

**Lesson Not
Learned**

The state doubles down on failed
race-based quotas **for discipline**



THINKING MINNESOTA

 CENTER OF THE
AMERICAN
EXPERIMENT

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The Road to Prosperity

**Seven common-sense ideas
that will transform Minnesota's
economy for generations.**

THINKING MINNESOTA • FALL 2018





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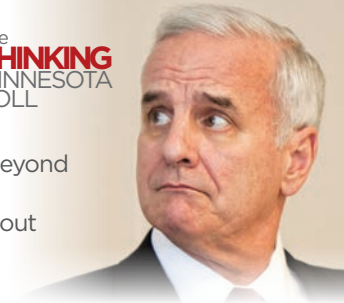


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Center of the American Experiment's mission is to build a culture of prosperity for Minnesota and the nation. Our daily pursuit is a free and thriving Minnesota whose cultural and intellectual center of gravity is grounded in free enterprise, limited government, individual freedom, and other time-tested American virtues. As a 501(c)(3) educational organization, contributions to American Experiment are tax deductible.

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NOTE FROM THE CHAIRMAN

SAPPLINGS

How the Center fortifies a long-term defense against the winds of silliness.

When people ask why some of us volunteer so much time and treasure to support Center of the American Experiment, I'm reminded of the day my father recruited me to help plant a row of oak saplings to fortify the windbreak alongside our farmhouse in Elrosa, Minnesota. (You haven't heard of it, I know. It is a town of 211 people in Stearns County.)

Dubious that this was a worthwhile way to spend a sunny afternoon, I questioned how 40 two-foot trees would in any way help protect our house from prairie winds.

"Maybe not today," he said. "But wait 25 years."

Incredulous, I asked, "What do you care about 25 years? Won't you be dead by then?" (A 12-year-old's candor sometimes deserves a smack, now that I reflect back.)

"Maybe," he answered. "But it's not for me that we're planting these trees."

"Then who?"

"I'm planting them for you."

Like most dads in rural Stearns County back in the mid-'60s, my dad was likely responding to a practical question with a practical answer, not intentionally sowing a life lesson. But sow, he did, and I frequently think back on that exchange when I consider how our compelling need for instant gratification impedes our personal lives and our public policies.

And, to me, American Experiment combats the effects of instant gratification public policies with our commitment to reminding politicians that their foremost responsibility is to contribute to the long-term viability of our state.

We plant intellectual and philosophical saplings every day, rooted in our belief in long-term policies that create economic opportunity, encourage personal responsibility, and emphasize limited government

and free enterprise. We ask hard questions. We challenge "popular" conventional wisdom. And we're unafraid of (increasing) attacks from the left.

It isn't easy. The once genial atmosphere for public discourse has taken an ugly turn in the quarter century since Mitch Pearlstein founded American Experiment, especially in the last five years or so. A regional policy

center might once have been satisfied that it could stimulate public debate by preparing policy papers, attract some media attention, and eventually find its ideas take hold in the legislative process. Today, reporters are more opinionated, less interested in reporting on issues, and more prone to infuse their reports with the racehorse elements of politics. For their part, many academic types no longer even attempt to mask their naked

continued on page 4



Ron Eibensteiner

continued from page 3

disdain for our kind of small government, free-market and family-centered policies.

It's forced the Center to capture the spotlight of policy debates by ramping up our public outreach activities. Our staff members fill our website every day with interesting (and highly readable) analysis and insights. They also contribute an impressive number of op-eds to newspapers across the state. To this, we've added policy-oriented radio advertising across Minnesota, and our billboard campaigns have made a significant impact, as well. And this month, with our "Mining Prosperity" campaign, we've even added television advertising to our quiver of tactical weapons. (See more detail in "Mining an Opportunity," on page 11 of this magazine.)

We're planting saplings that will last generations, but we're using sophisticated modern communications techniques to make sure they grow.

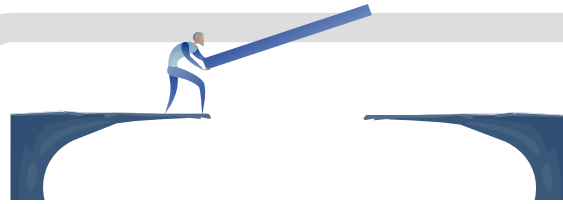
* * *

Another aspect of my dad's "sapling" lesson is darker, more insidious and will leave dangerous consequences.

I thought of it when I read that a recent Gallup poll discovered fewer than half (45 percent) of young Americans (age 18-29) have a favorable view of capitalism, while a majority (51 percent) have a favorable opinion of socialism.

There is no doubt in my mind that these attitudes evolve from having been regularly implanted in young, impressionable minds by the increasingly liberal/radical attitudes of many teachers who use their classrooms for political indoctrination rather than teach students the wisdom of independent thinking and rational discernment.

For my money, what is passing for



THE BRIDGE BUILDER

An old man, going a lone highway,
Came at the evening, cold and gray,
To a chasm, vast and deep and wide,
Through which was flowing a sullen tide.
The sullen stream held no fears for him;
But he turned when safe on the other side,
And built a bridge to span the tide.
"Old man," said a fellow pilgrim near,
"You are wasting strength in building here.
Your journey will end with the ending day.
You never again must pass this way.
You have crossed the chasm, deep and wide,
Why build you the bridge at the eventide?"
The builder tilted his old gray head:
"Good friend, in the path I have come," he said,
"There followeth after me today
A youth whose feet must pass this way.
This chasm that has been naught to me
To that fair-haired youth may a pitfall be.
He, too, must cross in the twilight dim;
Good friend, I am building the bridge for him."

—Will Allen Dromgoole

socialism is the politics of the free lunch.

These students (and their teachers and their far-left politicians) must marvel at how easy it is to solve every modern policy challenge through government intervention, without any sense of the costs or the long-term consequences.

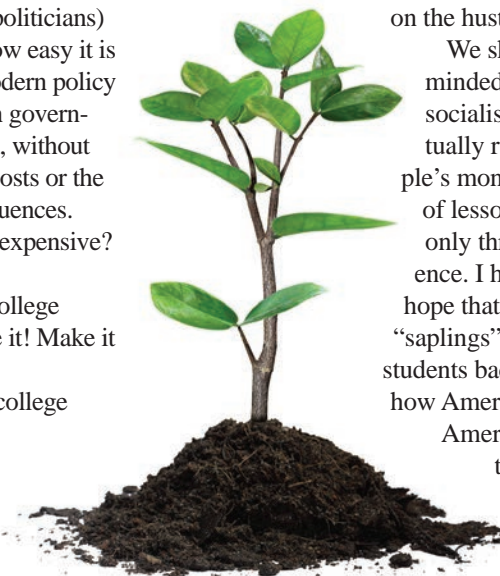
Healthcare too expensive?
Medicare for all!

Skyrocketing college tuition? Eliminate it! Make it free!

The burden of college debt? Forgive it!

How to pay for it? Soak the rich!

Writer H.L.



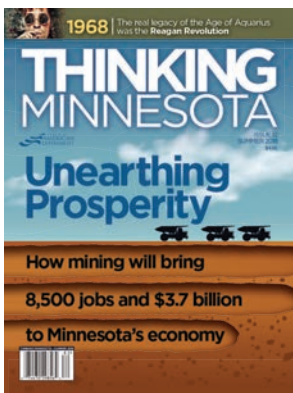
Mencken once said, "For every complex problem there is an answer that is clear, simple, and wrong."

I would love to know how these teachers, young people and other "socialists" respond to how the politically-popular seedlings of socialism planted by Hugo Chavez in Venezuela in the 1990s devastated the economy and culture of his country. He used profits from Venezuela's massive oil industry to fund a far-reaching "free lunch" economy. In less than 15 years his country, still sitting atop the world's richest oil reserves, is in economic ruins. A drop in oil prices pulled the plug on the country's "government-funded" lifestyle. People are desperate to leave, crime is rampant, and one economist estimates that Venezuela's hyper-inflation may reach 65,000 percent this year. *The Wall Street Journal* reported that resulting food shortages meant the average Venezuelan lost 18 pounds in 2016 and 24 pounds in 2017. How does that reconcile with the easy answers of political happy talk in the classroom and on the hustings?

