



INNACLE

THE MAGAZINE OF MOUNTAIN STATES POLICY CENTER

OCTOBER 2023

Our American Dream

Dr. Ben Carson asks MSPC supporters to remember what America stands for – and have the courage to fight for it



Kayleigh McEnany

FORMER WHITE HOUSE PRESS SECRETARY

Friday, April 12, 2024
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MSPC's Fall Dinner

Dr. Ben Carson issues a call for a “can-do society,” while Kim Strassel reflected on the challenges before Congress at MSPC’s first Boise dinner.



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Case of the Century

The great concern this tax case before the U.S. Supreme Court presents is the impact on the legality of wealth taxes.

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Police the internet?

The federal government is back with an effort to adopt net neutrality. Is this a solution in search of a problem?



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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.

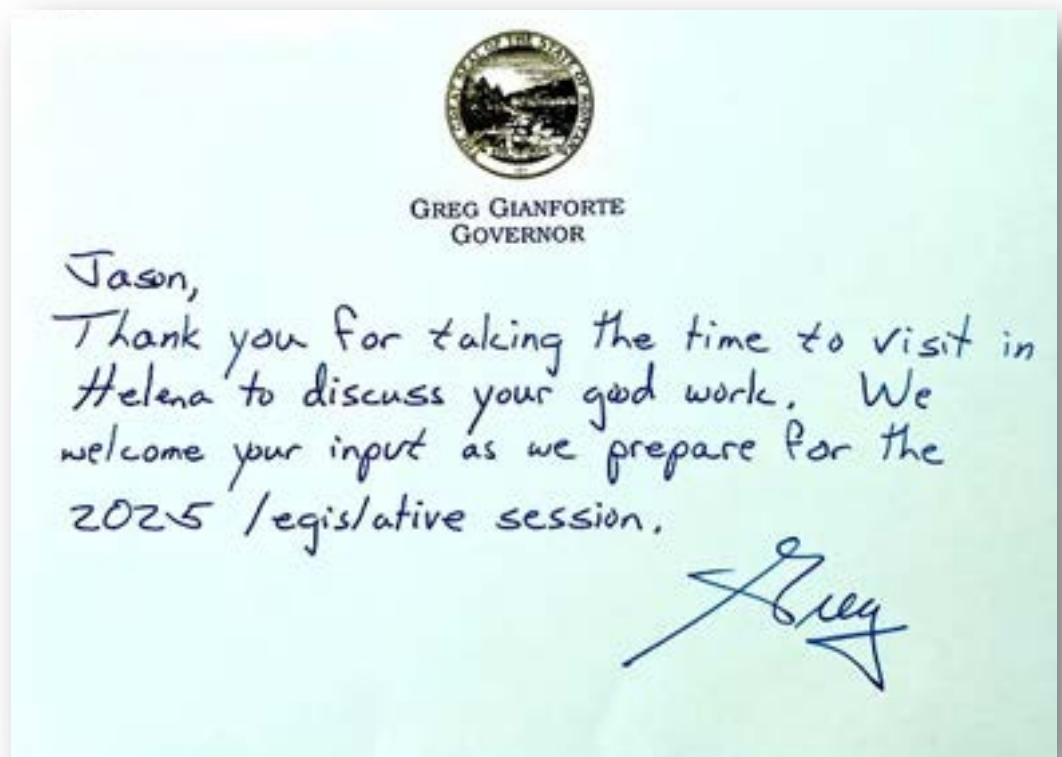


MSPC staff and board present policy ideas to Montana Governor Greg Gianforte

Senior MSPC staff and a few board members had the opportunity in September to meet with Montana Governor Greg Gianforte to talk about various policy reform options. Governor Gianforte expressed interest in the possibility of adopting Truth in Taxation and a tax transparency website to help provide additional details about how taxes are imposed in Montana.

We thanked the Governor for his strong support for advancing education choice options like public charter schools and Education Savings Accounts (ESA).

Governor Gianforte's most recent policy victories include the passage of two bills allowing for the creation of public charter schools, the adoption of Education Savings Accounts for special needs children, income tax reductions to 5.9% and income and property tax rebates totaling \$3,800 for each Montana family.





The merger of Kroger & Albertsons could be a good thing for consumers

When it comes to the proposed merger of Idaho-based Albertsons and the supermarket giant Kroger, there's no need for a cleanup on aisle three - the free market is at work.

