



INNACLE

THE MAGAZINE OF MOUNTAIN STATES POLICY CENTER

JULY 2023

Trey Gowdy
at MSPC's
Spring Dinner

"FIND SOMETHING
WORTH LIVING FOR."

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TOP WONK

One of the nation's
top research analysts
joins Mountain States
Policy Center Pg. 9



Kayleigh McEnany

FORMER WHITE HOUSE PRESS SECRETARY

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Dinner & Inspiration

Former Congressman Trey Gowdy’s speech at MSPC’s Spring Dinner in Coeur d’Alene is called “the best we’ve ever heard.”



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On The Move

U-Haul data is showing policies have consequences – and Americans can vote with their feet.

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Top Wonk

Jason Mercier’s work is well-known at free market think tanks across the country. He brings a style of passion and truth to Mountain States Policy Center.



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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.

Moving truck prices tell policy story

It's no secret that Idaho and Montana are two of the fastest growing states in the country. In fact, almost every county in Idaho and the majority in Montana are seeing population growth.

Many of the new residents of Idaho and Montana have come by way of California, Oregon and Washington where high taxes, increasing crime, rampant homelessness and strangling regulations are making it difficult for many working families to survive.

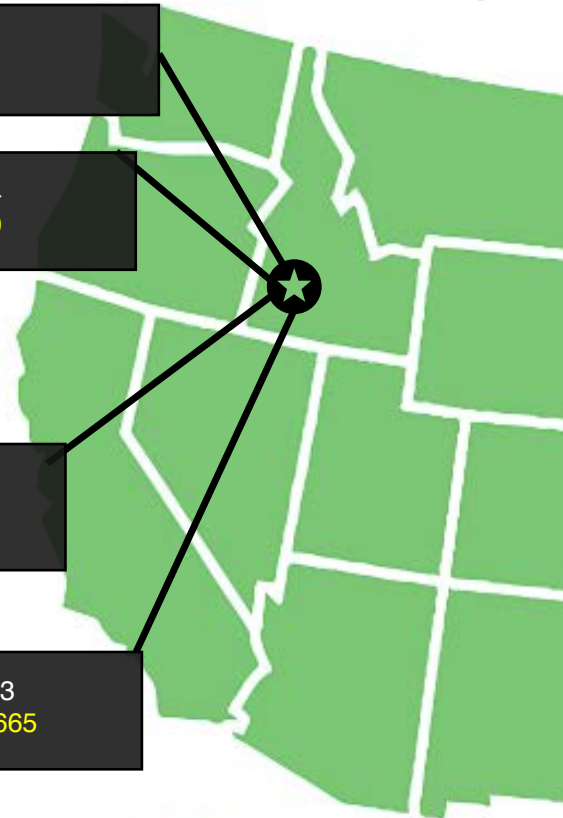
The population data tells a story, but the market data is just as stark. Consider the price of renting a U-Haul truck. It is consistently less expensive to rent a truck from Idaho and drive it to a destination

BOISE TO SEATTLE: \$383
SEATTLE TO BOISE: \$584

BOISE TO PORTLAND: \$344
PORTLAND TO BOISE: \$590

BOISE TO SAN FRANCISCO: \$555
SAN FRANCISCO TO BOISE: \$1,069

BOISE TO LOS ANGELES: \$693
LOS ANGELES TO BOISE: \$2,665



on the west coast, than the other way around. Why? The demand is so high, U-Haul charges more. Likewise, the demand to return is so low, U-Haul is trying to make it in your financial interests to get the trucks back to locations such as Los Angeles, San Francisco and Seattle.

We recently checked on the price of renting the most inexpensive U-Haul truck on a Wednesday and driving it to and from various locations.

The Los Angeles to Boise prices, in particular, were astonishing.

It currently costs nearly 400% more to rent a U-Haul truck with the intent to leave LA and head to Boise.

Idaho's quality of life, low tax burden and booming economy make it incredibly attractive. When it comes to public policy, citizens vote with their feet. And in this case, it's a stampede.

As a result, Montana just gained an extra seat in Congress via apportionment, and Idaho is poised to gain another in the 2030 census.