We should all be reminded, "The problem with socialism is that you eventually run out of other people's money." I fear that kind of lesson can be learned only through harsh experience. I hope I'm wrong. I hope that wiser, long-term "saplings" take root and bring students back to the miracle of how American democracy and American capitalism have teamed to create the greatest nation on earth. ★

Defending Founding Principles

Your summer issue of *Thinking Minnesota* is a nice aggregation of the issues foisted upon us by our liberal society, our governor and educators. My family built a successful business for over 30 years before we sold it in 2017. We experienced firsthand the drag of Minnesota's



high tax and excess federal and state regulations. Groups like Center of the American Experiment need to be battle-ready to keep defending our founding principles.

—Larry Hall
Woodbury

Great Jobs

My husband and I have subscribed to *Thinking Minnesota* for a couple of years. I have especially paid attention to your ongoing articles regarding “Great Jobs Without a Four-Year Degree.”

Our daughter has started 9th grade. During her open house a couple weeks ago, the vice principal spoke about the need for students to start thinking about their post high school plans. I was pleasantly surprised to hear him say that the school and guidance counselors were going to help



Mining IMPROVED SIGHTLINES



This morning I noticed a new billboard in Mankato! Mining has been a big controversy in our town, so seeing the billboard was very refreshing. We had our landscaper go out and clear the branches and weeds away, so it looks nice and fresh!

—Kellie Dirksen
Mankato



promote the idea of students exploring tech school and two-year degrees in addition to traditional four-year schools. He included a few statistics relating to pay and such in his presentation and even mentioned a new two-year or trade scholarship that is being introduced this year.

On a side note: Our son is a second-year student studying electrical construction at Bemidji's Northwest Technical College. He plans to become an electrician, just like his dad. We couldn't be prouder of him and the grades he's received, the friends he's made and all that he is learning.

—Teri Willenbring
Monticello

More Great Jobs

I couldn't agree more about the good trade jobs that are going unfilled.

I am the father of five, living in Plymouth.

Our oldest served in the U.S. Navy. His training has served him well as a pipefitter for a large mechanical company in the Twin Cities. Our second son began on a college path but stopped and is beginning his third year in a plumbing apprenticeship. Our third son trained in culinary school and works for a very well-known and popular brewery/restaurant in Minneapolis. Our daughter was trained in cosmetology and is successfully working at a salon in Maple Grove. Our youngest son graduated in 2017 and is also in the U.S. Navy. I believe his older brother had something to do with it.

There are many options out there that do not require a college degree. I'm happy to say we have happy and well-adjusted kids who have a strong desire to work hard and work smart.

—Mark McGrath
Plymouth



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For 27 years, Center of the American Experiment has been Minnesota's leading voice on behalf of freedom and conservative common sense. Most often, that voice has been that of Center staff and Senior Policy Fellows.

Sometimes, it has been that of honored guests and world leaders such as Bill Bennett, Jeane Kirkpatrick, Charles Krauthammer, George Will, Benjamin Netanyahu, and Margaret Thatcher.

But in either case as well as others, American Experiment's work simply would not be possible—our many megaphones silenced—without the support of friends like you.

Would you be so kind to join us as we continue building a culture of prosperity in Minnesota? All contributions are tax deductible.

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UP FRONT

Economics

THE BENEFITS OF THE TAX CUT

Hinderaker testifies to Congress that federal tax cuts are already benefiting Minnesota's economy.

American Experiment President John Hinderaker testified to a key congressional committee in September that Minnesota's economy is already enjoying tangible positive benefits from the Tax Cuts and Jobs Act only eight months since Congress enacted it.

Hinderaker appeared on a panel of national economic experts that analyzed the effects of the tax legislation in front of the Joint Economic Committee of Congress (JEC). Other panelists included Scott A. Hodge, president, The Tax Foundation (Washington, D.C.); Dr. William C. Dunkelberg, chief economist, National Federation of Independent Business (Washington, D.C.); and Dr. Benjamin H. Harris, visiting associate professor, Kellogg School of Management, Northwestern University (Evanston, Illinois).

Hinderaker said official data already confirm what was obvious from many news reports: Minnesota companies are hiring, raising wages and otherwise contributing to Minnesota's economy as a result of the act.

Staff at American Experiment used news accounts to identify 34 Minnesota companies that have announced new hiring and wage increases as a di-



rect result of the act.

Although the timing of some state-level metrics, such as GDP, typically lag national data releases, Hinderaker predicted “there is every reason to believe Minnesota’s GDP has expanded sharply, along with the nation as a whole.”

State-based data on employment and wages from the Bureau of Labor Statistics (BLS) showed Minnesota added nearly 20,000 more private sector jobs at the seasonal hiring peak in 2018 than it did in 2017, Hinderaker said, adding that the jump represented “the biggest jobs gain in at least a decade.”

BLS data also reveal that rising wages in Minnesota reflect the “unmistakable” impact of the Tax Cuts and Jobs Act, according to Hinderaker. “Average weekly earnings in Minnesota have risen by 2.7

percent since January 2018—more than double the 1.2 percent increase in the same period of 2017.” Wage growth, which had stagnated during the second half of 2017, took off with the passage of the act, he said.

Hinderaker told committee members The Tax Foundation estimates the Tax Cuts and Jobs Act will add 6,789 full-time equivalent jobs to Minnesota’s economy, and yield a gain of after-tax income of \$722.40 for each of the state’s middle-income families.

Hinderaker also noted that Minnesota’s Office of Management and Budget (OMB) expects the Tax Cuts and Jobs Act to boost Minnesota’s GDP growth. In February 2017, the office’s forecaster predicted the act would drive robust GDP growth, he said. In November 2017, amid doubts

that Congress would pass the bill, the office lowered Minnesota’s fiscal forecast, predicting a deficit of \$188 million for the current biennium. When the law ultimately passed in December, OMB revised its forecast again, this time upward. Instead of a deficit, it predicted a surplus of \$329 million.

Congress established the Joint Economic Committee and the President’s Council of Economic Advisers (CEA) in 1946 to help provide federal policymakers with a non-partisan review of economic conditions and to recommend improvements in economic policy.

Chairmanship of the committee alternates between the Senate and House every Congress.

Committee Chairman Representative Erik Paulsen (R-MN), ran the hearing. ★

Losing the Border Battles

One way to evaluate the effects of Minnesota's economic policies is to compare border counties. Minnesota mostly comes up short.

Whether it's sports or economics, comparing states is a popular American pastime. Two states that pursue different policy approaches can provide something close to the "natural experiments" that social sciences, such as economics, use in place of lab experiments.

But we shouldn't push these comparisons too far. Even neighbors like Minnesota and Wisconsin, with many similarities, also have different characteristics not driven by economic policy that affect economic outcomes. For example, while both states share a climate, Wisconsin has been hit harder by the manufacturing decline and lacks a dominant urban center like the Twin Cities.

We can exclude most of these differences by comparing interstate counties that share a common border. Factors such as geography, climate, or demographics can be assumed to be uniform between, say, Washington County in Minnesota and St. Croix County on the other end of the I-94 bridge in Wisconsin. The differences in economic outcomes we do see in each county can be attributed with more certainty to differences in tax and regulatory systems in the two states.

Exact rates have shifted around, but since 2000 Wisconsin has consistently had lower taxes overall than Minnesota, and its border counties have been more prosperous than their Minnesota neighbors. For Wisconsin, personal income per capita increased by 3.25 percent annually compared to 3.02 percent in Minnesota. This may seem trivial, but compounding numbers adds up to large differences over time. If Minnesota counties' personal income per capita had grown at the rate of Wisconsin's, their increase would



be \$1,798 higher. We see a similar story with wage growth since 2000, rising 2.51 percent annually in Wisconsin counties compared to 2.41 percent in Minnesota.