The Federal Trade Commission is reviewing the sale to make sure it complies with antitrust laws. This is exactly what they should be doing.

But newspapers and some politicians have raised alarm bells about the partnership. The Washington State Treasurer recently wrote "the consolidation of Kroger and Albertsons may lead to the creation of food deserts, which disproportionately affect vulnerable populations and can have severe health implications."

One newspaper said "after more than two years of high inflation, much of it landing on consumers at the grocery store, protection from reduced competition — and its higher prices and reduced accessibility to daily goods and services — must be assured."

A valid concern - but is it well placed?

Ten of the top 15 American grocers are *not* physical supermarkets. Amazon, Wal-Mart and Costco are the biggest three names in grocery. Even if Kroger and Albertsons merged, they wouldn't come close to approaching half of Costco's value.

If you take Amazon out of the equation, Walmart and Costco combined account for nearly 30% of the grocery market.



It's hard, however, to remove Amazon, as only 44% of Americans buy most of their groceries at physical stores. Before COVID, that number was 63%. More Americans have moved their shopping online.

Competition is everything. History has shown that strong competitors only increase the benefits for consumers.

An economist with the Strategic Resource Group recently told Yahoo Finance "Kroger's acquisition of Albertsons is the last, best, and final chance to level the playing field."

U.S. grocery market share by retailer

Albertsons and Kroger have even announced plans to sell off stores to another company to ensure there are fewer concerns about competition.

As with any proposal, there is fear of the unknown. But we shouldn't let fear destroy an opportunity to increase competition and improve the outlook for the consumer.

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The Summit Club is the heartbeat of Mountain States Policy Center. This exclusive club sets apart donors who wish to make a substantial, tax-free pledge of at least \$5,000 per year for at least three years.

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.





Bring the free market back to agriculture

Madi Clark
Senior Policy
Analyst



As a self-started, small farmer of alfalfa hay for four years, I know firsthand the problems that are caused by overregulation of agriculture.

Agricultural labor laws are one of the most cumbersome. On our small farm in Eastern Oregon just west of Parma, Idaho, our harvest equipment is repeatedly fine-tuned to maximize our yields every year. When harvesting grain sold to the local feedlot, we adjust the combine's air volume and sieve gap to maximize the removal of the chaff and minimize the loss of valuable grain.

This frustratingly slow process requires repeated starts and stops, maintenance, and repairs until all our equipment is adjusted. Like equipment, agricultural policy needs to be finetuned to maximize the removal of externalities and to minimize the loss of family farms.

Free market agricultural policy seeks to move the legislative needle toward more farm independence and improved food self-reliance.

In general terms, the free market is best understood as an economic system that allows individual actors to voluntarily engage in the exchange of goods and services with prices determined by supply and demand instead of government restrictions. A key component of a free

market is voluntary economic activity instead of government coercion on the exchange of goods or services.

Agriculture relies on many limited resources, including water, land, minerals/oil, and labor.

The limitations of these resources exist naturally and yet man-made limitations, in the form of regulations, add to the difficulty of procuring a sufficient supply of inputs.

Regulations tighten the supply of all inputs needed for agriculture. Increasing regulatory burdens on agriculturalists will consolidate domestic farming operations and agricultural businesses, endangering an accessible and affordable food supply.

Free market agricultural policy often targets federal policy. Federal positions on farm support payments, immigration policies, international trade, environmental protection, and technology approval are obvious, large targets of free market policy. National research and analysis has addressed these concerns for decades.

At state and local levels, the possibility to influence free market agricultural policy with smaller, diverse targets presents a greater opportunity to move the needle, or to keep it from moving in the reverse direction. This is why Mountain States Policy Center encourages policymakers to think outside the box and allow farmers to rely on ingenuity to grow a valuable product and better access markets.

Our [new study](https://mountainstatespolicy.org) on this topic, available on mountainstatespolicy.org, takes a deep dive into this opportunity and the following recommendations to help improve and protect a free market agriculture climate for farmers of all sizes.



visionaries

A conversation with Mountain States Policy Center Summit Club supporters **Brittany & Zach Gautreau**

How long have you lived in the Mountain States and what is the thing you enjoy most about our region?

We have been in the great state of Idaho for 2 years now and we absolutely love it! People here are friendly, patriotic, and just all-around kind humans. Our favorite part about the area is the natural beauty. We try and get outside for walks, hikes, or runs daily.

What policy area is most important to you, and why?