Supreme Court cleans up the Clean Water Act

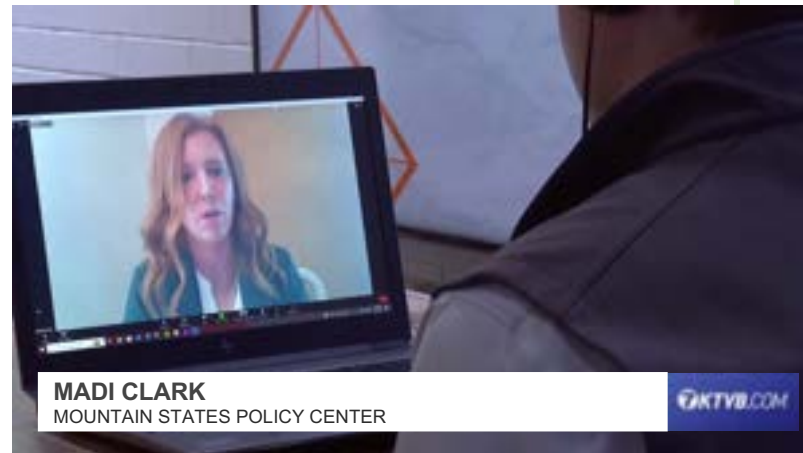
Thanks to the perseverance of a Northern Idaho couple, the Clean Water Act (CWA) is less polluted by bureaucratic expansion.

The U.S. Supreme Court recently ruled (5-4) in favor of Michael and Chantell Sackett in their 15-year case versus the Environment Protection Agency (EPA). The Court's decision brings clarity to the long-disputed definition of *adjacent* waters, determining that a *continuous surface connection* must exist for *adjacent* wetlands to be included within the authority of the Clean Water Act.

This is not a win for property owners and a loss for environmental advocates. This is a win for all citizens who want to know if their actions are legal. Basic questions can now be answered, such as "Can I move this pile of dirt from one side of my property to another?" or "Can I drain this puddle?"

Since the adoption of the Clean Water Act in 1972, the EPA and the Army Corps of Engineers have leveraged the ambiguous wording to expand bureaucratic authority. Phrases and words such as 'Waters of the United States (WOTUS)', 'navigable', 'waters', 'significant nexus', and 'adjacent' are all used to describe the scope of the legislation. Citizens are left wondering if the water on or near their property is subject to the CWA and, according to the EPA, it probably is. Decades of legal disputes reflect the confusing nature of the act.

Since the passing of the CWA more than fifty years ago, the environmental bureaucracy has only expanded. The EPA's interpretation of *navigable* waters has grown to include any tributary that contributes to a *navigable* waterway and *adjacent* could be anything touching or in near proximity, with no specific distance used to describe proximity. With these continually expanding definitions millions of acres of private property have been and could be commandeered into the EPA's jurisdictions, crippling



MSPC research analyst Madi Clark explains the decision to Boise's KTVB Channel 7.

the importance of property rights and the authority of the individual States to regulate.

The Sacketts argued their home site, separated from Priest Lake by a row of homes and a dirt road, was not adjacent to navigable water. Three justices agreed with this conclusion, determining that to be adjacent a *continuous surface connection* must be present. Two more justices also argued that Priest Lake itself wouldn't even fall into the category of navigable by the historical definition, and so the EPA should not even apply CWA to the lake, let alone argue for an *adjacent* wetland.

For decades, citizens have been grappling with the ambiguous definitions. If a person's property is under the authority of the CWA, violations could cost more than \$60,000 per violation. per day and/or criminal penalties.

It is time for the EPA and Army Corps of Engineers to have a stricter definition that fits within the legal limits of the CWA. Thanks to the patience of a Northern Idaho couple, the Supreme Court's recent opinion tightens these definitions and removes some of the CWA's bureaucratic pollution, providing much needed clarity to citizens throughout the country.



Standby for an MSPC upgrade – coming this summer



visionaries

A conversation with Mountain States Policy Center supporters **Kent & Bonnie Clausen**

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

Kent is a former South Dakota guy who played football for the Montana Grizzlies and went on to play for the Jets. While Bonnie's family originated on the East Coast, Bonnie was born and raised in Spokane, graduated from University of Washington, and now has one big toe in Coeur d'Alene. We love what Idaho has to offer --- beautiful wildlife and a spirit of freedom that was made apparent in 2020.

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

Any policy that promotes and educates on the Free Market is of the upmost priority. For me the FREE MARKET is everything we need to embrace and celebrate. Followed closely by Educating on Free Speech, Education Choice, and Reasonable Government Regulation are all paramount to our success.

Why do you believe in the free market?

Our faith is based on the idea that God gave us freedom and our founders understood that! Our founders got it right and it has proved true. It's why America has succeeded beyond anyone's wildest dreams.

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

Florida Governor Ron DeSantis. He proved his value in 2020 when he stood the heat and risked everything to do what was right.

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

Coeur d'Alene. We have two businesses there and now a lovely little getaway on the water in Bellerive. It's heaven and the people are wonderful.