Unemployment rates at the border offer another useful comparison. In July 2014, Wisconsin's border counties had an average unemployment rate of 5.6 percent compared to 5.0 percent in Minnesota. Then, in August 2014, Minnesota enacted a series of minimum wage hikes. By January 2018, Wisconsin border counties' unemployment rate had fallen to 3.5 percent compared to 3.9 percent in Minnesota's border counties. In other words, the decrease was nearly twice as large across the St. Croix River.

Looking at Minnesota's other neighbors also shows interesting results. Iowa has high taxes too, including the highest corporate income tax in America, but its total tax burdens tend to be lower than Minnesota's. Correspondingly, Iowa's border counties have experienced slightly higher growth in personal income and wages than their Minnesota counterparts. In addition, Iowa counties have experienced job growth, while the number of jobs in Minnesota's counties is actually in decline.

At the border, North Dakota has outperformed Minnesota across the board. The oil boom might seem a significant factor in this, but the Parshall Oil Field is

in the western part of the state, far from the Minnesota border. This shows the importance of the border county analysis. If Grand Forks benefits from the oil boom, East Grand Forks should see this, as well. Instead, personal income, wages, unemployment, population, and employment growth have all been stronger on the North Dakota side. For example, in the North Dakota counties wages grew 3.83 percent annually compared to 3.50 percent in Minnesota's border counties.

South Dakota is the one state where Minnesota border counties are doing better on a per capita income basis. But a

Since 2000 Wisconsin has consistently had lower taxes overall than Minnesota and **its border counties have been more prosperous than their Minnesota neighbors.**

closer look reveals that South Dakota has experienced significant population gains, while Minnesota has been losing people. It seems young, low earners are moving from Minnesota to South Dakota for better job prospects. As people move faster than economic activity, this pushes down the per capita income numbers in South Dakota counties in the short term, but long term it is better for their economic prospects.

Minnesota is an excellent state because of its people, not its government. The state abounds in natural resources and boasts one of the smartest, hardest working labor forces in America. But bad economic policy can erode all these advantages. If we want to remain competitive, the people of Minnesota need to demand from their legislators policies that will continue to nurture a culture of prosperity. ★

—John Phelan and
Andrew Scattergood



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Minneapolis's grand plan to reduce auto congestion through bike lanes takes bicyclists who barely exist to pathways they don't want to use.

The city of Minneapolis has made it clear one of its top infrastructure priorities is bicycle lanes. With 235 miles of bike lanes in place, Minneapolis has the most bike paths per square mile in the country. But a quick cycle through the city's "Bicycle Master Plan" reveals Minneapolis is planning for an eventual goal of 402 miles dedicated to two-wheeled transportation through more protected bikeways, bike lanes, shared lanes, and bike boulevards.

Why is Minneapolis so intent on mapping out all these bike lanes atop an already chaotic street system? Well, for one, the Minneapolis City Council wants to "increase the number of trips taken by bicycle"—prioritizing human-powered mobility to decrease traffic congestion.

But catering to the tiny bike population has not inspired commuters to ditch their cars and climb on to bikes. Cars are still Minneapolis's chief road authority.

Minneapolis has about 9,400 bicyclists on its streets, according to an American

Community Survey Data Report from 2017—roughly 3.9 percent of total commuters bike to work.

Minneapolis doesn't report traffic data broken down by day and time, so in July American Experiment's summer interns took to the streets to gauge what bike lane usage looks like during prime weather season at various times throughout the day.

Take Washington Avenue, where the city reduced the number of automobile traffic lanes from six to four to provide two lanes for bicycles, despite an analysis Hennepin County commissioned in 2013 that concluded the project would significantly increase traffic congestion on Washington Avenue and on parallel streets, as well.

During a Tuesday morning commute on Washington Avenue, with sunny, 68-degree weather, there were 30 times as many cars as bikes traveling east in an hour's time—1,025 cars to 34 bicyclists. Six of the 34 bicyclists used the sidewalk instead of the bike lanes.

On 26th street, the one-way road leading west from Children's Hospital, all sighted bicyclists opted for the sidewalks and street over the one-way bike lane. From 12:00 p.m. to 12:30 p.m., there were 231 cars and 5 bicyclists, but none of the bicyclists traveled in the same direction as the flow of traffic.

Over on 28th street, a one-way road leading east to Abbott Northwestern Hospital, the one-way bike lane did not get any use during the start of an early afternoon commute. Instead, 13 bicyclists chose to ride in traffic lanes and two on the sidewalk. One hundred seven cars were counted during this half hour stretch.

The city of Minneapolis is mistaken to think adding bike lanes will convince large numbers of commuters to leave their cars behind and start pedaling. The city is also mistaken to think bike lanes are the optimal way to improve automobile congestion. And with the massive multi-year road construction projects currently underway, reducing traffic lanes and limiting parking spots to make room for bicyclists has increased traffic congestion on city streets.

Cars and other vehicles far exceed the number of bikes on the road, and with overwhelming demands already on vehicle lanes, Minneapolis should put the brakes on its bike lane aspirations and focus on what is really needed: more traffic lanes. ★

—Catrin Thorman

American Experiment interns Kyle Hooten, Mitch Rolling, and Andrew Scattergood assisted in compiling the bike data.



The city of Minneapolis is mistaken to think adding bike lanes will convince large numbers of commuters to leave their cars behind and start pedaling.

The Difference

Mining an Opportunity

American Experiment unleashes a comprehensive public campaign to emphasize the statewide benefits of mining.

American Experiment in September deployed an assortment of public outreach tactics—including a television ad featuring NBA legend Kevin McHale—to support the release of a policy paper entitled, “Unearthing Prosperity: How Environmentally Responsible Mining Will Boost Minnesota’s Economy.”

The paper used original research and cutting-edge economic modeling to conclude that developing Minnesota’s vast untapped mineral deposits could create more than 8,500 jobs and contribute \$3.7 billion to Minnesota’s economy, while also protecting the state’s environment. The paper was written by Isaac Orr, an American Experiment policy fellow; John Phelan, its economist; and Debra Struhsacker, an expert with 30-plus years of experience with environmental regulation of mineral exploration and mining.

American Experiment President John Hinderaker acknowledged the hard work that goes into producing a significant paper, from the original research to triple-checking all the facts, but the “real fun for our policy people,” he said, “is turning it into op-eds, TV commercials, and radio ads. They know that their report won’t just be read by a small number of insiders who are interested in public policy. Their messages are going to reach potentially millions of people.”

Thinking Minnesota magazine pre-viewed “Unearthing Prosperity” as its 2018 summer issue cover story. Extensive



publicity around the paper’s formal release in late August “sparked a real debate and controversy about the future of mining in Minnesota,” Hinderaker said. A *Star Tribune* editorial described the paper as “a first-of-its-kind look at the potential of all precious minerals found in the region, such as ilmenite, an important ore for titanium.”

Beyond achieving widespread acclaim for the quality of its research, Hinderaker promoted the paper with statewide billboard and radio campaigns—tactics he has used for other issues. “We love billboards,” he said. “You can’t make a complex argument on a billboard, but you can make a point and then drive traffic to a website (Minnesotamines.com) where they can read our paper, read a fact sheet, download materials, and watch our TV commercial.”

The most dazzling component of the promotional campaign is a 30-second television ad, the first ever produced by American Experiment, which features

a cross-section of regular Minnesotans making a case for mining. It ends with McHale, a Hibbing native whose father worked in a mine, saying, “We support mining in Minnesota because it will be a slam dunk for all Minnesotans.”

Even the ad placement was non-traditional. Hinderaker eschewed placing the ads on most cable news programming—the traditional target of public affairs advertising—in favor of the

Discovery Channel, the History Channel, Lifetime, and the NFL channel, and placements during Gopher football telecasts. “We want to reach the broadest cross-section of Minnesotans we can,” he said. The ads will reach a million-plus Minnesotans on television and another million on the internet, he said, adding, “I want 19-year-olds to turn on the TV or radio and see our ad. We’re not just here for wonks and politicians.”