There are so many, it's hard to choose one. And fixing just one thing doesn't make the impact that we need, but if we had to choose a couple we'd say (1) tax reform and finding ways both federally and in the states to limit the tax burden of the citizens. Plus, (2) giving every citizen the ability to create their American Dream. Most jobs in this country come from small businesses and in the last several years, small businesses have been discriminated against and shuttered. America needs small businesses to thrive.

Why do you believe in the free market?

Our forefathers created a Republic of the people, by the people, for the people for a reason and it seems to be going more and more towards a government by the government, for the government. Free markets are what our country was founded on and what has given us the success we have to this day. Protecting those rights is essential to keeping our Republic.

Who is your favorite free market leader, past or present, and why?

This may not be the answer you're looking for, but our parents are free-market leaders that we look up to the most. They were all entrepreneurs at one point in their careers, instilled hard-work and diligence in us, taught us the ropes of creating our own American Dream, and have encouraged us to use our voices to protect the freedoms we have. We are forever grateful to have

been raised with these values and have the utmost respect for the three generations (and the six family members) that have served to protect those freedoms for us.

Where is your favorite place to travel within 100 miles of your home?

We love the Stanley, ID area – an absolutely beautiful part of the State. A runner-up is Payette Lake in McCall.

What's the best advice you've been given?

With everything you choose to do in life, realize that you must wake up and look at yourself in the mirror the next day. It's a good reminder to reflect on your choices and decide if you made the right one in any given situation. And if you didn't, seek ways to rectify it and seek forgiveness.

What is a future headline you'd like to see regarding Mountain States Policy Center?

Education choice approved in all Mountain States!

What is one of your favorite quotes?

Our favorite quote from a forefather is "A republic, if you can keep it." – Benjamin Franklin

Mountain States Policy Center will be successful because...

there is a growing desire for citizens of the Mountain States to have connection to groups like ours, to the policies we are working on, and keeping the values and freedoms we all enjoy continuing in these great states. Our efforts to educate and inform (policy over politics) are what will make us shine.

America is... the land that we love. And she needs every generation to remember the values and continue the efforts of the previous generations to keep her going strong for our children and grandchildren.

Most viewed on mountainstatespolicy.org

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Carson, Strassel pack house for MSPC's inaugural Fall Dinner

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The merger of grocery chains could be a good thing – here's why

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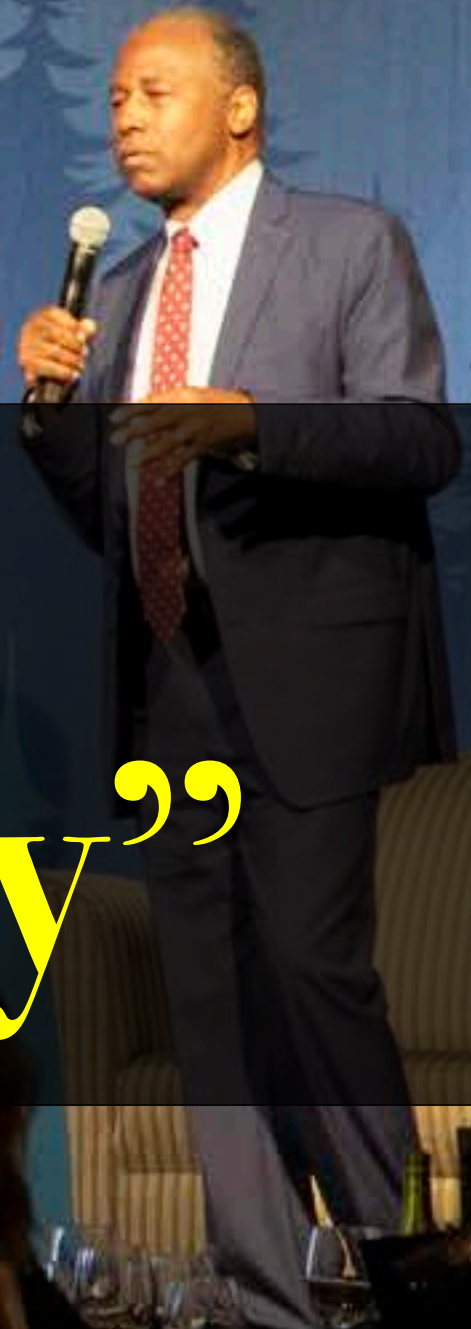
MSPC partners with the Woman Panel for a free-market success



At MSPC’s Fall Dinner, Dr. Ben Carson told attendees let’s not turn into the ‘what can you do for me society’, but instead issued a call for

“A can-

UNTAIN STAT LICY CENT



do society”

Carson, Strassel pack house at MSPC's first fall dinner in Boise

What. A. Night.