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

Know who you are. My identity is as a child of God. Unless you wrestle first with what you believe and why you believe it, you're easy to be easily swayed by media that has an agenda. People say I'm bold, but I think that we are in a time when it's now or never. The silent majority must speak up.

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

We want to continue to see the case studies of California vs Florida --- what they got right, what they got wrong, and why?

What is one of your favorite quotes?

2 Chronicles 7:14 --- It says "IF" then He promises to heal our land. Are we doing our IF part? "IF My people who are called by My name will humble themselves and pray and turn from their wicked ways...I will hear them from heaven, forgive their sins, and heal their land."

Mountain States Policy Center will be successful because...

People are willing to fight for truth.

America is... in big trouble... IF we don't follow the path of free markets.

Most viewed on mountainstatespolicy.org

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Kayleigh McEnany will keynote MSPC's 2024 Spring Dinner in Coeur d'Alene

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Five reasons why ranked choice voting is bad public policy

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Supreme Court ruling means victory for free speech online

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Snapshot of tax rankings in the Mountain States

Jason Mercier's work is well-known at think tanks across the nation. He now tackles a new role at Mountain States Policy Center.

THE TOP WONK



When Jason Mercier sent his first email to key leaders of the Idaho state legislature, they responded almost immediately.

“That’s going to take a while to get used to,” he said.

Mercier, 45, was named Vice President and Director of Research for Mountain States Policy Center this past Spring and joined the organization officially on June 1st.

Mercier’s experience in the free market think tank world dates back two decades. He has worked for the Washington Policy Center and is a Fellow with the Better

Cities Project. Mercier also holds a position as a member of the State Tax Advisory Board with the Tax Foundation.

“Jason is recognized in the Northwest and nationally as one of the nation’s top budget and tax analysts,” said Chris Cargill, the President and CEO of Mountain States Policy Center.

“His non-partisan approach to research and good public policy based on free markets will help advance our mission and improve lives in our region.”

Mountain States Policy Center’s approach as a free market advocate across multiple states is partly what attracted Mercier to the job.

“MSPC has demonstrated a commitment to engaging in the policy debate the right way and I’m ready to help build on the dedication to federalism and a regional focus,” Mercier added.

Jason has testified numerous times before legislative committees across the country on government reform issues, and his op-eds have been published in countless newspapers across the region and nation.

He is married to his lovely wife Kristen and has two daughters and family throughout the Treasure Valley.



Dinner & *Inspiration*

“Find something worth living for,” former Congressman **Trey Gowdy** tells attendees of MSPC’s first Spring Dinner in Coeur d’Alene this past April

Former Congressman and current FOX News Host Trey Gowdy remembers the Mountain States well.