YouTube advertising enabled Hinderaker to package a 54-second version of the ad, which was seen by 60,000 Minnesotans during its first six days in rotation. YouTube ads typically allow viewers to skip the “commercials” after just five seconds, and go on to see the video they requested. Advertisers are usually content when one person in 100 stays long enough to view the entire thing. By contrast, half the people who see the Center’s “Unearthing Prosperity” ad stick around to watch the whole video. That means, Hinderaker said, that they cost only about a penny per view. ★

Uff-Da

A Classic Runaround

What teachers must do to get a refund from Education Minnesota for their PAC ‘contributions.’

Each year, Education Minnesota charges teachers \$25 for its political action committee (PAC) and \$5 for the union’s Foundation for Excellence in Teaching and Learning. A teacher can get a refund to protect his or her constitutional right not to fund these union activities, but it’s not an easy process.

The Education Minnesota union card, now called a “Membership Renewal,” lists the deductions for the PAC and Foundation as part of union dues, but it does not offer teachers the right to “opt-out” permanently. The card requires teachers to use a different form to request any refund of dues. The request form is available only in the union’s magazine publication, *Minnesota Educator*, or upon limited request. Here is the fine print:

Education Minnesota Refund Request Hotline Message (Length 1:22) *You have reached the Education Minnesota refund request hotline. The refund request forms for the political action committee and the Foundation for Excellence in Teaching and Learning appear in the October issue of the Minnesota Educator. This issue should be mailed to your home between the last week of September and the first week of October. To qualify for the refund, you must be an active member of Education Minnesota.... Only one set of forms may be requested per individual. You may not request multiple forms to be sent to you or request forms for others. Photocopies will not be accepted. These*



forms will not be available to Education Minnesota to mail out to you until the first week of October in the current school year. If you are calling to request copies please leave your name, including spelling, complete address, and the forms you wish to have sent. These forms will be mailed the first week of October. This date also applies to new members starting at the beginning of the school year. The forms

This requirement imposes an unreasonable burden on the constitutional right of teachers not to fund a union PAC.

must be mailed back to Education Minnesota postmarked by October 31st. You can expect your refund check to be mailed by November

30th. If you join Education Minnesota mid-year, you have 30 days from the day you signed your membership to request the forms. Please state the date you signed your membership application on this message. Once you have received your refund forms, please submit within 30 days.

Thank you.

Did you follow that? All for \$30? Could the teachers’ union make this refund process any more irritating?

This requirement imposes an unreasonable burden on the constitutional right of teachers not to fund a union PAC. The PAC, by the way, took in \$1.8 million in 2016 and \$1.4 million in 2017. And virtually all that money funds Democratic candidates or controversial groups like Planned Parenthood.

Many teachers chose to join the union but do not want to fund the PAC, for whatever reason. The legislature should require the union to collect PAC money in a separate transaction from the union card each year. Why should the burden be on busy teachers?

A recent U.S. Supreme Court decision, *Janus v. AFSCME*, strongly and broadly asserted the First Amendment rights of all public employees not to support union activities without first giving their affirmative consent. While the full implications of *Janus* may not be known for many years, teachers and their legislators

should insist that the union adopt new, customer-friendly policies that respect the rights and time of teachers.

Eliminating Education Minnesota’s PAC refund policy is a good place to begin. In fact, the union could surprise teachers this fall and rescind this policy without waiting for instructions from the legislature or a court. ★

—Kim Crockett

A version of this commentary was published in the *Wabasso Standard and Grand Rapids Herald-Review*.

Farage to Headline American Experiment's Annual Dinner

British politician Nigel Farage, architect of Britain's Brexit movement, will be the keynote speaker at American Experiment's annual dinner, May 18 at the Hilton Minneapolis Hotel. Farage,

a former broadcaster and political analyst, is currently vice chairman of the "Leave Means Leave" organization. He founded and led the U.K. Independence Party from 2006-2016. ★



The Future of Policy

American Experiment's Interns
Left to Right: Kyle Hooten is a sophomore at St. Olaf College studying political science and history; Andrew Scattergood is a senior in the Carlson School of Business at the University of Minnesota; Mitchell Rolling graduated from the University of Minnesota in 2018 with a degree in history and Jewish studies; Jack Campbell is a senior at American University in Washington, D.C. studying international relations with an emphasis in economics.



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DENNIS PRAGER

MICHAEL MEDVED

LARRY ELDER

LEARNED BEHAVIOR

An educator's response to violence in our schools.

Recently, I was struck with a strange (perhaps dark) thought: It's been a while since we've had a school shooting. Then I realized it was the middle of summer. There was no violence because there was no school.

It's become our routine—school shootings happening so often that it takes something heinous or extreme to capture our attention. We barely process one before another takes over the headlines. Some dominate the news with a juxtaposition of carnage and heroics. Some only have the carnage.

The *Washington Post* reported earlier this year that an average of 10 school shootings are happening a year since Columbine. By the time the March 2018 article was written, there had already been 11 shootings in 2018, surpassing that average.

The questions pile up. Why the explosive presence of violence in our schools?

Why the copycats and the nonsense, with the “we never saw this coming” and the just-discovered diaries of hate? Why the frequency? The randomness? The callousness?

And what do we do about it?

The problem of violence seems too big to ignore but too complex to resolve. Educators have different theories, as do legislators, conservatives, liberals, idealists, realists, and activists. Some blame religion. Some cry out for more of it. Some look to legislators. Some blame video games, absent fathers, or untreated mental illness. In some ways, they could all be right.

Asking Why

It's time to change the conversation. Gun laws, metal detectors, and armed faculty may slow this down, and a more involved father may help calm the rage in a teenage boy, but those aren't our

problem. The conversation needs to pivot if we're going to see real change.

Our students spend 13 years of their lives in our classrooms, and so we have to ask: Why are we teaching and what are our students getting?

What is our goal? What are we trying to produce? How will we know if we've succeeded?

Values were once assumed as the context for good education. They were a common thread of measurement; a standard for decency, discipline, and direction. They were an assumed essential to what it meant to teach. Values established our nation and then preserved it. For hundreds of years, students weren't determining what was right and wrong; they were discovering it. Learning was not about retaining information but about contemplating what was true and right. John Adams famously clarified our nation's uniqueness with his statement, “. . . Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”

Values differentiated our nation. They distinguished it, existing not as a section of a syllabus, but as the very substance and structure of learning and life. They were the context in which everything was studied, the lens through which we understood each subject.

It is because of this that we can no longer avoid the role of values in education. We cannot pretend that the values erosion that started in the early 1960s in our schools is not costing us dearly.

Education, in the absence of values, makes our students creatures of impulse, concerned only with what is happening

Rebekah Hagstrom

is the founder and headmaster of Liberty Classical Academy in White Bear Lake and is also the co-host of Education Nation, a weekly education discussion on AM 1280, The Patriot.



right now. It caters to whims and spontaneity and shows no restraint or ability to delay gratification. It does not consider virtue, what is true, good, or beautiful, but only what is available and simple. It reduces learning to answers on paper and not to substance in life.

Values and Vision

The discussion of values in education is not something for religious relics. It is not some far-fetched dream of theocracy. Values in education are the way forward. They give our students vision for the future, giving clarity on what things

Education, in the absence of values, makes our students creatures of impulse, concerned only with what is happening right now.

should, and could, be. They give them a better picture of themselves, of their potential, and of their purpose. They produce wisdom and virtue, the combination of knowing what is true and right with the courage and character to live it out.

What is our goal? What are we trying to produce? And can we really steer our schools away from this tragic trend toward extreme violence?

Our students are no longer planning for the future because they're losing their vision for it. It's up to us to restore that. Vision is rooted in something aspirational, something ideal, something that comes from what is true, good, and beautiful; something that is rooted in the same values that steered our Founding Fathers.