More than 500 packed the Boise Centre on October 6th for Mountain States Policy Center's inaugural fall fundraising dinner. The event featured former U.S. Secretary of Housing and Urban Development Dr. Ben Carson and the Wall Street Journal's Kim Strassel.

There was near unanimous praise for not only the speakers, but the execution of such a large gathering.

"This was the best overall policy event execution and quality that I've seen," wrote one attendee. Another commented, "when I purchased the ticket, I thought it was a speech only. That would have been fine, although the meal was delicious and well-served."

To kick off the night, attendees were treated to a moving rendition of the national anthem by a choir and orchestra of nearly 40 students from Treasure Valley Classical Academy. Many parents of the students were in attendance.

Idaho Senator Scott Grow gave the invocation, and Paul Jagosh from the Idaho Fraternal

Order of Police led the crowd in the Pledge of Allegiance.

In her analysis of current events, Kim Strassel gave a behind-the-scenes look at the battle for control of the U.S. House of Representatives, and a preview of what the 2024 election might bring. She also noted the importance of having good research to help inform the public debate.

"This is why I love traveling across the country to speak to free market think tanks," Stassel said. "Mountain States Policy

Center is helping put the focus back on facts."

MSPC honored former Idaho Governor C.L. "Butch" Otter with its Elevation Award. Current Idaho Governor Brad Little introduced Otter and said, with a focus on free markets, there may not have been a more appropriate honor for Otter.

Dr. Ben Carson capped off the evening with a keynote presentation, calling on attendees to remember the fact that America is the only country in the world that has a dream.





“You don’t hear about a Canadian dream or the France dream,” Carson said.

Dr. Carson also reminded attendees about the dangers of an ever-expanding government.

“No matter how lofty their goals and ambitions, they all grow, and infiltrate and dominate,” he said.

In the end, Carson said, the country is in trouble, but can be saved if we remember that we have a Republic worth keeping.

“We need to learn from our history, not try to hide our history, because your history is so important to

your identity, and your identity is the foundation of your belief system,” Carson commented. But it’s important to know, Carson said, that my way or the highway doesn’t work.

After the event, both Carson and Strassel signed books for attendees who lined the hallways of the Boise Centre.

MSPC’s The Boise dinner fundraiser raised more than \$200,000 to help fund the work of MSPC.

MSPC’s Spring Dinner with former White House Press Secretary Kayleigh McEnany will be held at the Coeur d’Alene Resort Friday, April 12th.

“I’m thankful for a think tank like **Mountain States Policy Center** – because we need people willing to think and discuss our differences and let the conversation revolve around the facts.”

-Dr. Ben Carson



U.S. Supreme Court considers

Olivia Johnston
Contributor



Multiple states, Idaho and Montana included, along with over 25 organizations have filed amicus briefs in favor of a Washington state couple, Charles and Kathleen Moore against the United States, for what is anticipated to be the biggest tax case to reach the Supreme Court of the United States in several decades. This upcoming term, the highest court will hear *Moore v. United States*, which is on appeal from the 9th Circuit. This litigation poses the Court with the ultimate question: is a realization event necessary for the federal government to impose a tax? A realization event occurs when a taxpayer has money in their hands.

Here is what we know about the case: The Moores hold an 11% ownership interest in KisanKraft, a farming manufacturing company operating out of India. Since the Moores bought in, the company has done exceptionally well, with profits increasing each passing year. The Moores are seeing gains on paper from their overseas investment, but they haven't cashed in here in the United States. They were taxed on this increase in investment value, which only existed on paper.