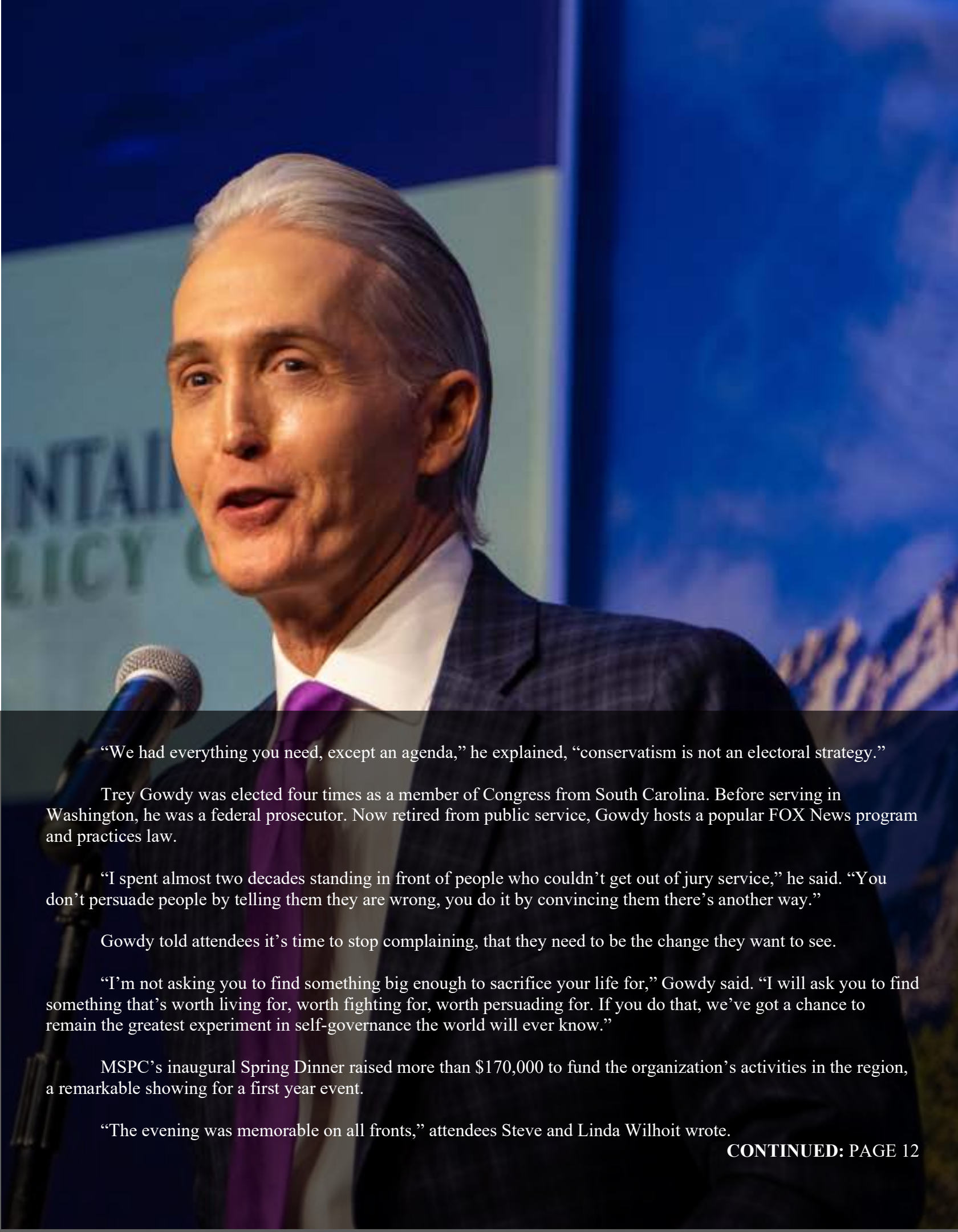
“I traveled around Montana with Ryan Zinke, and let me tell you, that state is huge,” Gowdy told a crowd of more than 400 at Mountain States Policy Center’s inaugural Spring Dinner in Coeur d’Alene April 28th.

“I mean, it’s eight hours between stops. I can walk across my state in eight hours.”

Gowdy was the first keynote speaker for Mountain States Policy Center’s inaugural Spring Dinner, which also featured Idaho Senator Jim Risch, and a program honoring Idaho Controller Brandon Woolf, Montana Secretary of State Christi Jacobsen and Eastern Washington Congresswoman Cathy McMorris Rodgers with the 2023 Elevation Awards. But it was Gowdy’s presentation that left the audience in awe.

“Do I miss [Congress]? I guess, when something really exciting happens,” Gowdy said. “Remember that time we almost went to war over purchasing Greenland?”

When it came time for serious reflection, Gowdy lamented the fact his party asked for full control of the U.S. government in the 2010’s, but then didn’t deliver when they had it.



“We had everything you need, except an agenda,” he explained, “conservatism is not an electoral strategy.”

Trey Gowdy was elected four times as a member of Congress from South Carolina. Before serving in Washington, he was a federal prosecutor. Now retired from public service, Gowdy hosts a popular FOX News program and practices law.

“I spent almost two decades standing in front of people who couldn’t get out of jury service,” he said. “You don’t persuade people by telling them they are wrong, you do it by convincing them there’s another way.”

Gowdy told attendees it’s time to stop complaining, that they need to be the change they want to see.

“I’m not asking you to find something big enough to sacrifice your life for,” Gowdy said. “I will ask you to find something that’s worth living for, worth fighting for, worth persuading for. If you do that, we’ve got a chance to remain the greatest experiment in self-governance the world will ever know.”

MSPC’s inaugural Spring Dinner raised more than \$170,000 to fund the organization’s activities in the region, a remarkable showing for a first year event.

“The evening was memorable on all fronts,” attendees Steve and Linda Wilhoit wrote.

CONTINUED: PAGE 12



CONTINUED: MSPC’s Spring Dinner

Gowdy’s speech was preceded by a conversation between MSPC President Chris Cargill and Idaho Senator Jim Risch, who is the ranking member of the U.S. Senate Foreign Relations committee.

But before getting into a conversation on policy, Risch, the former Governor of Idaho, pointed to his friend in the audience Butch Otter, who followed him as the state’s chief executive.

“That’s the second-best Governor in Idaho history right there,” Risch joked.