Restoring virtues such as brotherly love, forgiveness, respect, and honesty within our teaching will do more than change our curriculum. It will change our classrooms, our students, our schools, and our nation. ★



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5 QUESTIONS

WITH
SHANNON
FULL

Shannon Full, the president/CEO at the TwinWest Chamber of Commerce, has played a key leadership role in helping her members come to terms with Minnesota's skills gap. She has almost 20 years of industry experience, along with expertise in chamber leadership, economic development, talent solutions and management.



How did the skills gap and the worker shortage in general hit your radar?

Over the course of time, the talent shortage has gotten more severe, and more and more chambers of commerce have convened to address the issue through solution-based strategies. It hit my radar when I returned to this market about 18 months ago. TwinWest did a needs assessment and asked our businesses what top challenges they were facing. In every response, talent retention was listed as the top or second from top challenge—whether it was a small, medium-size, or large business, whether it was retail or manufacturing. It's no longer just certain industries. The results of the assessment gave us momentum to do some strategic programming around the skills gap issue.

It is a multi-faceted challenge. What can a chamber do?

Addressing the challenge is definitely in our sweet spot. Talent programming is one of the top things chambers all across the country are working on, and depending upon the individual community, the programming is really focused in a few different areas. The first is around the future talent pipeline. We can look for talent in the K-12 space and in post-secondary institutions and play a role in developing and retaining those future workers.

Chambers have traditionally tried to appeal to their area's workplace culture.

We try to help individuals new to the area acclimate to the region—not just employees, but their whole families. There are always trailing spouse issues and family

issues, so we also connect newcomers to education, faith-based opportunities and volunteer opportunities.

Some say the worker shortage is really a matter of demographics and population shortages. That seems like a particularly troubling conundrum.

I'll give you a real-life example of what TwinWest is currently doing in the K-12 space. We're hearing that we need to make it easier for businesses to engage with educators, students and parents, both in the classroom as well as externally—streamline the whole process and provide skills-based opportunities for them to engage in. Because we need to build our talent pipeline, we need to enhance and change the perception about particular industries.

Describe your skills event.

Our fall Talent Symposium was September 19. We were able to coalesce a really strong team of business leaders, educators and programmatic leaders in the talent space to strategize on efforts to meet the state's short and long-term talent needs. We talked about our K-12 technology platform and identified ways to collaborate and strengthen the talent pipeline while retaining more great talent in our region. And the final piece of our event was a gubernatorial candidate debate on workforce issues. The debate focused on education, business, and Minnesota's talent shortage. We want tremendous leaders who know about the workforce problem to emerge and talk about solution-based strategies. ★

Protests

Uncivil Unions

Unions try—and fail—to disrupt an event to honor two leaders in the employee freedom movement.



Led by the Teamsters, a disgruntled assortment of union protesters unsuccessfully attempted to disrupt a lunch forum in September that featured two prominent leaders in the fight for employee freedom.

The event, sponsored by Center of the American Experiment, was organized to honor Mark Janus and Rebecca Friedrichs. Janus, a social worker employed by the State of Illinois, successfully argued before the U.S. Supreme Court that nonunion government workers cannot be forced to pay fees to public-sector unions. The Court went further, requiring unions to get affirmative consent from employees, and employers to have evidence of that consent, before deducting dues. *Janus v. AFSCME* is considered the most significant court decision affecting public-sector unions in decades. Friedrichs also appeared before the High Court, but her effort fell short in a 4-4 tie due to the death of Justice Antonin Scalia in 2016.

The protesters claimed to represent 12 unions, but Center employees observed only the presence of the United Food and Commercial Workers Union (UCFW), Teamsters 320, the Association of Machinists, and Education Minnesota. A teamster told Center intern Jack

Campbell that the protesters appeared on behalf of all unions, not just public-sector unions. Part of their disruption included driving a Teamster semi-trailer in front of the hotel with its horn blaring, in an effort to keep the speakers from being heard.

The event was held at the Hilton Minneapolis Hotel. Service employees wore “Union Strong” buttons while serving lunch, and several joined the protesters outside the hotel after the food was distributed.

Unions have been upset since the Center launched its Employee Freedom project in 2015 to help free public employees from mandatory support for public-sector unions.

The project has been headed by Kim Crockett, vice president and senior policy fellow at American Experiment. “Public employees do not know their rights, and they are being pressured by unions that do not want to lose their revenue and power,” Crockett said. “Unions have enjoyed, and still enjoy, a position of political privilege that was never envisioned by our constitutional system or representational democracy. Lawsuits have been filed, and legislation is being drafted, to enforce the Court’s ruling. We are up against Goliath, but remember what happened to him.” ★



Education Nation

IDEAS
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The Road to Prosperity

Seven common-sense ideas **that will transform Minnesota's economy for generations.**

Minnesota has many natural advantages, but currently, it is not faring well in comparison with most other states. Like it or not, states compete with one another. Minnesota is losing out in that competition because Minnesotans are over-taxed and over-regulated. Our state government spends too much and wastes too much.

John Phelan, American Experiment's economist, has pointed out that Minnesota's economy in the 21st century is average or worse in job creation, income growth, and GDP growth when compared with the nation as a whole. His report, "The State of Minnesota's Economy, 2017: Performance continues to be lackluster," shows the problem is statewide—the Twin Cities metro area has been below average in job growth and GDP growth

compared with other metropolitan areas.

People move from one place to another for many reasons, but a common denominator is economic opportunity. If good-paying jobs are available, people will follow them. And, of course, lower taxes constitute a form of economic opportunity. Our 2016 report, "Minnesotans on the Move to Lower Tax States," found that Minnesota consistently loses residents to lower-tax states. It's not only "the rich" who flee Minnesota's high taxes; Minnesota suffers a net outflow of residents to other states in every household income category above \$25,000. Minnesota is a magnet for citizens of other states only in the \$0 to \$25,000 household income category. That is not a sustainable business model.

By
John Hinderaker

Minnesota's economic doldrums are a problem, but they also present an opportunity—an opportunity for bold action. Minnesota will not make itself more competitive by nibbling around the edges. Significant changes will have to be made. And the present historical moment is an opportunity for changes that will not only make Minnesota more prosperous but a freer, more rewarding place to live.

Minnesota's conservatives need to go big. We can't realize Minnesota's full potential with small-ball measures. What follows is a blueprint for a real renaissance that could make Minnesota America's most prosperous and most progressive state.

I. Reform Minnesota's Tax System and Restrain Spending

Minnesota can't compete with high-growth states as long as we have one of the highest overall tax burdens in the United States. The Tax Foundation assesses Minnesotans as the 6th most highly taxed Americans. That needs to change, or anything else we do will prove futile. So, how should we reform Minnesota's tax system?

First, **abolish the estate tax.**

Minnesota is one of only 15 states that still impose an estate tax, and of those states, our rate is second highest. Most people don't worry about the estate tax, but those who do are generally mobile. They have to choose between leaving their money to their children or leaving it to the government. Most choose their children. And they vote with their feet by moving to another state. As a result, the estate tax produces very little money—just 0.5 percent of Minnesota's revenue in 2016. In the process, it drives away valuable citizens who if they stayed here would spend money and pay other taxes.

John Phelan reported earlier this year that ending the estate tax might actually produce more revenue for Minnesota because wealthy Minnesotans would stay here, rather than leaving. So, repealing the estate tax is an easy decision.

Next, **repeal Minnesota's corporate income tax.** At 9.8 percent, our current corporate income tax is the third highest in the nation, the equivalent of telling entrepreneurs to start their businesses elsewhere. Just a few decades after Minnesota was regarded as a hotbed of venture capital, we now score far below the national average in venture capital investment per worker.

Repealing the corporate income tax would cost the state just \$1.2 billion in 2017 and would signal to Minnesota businesses and entrepreneurs nationwide that we want them to do business here. Minnesota wants their innovation, their jobs, and their profits; and we want them and their employees to spend their money in Minnesota. Becoming the third state with no corporate income tax would send the message that Minnesota is once again open for business.