The Moore's position is that the tax imposed is unconstitutional under the Sixteenth Amendment. They argue several long-standing precedents apply such as *Eisner v. Macomber*, 252 U.S. 189 (1920), "for 'a gain' to be income, it must be 'received or drawn by the recipient (the taxpayer) for his separate use, benefit and disposal.'" *Id.* at 207. They also are relying on a case which was a landmark, thirty-five years after *Eisner*, *Comm'r v. Glenshaw Glass Co.*, 348 U.S. 426, 431 (1955), defining income as "undeniable accessions to wealth, *clearly realized*, and over which taxpayers have complete dominion." (emphasis added). These arguments are to be expected, given "the realization requirement gives us consistency, objectivity, and certainty in tax." John A. Miller, Jeffrey A. Maine, *The Fundamentals of Federal Taxation*, 23 (Miller, Maine, 5d ed. 2018). The Moores argue that the Ninth Circuit essentially took away the constitutional limit of the federal government to only tax what is deemed as income, and that, "This case is the cleanest vehicle the Court will ever see to address realization under the Sixteenth Amendment." Petitioner's Brief, Page 3.

The dispute arose due to Section 965 of the Internal Revenue Code, the repatriation tax, being applied to the Moores. This tax was a result of the Tax Cuts and Jobs Act of 2017, requiring U.S. corporations operating outside of the country to transfer wealth back, a one-time tax. The portion affecting the Moores requires that any person who holds more than 10% of a foreign company that is composed of over 50% U.S. ownership, also called a "CFC", is subject to taxation; realization event, or not. The Moores were placed in this category due to their 11% ownership in KisanKraft, a CFC. Sec. 965 was codified to combat companies leaving the U.S. and making their money elsewhere.



the tax case of the century

This commentary was featured in:

Idaho Statesman

THE SPOKESMAN-REVIEW

yahoo!news

Tri-City Herald

BLACKFOOT VALLEY
DISPATCH

The Government's position is that while it is true that the government has not historically implemented a tax without realization, "the Supreme Court has made clear that realization of income is not a constitutional requirement. See *Helvering v. Horst*, 311 U.S. 112, 116, 61 S. Ct. 144, 85 L. Ed. 75, 1940-1 C.B. 172 (1940) ("[T]he rule that income is not taxable until realized . . . [is] founded on administrative convenience." *Moore v. United States*, 36 F.4th 930, 936 (9th Cir. 2022)). Essentially, the Government seeks to overturn the definition put forth in *Glenshaw Glass*, that "undeniable accessions to wealth" are taxable. The Government seeks to broaden what constitutes a taxable event.

If the Court decides in favor of the Moores, it is likely the Court will attempt to sever the statutory language. This would be the easiest solution, as it would allow for the single clause of the repatriation tax to discontinue while maintaining the other portions of the Trump tax legislation, and there is a strong presumption of severability. See *Barr v. Am. Ass'n of Political Consultants*. If the Court sides with the government, this decision would have great implications for Americans - both financially, and administratively. Not only would the government create greater amounts of paperwork for the taxpayer

and the government, but it would also tax money that individuals don't actually have, in their hands.

The greater concern this case presents is the impact on the legality of wealth taxes. The *National Taxpayers Union Foundation* amicus brief offers what several Mountain State policy analysts believe the Court will do; "This Court could uphold the MRT for C corporations but excuse individuals such as the Moores. This Court could determine that the MRT does not violate the realization requirement because the business realized them even if the individuals did not receive a distribution". Pg. 25. Under this likely approach, the purpose of the MRT is maintained while upholding the constitutionality of a realization requirement.

The Moore name might be on the documents, but there are many Americans whose interests could be significantly hindered if the government prevails. As stated in my previous *Pinnacle* article on the reversal of *Chevron*, this is a conservative Court. This is not a Court that seeks to increase tax liability. It is unlikely the majority will be receptive to accepting the Solicitor General's arguments on behalf of the government during oral arguments. But, as lawyers say daily, it depends.



EVENTS CALENDAR

REGISTER AT MOUNTAINSTATESPOLICY.ORG



THE WOMAN PANEL

WEDNESDAY, OCTOBER 25TH – 5:30-7:30PM
THE GATHERING PLACE - SPOKANE



CHRISTMAS LUNCH

FRIDAY, DECEMBER 8TH – 12:00-1:30PM
THE RIVERSIDE HOTEL – BOISE
GUEST SPEAKER: IDAHO SECRETARY OF STATE PHIL MCGRANE



LEGISLATIVE BRIEFING

THURSDAY, FEBRUARY 1ST – 12:00-1:00PM
IDAHO STATE CAPITOL – LINCOLN AUDITORIUM



2024 SPRING DINNER

FRIDAY, APRIL 12TH – 7:00-9:00PM
THE COEUR D'ALENE RESORT – GRAND BALLROOM
KEYNOTE SPEAKER: FORMER WHITE HOUSE PRESS SECRETARY
KAYLEIGH MCENANY



2024 FALL DINNER

FRIDAY, OCTOBER 4TH – 7:00-9:00PM
BOISE CENTRE – GRAND BALLROOM



Open primaries and ranked choice voting: A conversation with Washington's Secretary of State

There is currently a debate occurring in Idaho and Montana (among other locations) about whether to move from a closed primary to an open primary for elections. In Idaho, however, this policy debate has also been married with imposing Ranked Choice Voting (RCV). This is despite the fact that earlier this year a supermajority of the Idaho legislature adopted HB 179 prohibiting RCV. That bill was signed by Governor Little on March 24.