Risch has seen his share of elections. He was first elected as Ada County Prosecutor at the age of 27. He has

experience in both the state Legislature and the executive branch, and now in the Congress, which gives him a unique point of view in the leadup to the 2024 election.

“This is going to be an interesting period,” Risch said. When asked if 80 was too old to be president, the Senator, who himself is 80, said “hell no!”

When discussing the biggest threat facing the country, the Senator said it’s “China, China and China.”

“They are a near-peer competitor, and they did it the old fashion way – they stole every idea we had here in America, except for freedom,” Risch said. “Weakness is not respected. What is respected is strength.”



Montana Secretary of State Christi Jacobsen receives the 2023 MSPC Elevation Award.



Idaho Controller Brandon Woolf receives the 2023 MSPC Elevation Award.

DR. BEN CARSON & KIMBERLY STRASSEL

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My checklist for analyzing policy

Recently, too much of what passes as a public policy debate in our country could instead be confused for an episode of Survivor. While politics, name-calling, and resorting to partisan labels may make for good TV, it rarely results in good policy.

While the Mountain States Policy Center doesn't shy away from our belief in individualism and the power of hard work and innovation and that free markets have allowed us to thrive, we know the importance that fact-based research and thoughtful debate have on the development of good policy.

To help tone down some of the rhetoric and refocus the conversation in a constructive way, here is a checklist that can be used to analyze policy:

Read source details.

To fully understand what a bill, study, or court ruling says it is best to go directly to the source and read the full details. Nuance and important factors can too easily be missed if relying on summaries and talking points.

Analyze citations.

Footnotes and source links are more than a requirement from our past term papers. Looking up the details relied on in a report

can provide additional context and reveal if the base document accurately reflects the information cited.

Consider counterpoints.

The goal of a policy proposal is to improve things. By considering opposing viewpoints and critiques you can present the best recommendation to accomplish your goals.

Switch actors to see if your opinion changes.

Focusing on the partisan label of a bill sponsor or the background of an author can often prejudice our opinion before we even consider the details. Pretend that the proposal comes from a different camp to see if that changes your opinion.

Formulate a position and make a recommendation.

After reading the details, verifying the sources,



Jason Mercier

VICE PRESIDENT & DIRECTOR OF RESEARCH

considering alternative viewpoints, and checking to make sure partisan labels weren't dictating your opinion you are now in an excellent position to make a policy recommendation.

As we discussed in our most recent Peak Policy broadcast, we need to leave the tribal yelling for the sporting events and instead focus public policy debates in a constructive and thoughtful way. This checklist for analyzing public policy is one way to do that.





Reversal of *Chevron* holds Congress accountable

The United States Supreme Court recently announced it will review *Loper Bright Enterprises v. Raimondo*, which has the potential to overrule a four-decade-old precedent that has plagued the regulatory scheme known as the *Chevron* doctrine.

Chevron v. Natural Resources Defense Council, Inc., is a pillar of administrative legal analysis, and every lawyer today could recite the two steps in their sleep, engrained in their memories from the lecture hall of administrative law class. The two-step process states that in the event Congress did not clearly define the language within a statute or directly speak to a given scenario, the agency tasked with carrying out this specific statute is provided deference in what that ambiguous term means. Originally, the idea was that the agency is in the best position to determine certain ambiguous matters due to their “expertise” and familiarity on a specific area or function of our government. However, that thought process has gotten out of hand.

For context, in *Chevron v. Natural Resources Defense Council, Inc.*, the Supreme Court sided with the Environmental Protection Agency (EPA) interpretation of what a “stationary source” meant within the Clean Air Act. In 1984 when the decision emerged, it was a win for the Reagan administration. Then, the conservative EPA cut back the regulations of the Carter administration. Little did America know, *Chevron* would transform into one of the biggest legal hurdles, hindering the efficiency and autonomy of people and businesses alike. As the decades have passed since the *Chevron* decision, agencies have gained power within the Courts through unchecked deference; thus, creating an impossible burden for parties opposing agency regulation.

The *Loper* case defines the problem with *Chevron* - those mandated to interact with the regulatory scheme cannot keep up with demands agencies put forth. The *Loper* amicus brief said it best – “Over the past forty years and counting, [*Chevron*] has wreaked havoc in the lower courts upon people and



University of Idaho law student **Olivia Johnston** says this may be the Supreme Court that returns power to elected representatives

businesses.” Here, *Loper Bright Enterprises* is suing the Secretary of Commerce, due to the harsh effects the National Marine Fisheries Service (NMFS) has on commercial fishing. As the regulation stands, *Loper*, a family-owned herring business operating in New England is being required to have an NMFS agent be present on every fishing expedition. The businesses are also required to cover the expense of the federal agent’s time, amounting to an average of \$700 per day. For *Loper*, this was around 20% of daily profits. In any business, a 20% profit loss per day cannot be considered positive.