Third, **cut individual income tax rates.** Minnesota's notoriously high income tax rates define us as a "blue" state. Aggressive young people will see our 10 percent top income tax rate and immediately (and appropriately) eliminate Minnesota as a place to begin their careers or start a business. Minnesota



Just a few decades after Minnesota was regarded as a hotbed of venture capital, we now score far below the national average in venture capital investment per worker.

needs a competitive income tax structure if it wants to compete seriously for 21st-century businesses, rather than accepting our current slow decline.

Minnesota's tax problem is not limited to its top rate. *All* Minnesotans who pay income taxes are overtaxed. Minnesota's lowest rate—the rate we all pay on our first dollar of taxable income—is 5.35 percent. That rate is *higher* than the *highest* rate—not the lowest rate—in 23 states. This must change.

Minnesota could cut taxes steeply and still not begin to ap-



John Hinderaker is president of Center of the American Experiment. Hinderaker spent 41 years as a litigator with Faegre & Benson and its successor Faegre Baker Daniels, during which time he tried 100 jury cases and appeared in courts in 19 states. Upon his retirement from the legal profession at the end of 2015, he became president of Center of the American Experiment. Hinderaker was chairman of the Center's board from 1998-2000. He founded the website Power Line in 2002 and has been a prominent voice on the internet and elsewhere since that time. He has appeared as a commentator on NBC, CBS, Fox News, CNN and CNBC and is a frequent guest and guest host on national radio programs. John has lectured at Dartmouth College, Harvard Law School, Carleton College, St. Olaf College, Macalester College and the University of Minnesota.

proach states like Texas, Florida and South Dakota, which have no personal income tax at all—and whose economic growth vastly outpaces ours. Cutting every tax bracket by two points, so that the 9.85 percent bracket goes to 7.85 percent, 7.85 percent to 5.85 percent, 7.05 percent to 5.05 percent, and 5.35 percent to 3.35 percent, wouldn't make Minnesota a low-tax state, by any means: we would still have the 10th highest top rate in the U.S. But it would show deep-blue Minnesota that we are serious about making our state competitive. And Minnesotans agree. The most recent *Thinking Minnesota Poll* shows they favor reducing income tax rates in all brackets by 65 percent to 31 percent.

Of course, Minnesota can't replace lost tax revenues with borrowed money, as the federal government does. Significant tax cuts will reduce revenue—although by how much, is an important question—and must be balanced by reductions in spending.

The Minnesota Department of Revenue publishes a document that estimates revenue gain or loss for each one point change in the four current income brackets. Adopting the tax reforms suggested here would reduce state government revenue by \$4.5 billion, or 19 percent, according to Department of Revenue estimates.

That might sound like a lot of money to legislators and bureaucrats in St. Paul who are horrified at the prospect of any spending cuts. But recall that the legislature increased spending by nearly 10 percent last session. This means we can achieve half of the needed reduction simply by rolling back that increase. Minnesotans should ask themselves: did you get a 10 percent raise last year? Most will answer no.

Reducing state spending by 19 percent would bring it to the level of 2012. (Or, in inflation-adjusted terms, 2011.)

Whenever spending cuts are proposed, liberals object that widows and orphans will be starving in the streets. I was here in 2012, and I didn't notice any starving widows and orphans. Did you? There is no reason our state government can't live on the revenue it had before the spending binge brought on by the Dayton administration.

Where should cuts be made? We can see waste everywhere. Probably some spending should be less hard hit—roads and highways, for example—but who takes seriously the idea that government spends our money so efficiently that cuts are impossible? No one. Recent publicity about massive and systematic fraud in Minnesota's welfare system is one more reminder that cuts not only can be made, but need to be made.

Politicians who quail at the thought of a 19 percent cut in spending should take heart from the just-conducted *Thinking Minnesota Poll*, which shows the average Minnesotan believes 20 percent or more of state spending is wasted. *Minnesotans also believe—by*

76 percent to 18 percent—that the state could achieve a savings of 10 to 20 percent by eliminating waste and fraud.

Which brings us to the fact that economists universally recognize the important difference between tax *rates* and tax *revenues*. Tax rate cuts don't necessarily reduce tax revenues by an equal amount. A 10 percent cut in tax rates, if the cuts are pro-growth, may or may not reduce revenue at all.

Earlier rate reductions in Minnesota illustrate this point. Between 1984 and 1988, legislators cut our top income tax rate from 16 percent to 8 percent. (At the same time, the bottom rate increased from 1.6 percent to 6 percent, as the tax structure was flattened.) As a result, income tax collections rose from \$2.32 billion in 1984 to \$2.62 billion in 1988. More dramatically, if we compare the ten years up to 1984 with the ten years beginning in 1988, income tax collections went from an average of \$3.9 billion to \$6.0 billion (because of the long time period involved, these numbers are expressed in constant 2017 dollars). In other words, tax collections rose dramatically after the top rate was cut in half.

Another round of tax cuts occurred between 1998 and 2000, when the top rate was reduced from 8.5 percent to 7.85 percent, while the bottom rate was also cut from 6.0 percent to 5.35 percent. Once again, instead of falling, income tax revenues rose from \$4.7 billion in 1998 to \$5.6 billion in 2000.

Thus, there is every reason to believe a 19 percent reduction in tax rates will not produce a 19 percent reduction in tax revenues. Experience shows that regardless of nominal rates, Minnesota's total state tax collections have represented a remarkably stable percentage of the state's GDP, during the period from 1974



Aggressive young people will see our 10 percent top income tax rate and immediately (and appropriately) eliminate Minnesota as a place to begin their careers or start a business.

to the present. Total tax collections have fluctuated in a range between 6.0 percent and 7.1 percent of state GDP, with little apparent relationship to nominal tax rates. This suggests that if we want to maximize state tax revenues—not exactly my goal as a conservative!—it makes more sense to focus on increasing Minnesota's GDP rather than its nominal tax rates.

All of this means that once we see what revenue is actually collected following the tax cuts proposed here, there will be room for a second round of tax cuts. How steep these reductions can be will depend on the empirical response to the first round of cuts, but experience tells us the second round can probably be substantial.



Minnesota's legislature should require the state to compensate farmers annually, based on current rental values, for land that is taken out of production by regulation.

More than anything else, cutting Minnesota's exorbitant tax rates while constraining state spending will move Minnesota out of the "blue" category and make the state's economy competitive again.

II. Develop Minnesota's Natural Resources for the Benefit of All Minnesotans

The Center's just-published report, "Unearthing Prosperity," describes Minnesota's vast mineral reserves—perhaps the world's richest untapped mineral resources—with a value of hundreds of billions of dollars. Development of even a small portion of Minnesota's copper, nickel, platinum, titanium and cobalt would contribute, according to the IMPLAN software conventionally used by economists, \$3.7 billion annually to Minnesota's economy and would create 8,500 jobs.

Developing Minnesota's mineral resources would also provide a reliable domestic supply of metals that we all need, every day. For example, every smartphone and laptop contains cobalt, almost all of which must currently be imported. Minnesota contains 95 percent of America's cobalt supply. None of it is now being mined; instead, we import cobalt from Africa, often after it has been mined by child labor.

The *Thinking Minnesota Poll* shows strong support for mining statewide. Where Minnesotans oppose mining, it is invariably on environmental grounds. Yet more than half of the Center's mining report is devoted to describing the modern mining technologies and regulatory regime that make mines environmentally friendly. Not a single mine permitted since 1990 has suffered an environmental incident causing it to be placed on the EPA's

National Priority List. Experience shows there is no reason why unfounded environmental fears should prevent development of such valuable resources. Indeed, all around us—in Wisconsin, Michigan, and above all in Canada—mineral resources nowhere near as valuable as those we have in Minnesota are being developed.

Finally, putting Minnesota's mining potential to work would perhaps give the state the nation's most diverse economy. Of course, along with economic growth will come new tax revenues. IMPLAN evaluates those revenues, at the state and local levels, at \$200 million annually. These revenues can be used to further reduce taxes, but another possibility is to dedicate some of them to enhancing Minnesota's fish and game resources.