Ranked Choice Voting continues to be controversial across the country.

In 2020, 50.55% of voters in Alaska adopted a Top 4 and RCV ballot measure. Opponents of how RCV has worked since in the state, however, are currently gathering signatures in Alaska for a new ballot measure to repeal Ranked Choice Voting.

Showing concern across the political spectrum, the Democratic party in Washington D.C. last month filed a lawsuit to stop the city from using Ranked Choice Voting.

Washington State has had experience both with an open primary and with local voters in Pierce County adopting and then quickly repealing Ranked Choice Voting.

So, what does Washington State's top election official think about all of this? We asked him.

MSPC: Washington voters several years ago adopted an open primary reform called the "Top Two." Could you briefly explain the benefits of an open primary and how the Top Two works?

Secretary Steve Hobbs: "We don't register by political party in Washington, and the top two primary system creates a wide-open path for voters to choose any candidate they want in the Primary. It then provides a general election between voters' top choices without giving systemic support to partisanship. After our first top two primary in 2008, which was also the nation's first, surveys showed that 76% of voters liked the process, which puts the spotlight in the right place: on candidates for office, not political parties."

MSPC: Several states are considering moving not only to an open primary but also tying that policy to Ranked Choice Voting (RCV). Washington state has some experience with RCV with Pierce County adopting and then immediately repealing the process. Do you have any concerns with RCV and would you recommend instead

that states just use a "Top Two" styled format for open primaries?

Secretary Steve Hobbs: "Ranked-choice voting adds a layer of complexity to voting that threatens to disenfranchise people who aren't experts at the process. This includes people living with developmental disabilities – such as my son – for whom choosing one candidate is more straightforward than figuring out how to rank a list of them. Additionally, it can be a challenge for newly-naturalized citizens to adapt to American elections. Converting some elections to ranked-choice voting would increase the obstacles to exercising their rights as Americans. Top-two primaries present none of these challenges. You pick your favorite, then you send in your ballot. That's something people can easily grasp. I stand firmly behind Top Two and encourage other states to learn from our usage of it."

Moving election systems to a clean open primary like Washington's Top Two, is a debate worth having. Adopting open primaries, however, need not be limited to a take-it-or-leave-it proposition tied to the controversy of Ranked Choice Voting.



Not again! Federal government moves to police the internet

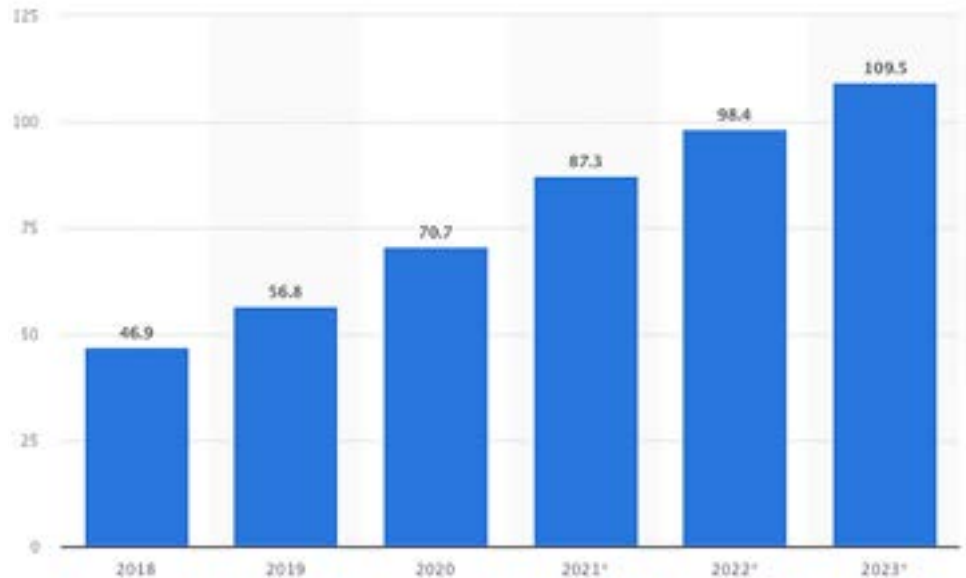
Without government control, how will the internet survive? Just fine, thank you very much.