It is anticipated that this is the Court to overturn *Chevron*. Notably, Justice Clarence Thomas in a 2020 dissenting opinion stated, “*Chevron* also gives federal agencies unconstitutional power.”

The fact the Court took this case is encouraging to anyone who has or will litigate against an agency. For far too long, *Chevron* has tipped the scales in the government’s favor. Agencies have arguably become just as powerful as Congress, despite the people not having a voice as to who the decision-makers are. On the flip side to this, there is an argument that agencies are representative because they are an arm of the executive branch, and because the President is elected, agency decisions reflect the President’s values.

If the Court revokes *Chevron*, this holds our representatives in Congress directly accountable, given *Chevron* only comes into analysis when Congress has not been entirely clear in the legislative process. By reversing *Chevron*, Congress is held accountable to answer big policy questions, with clarity.

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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.



Latest data show charter schools improving student outcomes

By Chris Cargill

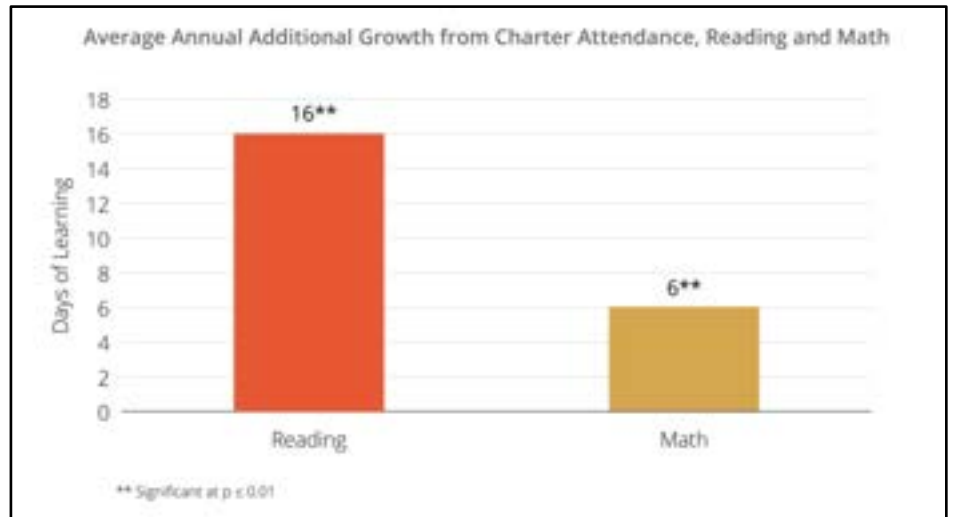
Public charter schools are making a positive difference. That’s the main conclusion from Stanford’s Center for Research on Educational Outcomes (CREDO) analysis.

The CREDO study has been produced three times – once in 2009, again in 2013 and the latest version in 2023. More than 3.7 million students across 43 states attend charter schools, including in Idaho and Washington. Montana has just recently legalized public charter schools.

Charter schools are public schools that operate under governing board that is separate and distinct from local school districts. Doing so allows for flexibility, even as the charter schools must submit to accountability reviews to remain open.

Some of Idaho’s charter schools are considered the best in the state. Still, opponents have used previous versions of the CREDO analysis as well as other studies to call into question the effectiveness of charter school education. That ends now.

The latest CREDO study shows increases in outcomes for just about every student category in nearly all states. The typical charter school student had math and reading gains that outpaced peers in



traditional public schools. In math, charter schools advanced learning by an additional six days. In reading, charter school students advanced 16 days of learning each year.

While these numbers are national averages, certain state by state data shows even stronger gains. Idaho’s charter school students gained an additional 17 days of learning in reading. Washington’s advancement approached 30 days. In Math, Washington students advanced almost 40 days while Idaho students advanced eight.

Researchers at Stanford say the work specifically focuses on a specific outcome – whether the students are making progress over the academic year.

Do all students benefit?

The CREDO research shows Black and Hispanic students in charter schools advanced more than their traditional public school (TPS) peers by large margins in math and reading. Asian students in charter schools showed similar growth to their TPS peers. Charter school students in poverty had stronger growth, and English-language learner students attending charter schools had stronger growth.

Because CREDO has been consistently reviewing the performance of charter schools for more than 15 years, it can certainly be labeled one of the most credible of the major charter studies.