If, for example, \$40 million annually—20 percent of the incremental tax revenue from mining—was used for predator control programs, additional game-fish stocking programs, and so on, two consequences would follow. Minnesotans who hunt and fish would enjoy improved game and fish resources, and the state's tourist industry would benefit, as well. Attracting more hunters and fishermen from other states would give Minnesota's economy yet another boost.

III. Stop Imposing Unfair Costs on Minnesota's Farmers

Minnesota law requires farmers to protect water quality by establishing "buffers" consisting of perennial vegetation rather than cash crops. Buffers of 50 feet are required for lakes, rivers and streams, and of 16.5 feet for ditches.

Everyone wants clean water. But legally-mandated buffers take valuable land out of production without compensation, thereby saddling farmers with the cost of protecting lakes, rivers



and ditches. Some believe that in many areas (e.g., where there are berms) buffers are unnecessary, or the buffers required by law are excessive.

The Constitution's Fifth Amendment prohibits government from taking property without fair compensation, but courts have often been permissive in allowing uncompensated regulatory takings. Therefore, a legislative solution is appropriate here.

Rather than imposing the cost of buffers solely on farmers, Minnesota's legislature should require the state to compensate farmers annually, based on current rental values, for land that is taken out of production by regulation. This will have two benefits. First, the cost of clean water will not be borne exclusively by farmers. Second, state environmental authorities will have an incentive not to require buffers larger than are really necessary to protect water quality.

IV. Devote Minnesota's Transportation Funding to Roads, Highways and Bridges

The Center's 2017 report, "Twin Cities Traffic Congestion: It's No Accident," documents the fact that traffic congestion is far worse in the Twin Cities than in most metro areas comparable in size and geography. Congestion has quadrupled since 1982 and now costs Twin Cities drivers and businesses an estimated \$4 billion annually.

Why? Because the Metropolitan Council has dictated transportation policies that emphasize trains and bicycle paths over roads and highways. The Department of Transportation is now going along with those policies. Both agencies have publicly stated that reducing congestion is no longer a priority. Instead, they focus on trains and bicycle paths that, as our report shows, actually make congestion worse.

Minnesota's legislature should clearly articulate a transportation policy that prioritizes efficiency and convenience over left-wing ideology. Transportation dollars should be spent on relieving congestion and facilitating vehicle traffic, which is how Twin Cities residents get where they are going more than 95 percent of the time. While perhaps not appropriate for statewide legislation, residents of cities like Minneapolis should protest against misguided local officials who take traffic lanes out of service and replace them with seldom-used bicycle paths.

Traffic congestion is more than an annoyance. It is an economic drag on the Twin Cities and a needless competitive disadvantage. The legislature should take decisive steps to reverse the Met Council's ideologically-driven priorities. Voters will approve: the *Thinking Minnesota Poll* finds that by a 77 percent to 19 percent margin, Minnesotans want

their transportation dollars spent on roads and highways, not trains and bicycle lanes.

V. Focus Energy Policy on Efficiency, Not Cronyism

Since 2007, when Minnesota enacted a 25 percent renewable energy mandate, the cost of electricity in Minnesota has risen 26 percent faster than the national average. Why? Because, as the Center's report, "Energy Policy In Minnesota: The High Cost of Failure" documents, \$15 billion has been spent on wind turbines and transmission lines in a futile attempt to turn Minnesota "green."

Historically, Minnesota enjoyed electricity prices about 20 percent cheaper than the national average. Cheap electricity benefited consumers and gave Minnesota's businesses a competitive edge. But in 2017, for the first time ever, Minnesota's electricity prices were more expensive than the national average, and they are still rising.

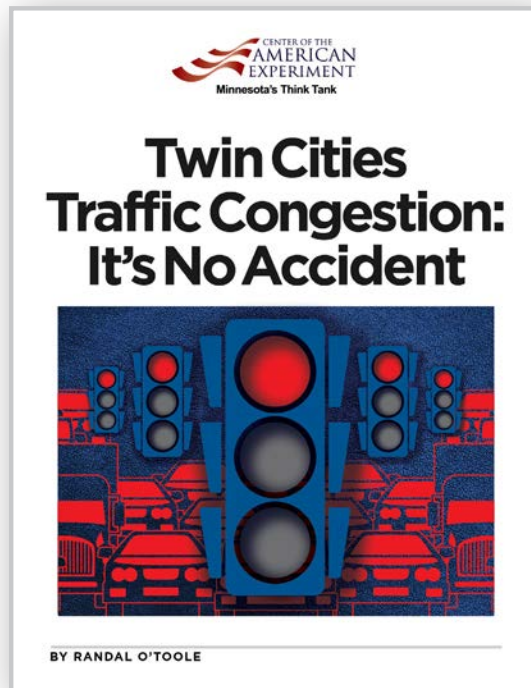
Minnesota's vast expenditure on wind turbines was not justified by a growing demand for electricity. On the contrary, electricity consumption has been flat, and is expected to remain flat. Instead, Minnesota has substituted unreliable wind energy for reliable coal, natural gas and nuclear energy. The problem

is that wind energy, being intermittent and usually coming online when it is least needed, can't actually replace traditional energy sources, because the state needs reliable power capacity sufficient to meet peak demand.

That means \$15 billion has been spent on what is essentially an unneeded add-on to the state's existing power plants. Not surprisingly, there has been no significant reduction in Minnesota's CO2 emissions, which is the ostensible purpose of "green" energy.

Minnesota should get out of the business of subsidizing and mandating energy sources.

The purpose of a utility company is to provide electricity reliably and at the lowest possible rate, for the benefit of consumers and businesses, not to pursue collateral, and in fact unobtainable, objectives. If wind or solar energy ever becomes price-competitive without subsidies or mandates (which are subsidies under another



name, with rate-payers bearing the cost), fine. Meanwhile, the legislature should make it state policy that the Public Utilities Commission will only approve investments that are designed to produce power at the lowest cost to consumers. No favoritism, no special interest cronyism, no subsidies, no mandates.

To effectuate that policy, legislation requiring consideration of a fictitious “social cost of carbon” should be repealed, along with the state’s renewable energy mandate.

VI. Reclaim Minnesota’s Heritage as an Educational Innovator

Minnesota was once a national leader in educational innovation. Among other things, the state was a pioneer of the charter school movement. But those days are long gone. Now Minnesota, like many other states, spends more and more money to achieve stagnating, or worse, results. Our goal should be to get better results with less money. Here are some obvious ways to make that happen.

First, in urban areas, where public schools are generally the lowest-achieving, the best path to improvement is school choice. A student should no more be locked into a failing neighborhood school than into a low-grade grocery store, simply because it is the one closest to his home. Real school choice means 1) religious schools are included as options, and 2) tuition funding, as well as lesser expenses, follows the student. Experience around the country shows that real school choice improves student performance. That is as you would expect. Who cares more about a student’s future: the student and his parents, or the teachers’ union and school bureaucrats?

Second, our state government should take the lead in promoting alternatives to four-year college degrees. We have excellent technical schools in Minnesota, but policymakers have focused too much on increasing the rate of college graduation. The fact is that 70 percent of our young people do not obtain four-year degrees, and the vast majority of jobs in the state do not require such degrees. Many young people graduate (or worse, drop out) with massive debt and no clear career path.

For the minority who really want to pursue higher education, four-year colleges are the best choice. But for young Minnesotans who don’t want to spend four years in classrooms studying books, there are great career alternatives, as outlined in the Center’s paper, “No Four-Year Degree Required.” The paper shows that young people who pursue careers as CNC programmers, plumbers, electricians, and so on, can expect to out-earn the average college graduate over the course of a career.

Further, many Minnesota employers say their biggest problem is finding qualified workers. All states are in a race to solve a “skills gap” because our educational system is not producing young people with the training that employers need to run their businesses. It is generally agreed that states doing the best job of matching training to job needs will have a major competitive advantage. Currently, Minnesota is not seen as a leader in this regard, but the Center’s Great Jobs project is attempting to change that.