This fall marks the six year anniversary of the end of "net neutrality" - a policy adopted in 2015 under the Obama Administration that seemed to target a problem that didn't exist.

It was supposed to prevent internet service providers (ISP's) from favoring or limiting internet traffic. It sounded good - in fact, large national companies and celebrities alike supported the idea - and predicted doom and gloom when it was repealed by the FCC in 2017.

Now, with a new political majority in charge of the FCC, the federal government is discussing resurrecting the policy.

The problem is this heavy-handed, government regulatory approach would stifle competition and the freedom of the internet. And, to the extent that there was any issue in the first place, it would have been better dealt with using current laws that encourage and enforce competition.



Average network connection speed in Mbps

Meantime, we now have the data to prove that the internet speed was improving before 2015 (pre-net neutrality) and continues to increase in this post net neutrality world.

Average broadband speeds in the United States have increased dramatically over the past six years. Average mobile internet speeds are up more than 300%.

And we see very few - if any - examples of ISP's blocking any content. Ironically, the only

reports of that happening are coming from the companies that supported net neutrality regulations in the first place.

Unfortunately, the biggest factor that determines your internet speed is the place you live. Typically, more rural areas experience slower internet speeds. This is why we need more innovation - and less regulation - to expand and improve access.

The last thing we need is government control.



Cheyenne city council rejects plastic bag ban

The Cheyenne, Wyoming city council has defeated an environmental proposal that sounds better than it looks.

The proposal would have not only banned plastic bags at grocery stores but also charged customers a new "environmental service fee" of 10 cents per paper grocery bag.

Unfortunately, much of the research shows plastic bags can be one of the most environmentally friendly options.

First, plastic bags are reusable. Without those bags available, consumers look for alternatives and end up buying *more* plastic bags. A University of Georgia report found "communities with bag policies saw sales of 4-gallon trash bags increase by 55% to 75%, and sales of 8-gallon trash bags increase 87% to 110%."

Second, international reports from the U.K. and even Denmark show the carbon impact of paper, reusable plastic, and cotton bags is *higher* than single-use plastic bags.

Finally, there are sanitation concerns. Most people who carry around reusable, cloth bags do not necessarily take care to make sure the bag is clean. Some may keep the bag in their backseat or the trunk of their vehicle. Others might only wash the bag once a month.



What to know about the Montana charter school ruling

A Montana judge recently blocked parts of a new law to create a system of public charter schools in the Treasure State. But there were some partial victories.

Montana is one of the only states in the nation that, until now, hasn't allowed for the creation of public charter school.

Judge Christopher Abbott's ruling makes it clear that the union has *not* shown that "charter schools or choice schools are themselves likely to be unconstitutional."

The court also ruled that the state is "likely correct" that "no improper diversion of school funding occurs because choice schools are public entities and part of the public school system."

Judge Abbott says the school choice commission may continue its work but cannot approve schools while the case is under review. A temporary setback, in a ruling that contains long-term victories.

BUDGET & TAX

How "Truth in Taxation" can improve accountability

By Jason Mercier
Vice President &
Director of Research

SEPTEMBER 2023



MSPC's new study on improving property tax transparency

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.

With record property tax assessment increases occurring in states like Idaho, Montana, Washington, and Wyoming, homeowners are concerned about the potential impact on their property tax bills.

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



"I really like the way [MSPC] is going about this – that they view it as an educational opportunity."
Former Idaho Governor and U.S. Senator **Jim Risch**



"Mountain States Policy Center plays a critical role in the debate over our region's most important issues."
Eastern Washington Congresswoman **Cathy McMorris Rodgers**

"Organizations like MSPC can really make a profound difference."

Idaho State Representative **Wendy Horman** of Idaho Falls



"I support the work of MSPC and all think tanks that will improve the lives of children."
National school choice advocate **Corey DeAngelis**

"MSPC is a welcome addition, providing a vital service to lawmakers and educating the public."

Idaho State Representative **Judy Boyle** of Midvale