“Findings from the 2023 report take on even more weight when considered in the historical context of the 15 years we have studied the impact of charter schools,” the report says.



Examining Idaho spending on higher ed & student population trends

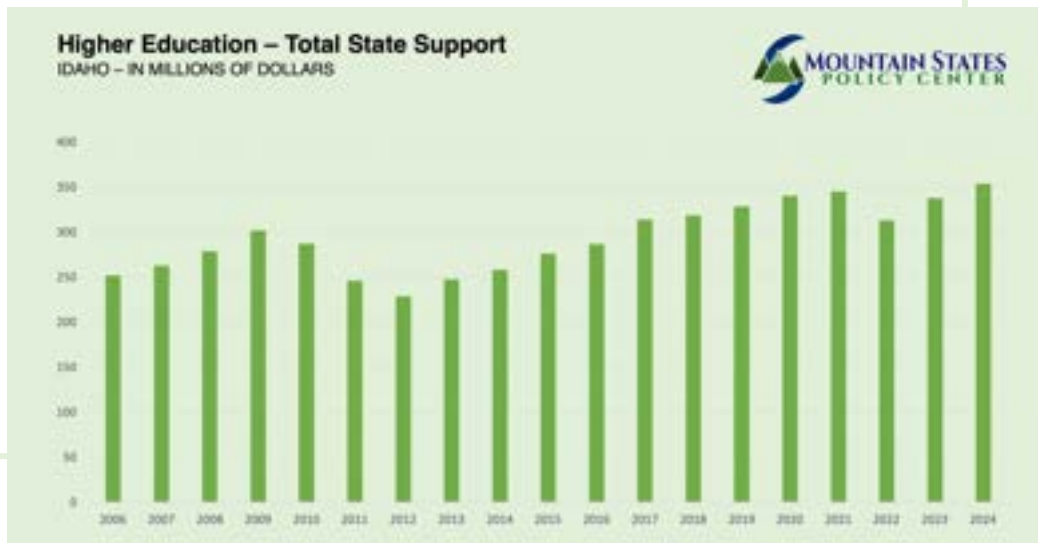
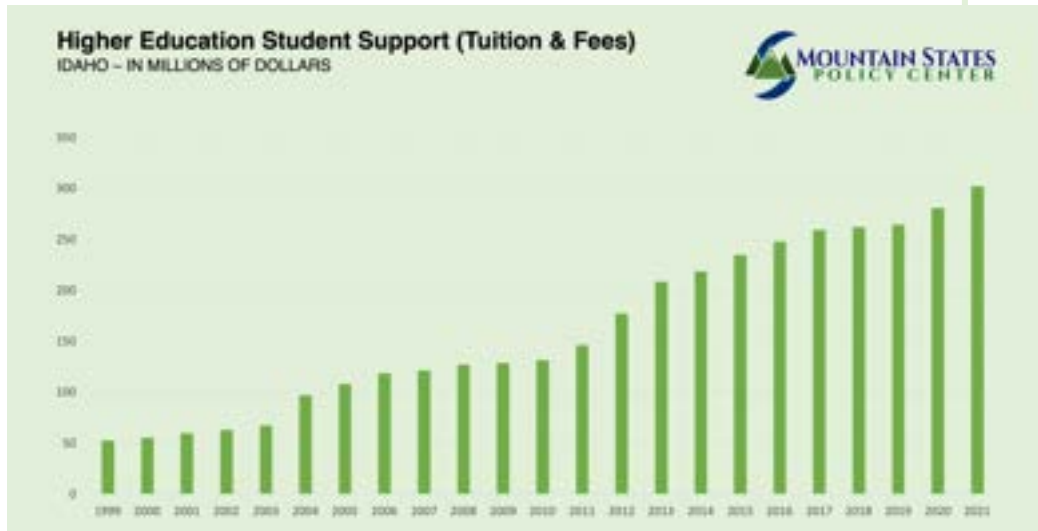
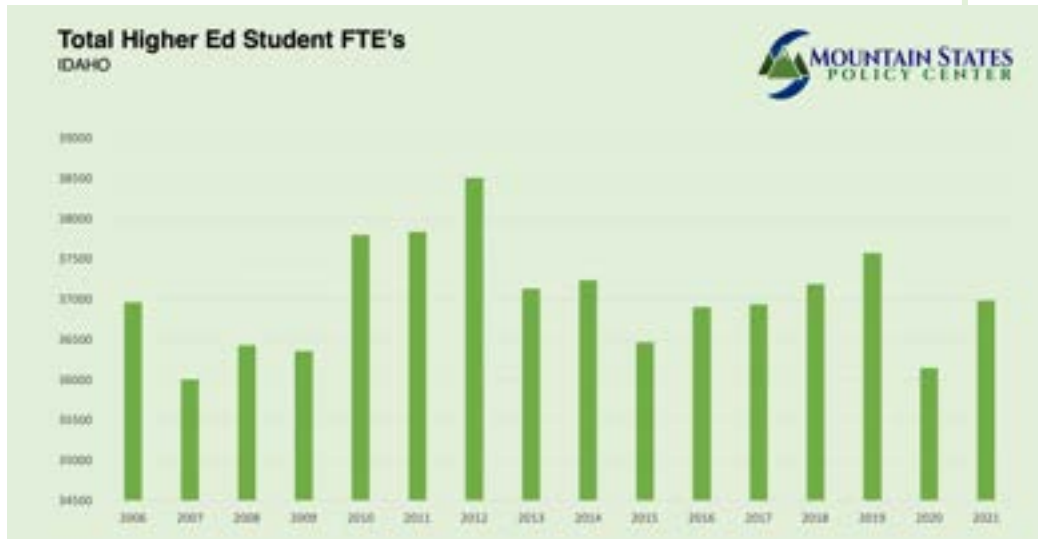
By Chris Cargill

