitting approval process.

Florida was one of the first states to address building permit delays through bureaucratic penalties, and building permit applications successfully increased. The Sunshine State created penalties for enforcement agencies if permits go unapproved within 30 business days for single family units, or if additional information is not requested. A 10 percent reduction per day is then applied to the fee. 120 days is given for master building permit applications and the same 10 percent reduction per day is applied to the fee.

Madi Clark
Senior Policy Analyst

The new law is fixing the housing challenges in Florida. The Foundation for Government Accountability found that before the law was passed in October 2021, a suburb of Orlando processed less than half of the permit applications within 30 business days. After the law passed about 80 percent of applications were processed in 30 days.

Texas has also attempted similar changes, with varying levels of success.

Wyoming's proposal to remedy building permit delays follows the successful example of Florida by imposing bureaucratic penalties. The 2024 Wyoming Legislature can address permit delays next year and make it easier for builders in the Cowboy state to meet their housing needs.

New year brings new faces to MSPC's Board of Directors

Mountain States Policy Center announced three new additions to its Board of Directors: Aaron Klein, Elaine Damschen and Dave Denton.

Klein, Damschen and Denton were elected unanimously by the MSPC Board at its December meeting and, based on the organization's bylaws, will serve a four year term beginning January 1, 2024.

"Aaron, Elaine and Dave provide our organization with an amazing amount of experience in business and policy," explained Chris Cargill, MSPC's President.

"They will help us advance our mission of empowering citizens and putting Free Markets First."

The trio take the place of board members Ken Dey, Rebecca Funk and Oscar Evans, whose terms expired at the conclusion of the year. Per the organization's bylaws, four of the 16 board seats expire each year. This ensures a healthy turnover in experience, leadership, and fresh ideas each year.

"We are very grateful for Ken, Becky and Oscar – three individuals who are committed to free markets and who helped us launch the organization from the very beginning," Cargill said.


Klein


Damschen


Denton

MSPC's Board leadership is also changing, with Julie Shiflett becoming Chair, John S. Otter serving as Vice Chair, William Junkermier has been elected Treasurer, and Brittany Gautreau serving as Secretary.

More information about MSPC's new board members:

Aaron Klein is the co-founder of Nitrogen, the growth platform for wealth management firms, which started life as Riskalyze in 2011. As its first CEO, he led the company through 42 consecutive quarters of growth, scaling to serve tens of thousands of financial advisors, and twice being named one of the world's 10 most innovative companies in finance by Fast Company Magazine. He passed the baton to his successor in 2023, but continues to serve on the board.

Elaine Damschen is a Boise State University grad and the co-founder & President of Mainstream Electric Heating Cooling & Plumbing. In 2018, 2019, and 2021, Mainstream was named to the prestigious Inc. 5000 List which highlights the fastest-growing privately held small businesses in the United States.

Dave Denton retired from a successful career in the oil and natural gas industry, working for British Petroleum. He was involved in major projects including a $40 million investment in Alaska, as well as a $16 billion international gas project in the Middle East.

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