Higher education is getting more expensive, and both taxpayers and students are being saddled with the cost. The Idaho State Board of Education recently approved a 5% increase in state tuition costs. Tuition at Lewis-Clark State College will increase 5.6%.

Before it adjourned, the Idaho legislature approved a \$353,942,200 higher ed general fund budget. That is the largest amount in state history and represents an increase of roughly 5% - understandable in a time of high inflation.

Since 2006, the state's higher education budget has increased 40%, according to numbers we obtained from the state's JFAC. While Idaho continues to be one of the fastest growing states in the country, the size of its college population has remained stagnant. In fact, it is nearly the same as it was 2006, and actually lower than it was in both 2004 and 2005. "Student support"- which is defined as tuition and fees - "has grown four times the rate of inflation from 1992 through 2021" according to the state JFAC.

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 growing burden on taxpayers and students, it may be time to bring back that conversation.





Public records veto overridden in Montana

One of the most important tools that citizens have to maintain control over the government they have created is with strong open government laws. Montana takes the people's right to know so seriously that it is enshrined in the state constitution under Article 2, Part 2.

This year the Montana legislature passed several bills to update the state's public records law. Senate Bill 232 put into law the requirement for state agencies to acknowledge a public records request within five days and for executive branch agencies to provide the information 20 days after the acknowledgment (with exceptions). That bill was signed into law in May.

House Bill 693, however, was recently vetoed by Governor Gianforte but the legislature acted to override the veto.

Enhancing and complying with open government laws may not always be easy for public officials, but it is important for a well-functioning and accountable government. More importantly, it is what we expect and deserve from those entrusted with providing taxpayer-funded services.

The new 12th Circuit?

U.S. Senators Mike Crapo and Jim Risch of Idaho, joined by Sen. Steve Daines of Montana and Sen. Lisa Murkowski of Alaska, have introduced a new bill to create a long-needed new federal appeals court.

Right now, the 9th circuit covers nine states including Idaho, Montana, Washington and two more territories. It has jurisdiction over one in five Americans. That's nearly twice as large as the second-biggest circuit.

Because of its size, Ninth Circuit decisions routinely lag. In fact, at times there are more than 10,000 cases filed with the court.



The newest proposal to add a 12th Circuit would create two new appellate court judgeships for the Ninth Circuit, as well as authorize 66 new permanent district court judgeships around the country and convert seven temporary district court judgeships to permanent judgeships.

The new Twelfth Circuit would cover Alaska, Arizona, Idaho, Montana, Nevada, Oregon and Washington, and be based in Seattle.



MSPC hires Nampa's Sebastian Griffin as communications & marketing coordinator

Mountain States Policy Center is delighted to announce that Boise State University grad and former Idaho legislative candidate Sebastian Griffin is joining the staff as the organization's Marketing and Communications Coordinator.

Griffin earned a BS in Government and Political Science from Boise State University. In 2022, he was a candidate for the Idaho legislature. Over the past five years, Griffin has served and worked on dozens of campaigns for state and local offices. In 2019, when he was just a senior in high school, Griffin helped craft Idaho Senate Bill 1060 – legislation that allows high schoolers flexibility in graduation if they meet certain state benchmarks.

Griffin also founded his own marketing and communications firm *Griffin Marketing*. He lives in Nampa, Idaho with his wife Macy and their newborn daughter.



"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