Minnesota’s legislature should prioritize technical education in its appropriations. Beyond that, there are many “soft” measures state government can take to re-orient our cultural fixation on four-year college degrees as the only path to success. To take just one example, our next governor should appoint a Commissioner of Education who understands the importance of technical education and puts the influence of the state behind training that will benefit not just Minnesota’s economy, but, even more important, the futures of young Minnesotans.

Third, the legislature should adopt a “bill of rights” for students in Minnesota’s public colleges and universities. Those institutions should be required to disclose basic data including four-year and six-year graduation rates, the percentage of students in each major who are employed within six months after graduation, and the percentage employed in a field related to their major, as well as median starting salaries. Such information will help high school students make informed decisions about their futures.

Finally, state government should take quick action against a pernicious trend that is devastating both inner-city and some suburban public schools: imposition of racial quotas in school discipline. When students who deserve to be suspended cannot be suspended because their race’s quota has been met, they often wander the halls, invading classrooms and sometimes assaulting teachers, as well as other students. This is an insane situation that cannot be allowed to continue. Minnesota’s legislature should pass legislation banning the use of race quotas in school discipline. Voters will approve: only 12 percent support use of racial quotas in school discipline, while 71 percent are opposed.

VII. Free Minnesota’s Public Employees

The Supreme Court’s recent *Janus* decision represents a declaration of independence for public employees. Minnesota should further effectuate that independence by adopting paycheck protection (i.e., making it illegal for the state or its subdivisions to withhold union dues from employee paychecks). Why should state government act as a collector for highly partisan organizations that, to make matters worse, are the largest donors to the state’s politicians? Public-sector unions should collect dues from their members in the same way that other organizations do, rather than benefiting from their special interest status.

A number of other reforms would help reduce public-sector unions’ undue influence. For example, Minnesota should not have “hereditary” unions, where employees never have an easy opportunity to vote on whether they want to be represented by a union. Minnesota should require re-certification of bargaining units by election on a regular basis, every year or every other year, without employees having to file or request the certification.

This is not an exhaustive list of reforms that Minnesota should adopt. But the changes outlined here would go a long way toward restoring Minnesota’s rightful status as one of the nation’s freest, most prosperous and most progressive states. ★



The
THINKING
MINNESOTA
POLL

GOOD RIDDANCE

Minnesotans want to think beyond the policies of the Dayton administration, **especially about taxes and spending.**

By Rob Autry

If you think Minnesotans are looking forward to a continuation of Dayton administration policies, our new *Thinking Minnesota Poll* will provide some compelling reasons to think twice. In fact, this installment of our quarterly survey of Minnesotans reveals some startling discoveries.

- The big policy winners? Tax cuts and reduced spending.
- The big policy losers? Using racial discipline quotas in public schools, spending for light rail and bike lanes, teaching a curriculum of white privilege in public schools, making Minnesota a “sanctuary state” and abolishing the Immigration and Customs Enforcement agency.
- The prime movers? Independents, who disapprove of liberal policies and proposals by mostly wide margins.
- The surprise? Democrats are displaying independence on a variety of issues, with large majorities favoring roads before light rail, cutting government spending by 10 to 20 percent, and rejecting discipline by racial quotas in public schools. They even reject abolishing ICE.

When asked, “Overall, do you want the next governor of Minnesota to mostly continue the policies of Governor Mark Dayton, or take the state in a different direction?” a majority of Minnesotans (51 percent) said “different direction”—12 percent more than respondents who wanted to “continue the policies” (39 percent). But the significant takeaway from this question can be seen in a partisan breakdown. It is no surprise Republicans reject Dayton’s policy direction by 84 percent to 11 percent, nor is it a shock that Democrats favor the Dayton policy agenda by 74 percent to 15 percent. The real news is that a whopping majority of independents—62 percent to 24 percent—are looking for a change from the Dayton years.

The trend of wanting a change from Dayton’s policies is consistent in all parts of Minnesota outside the Twin Cities. While 12 percent more Twin Cities residents endorse a continuation of Dayton policies than want change, the rest of the state favors a

About the pollster

Rob Autry, founder of Meeting Street Research, is one of the nation’s leading pollsters and research strategists.

About the poll

The Thinking Minnesota Poll is a quarterly statewide survey of Minnesotans sponsored exclusively by Center of the American Experiment. Interviews were completed August 30-September 4, 2018, with a mix of cell phone and landline interviewing. A total of 500 registered voters were interviewed for this study. The margin of error for a sample size of N=500 is +/-4.38%.

FIGURE 1: OVERALL, VOTERS SAY THEY WANT THEIR NEXT GOVERNOR TO GO A DIFFERENT DIRECTION THAN GOVERNOR DAYTON.

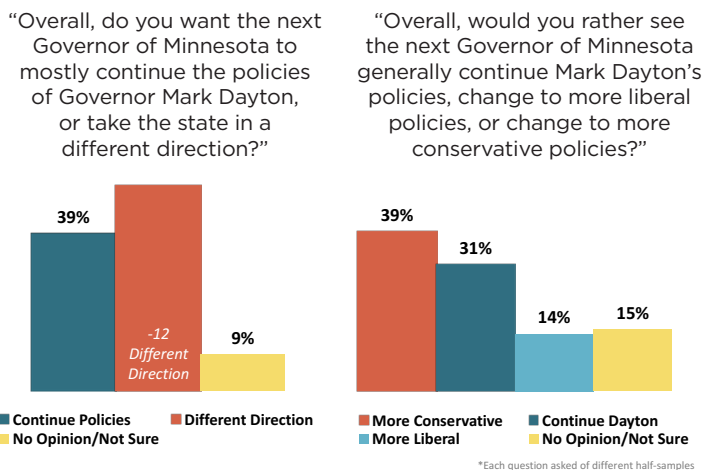


FIGURE 2: ONLY DEMOCRATS WANT TO CONTINUE DAYTON’S POLICIES.

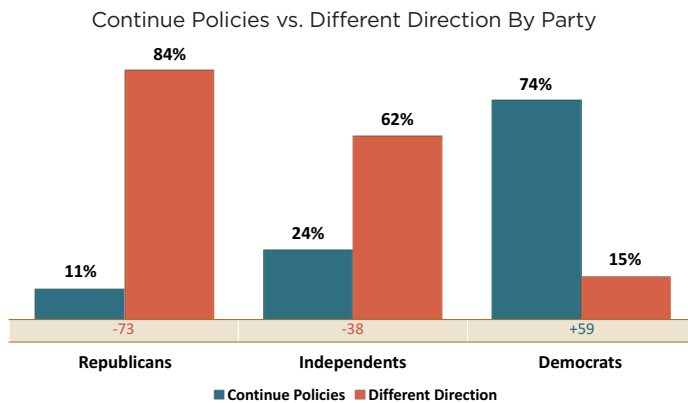


FIGURE 3: OUTSIDE OF THE TWIN CITIES, VOTERS IN MINNESOTA WANT A CHANGE FROM DAYTON’S POLICIES.

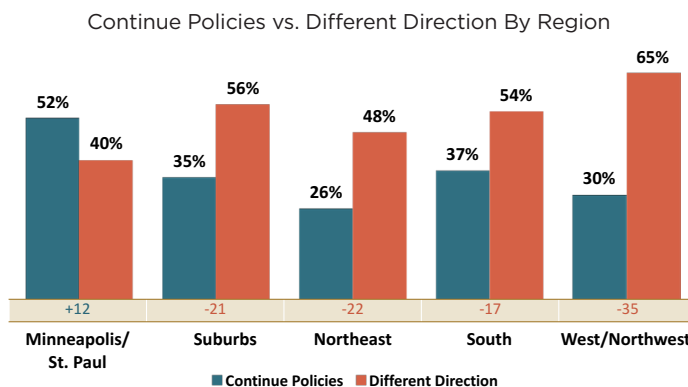


FIGURE 4: BY A TWO-TO-ONE MARGIN, MINNESOTANS SUPPORT LOWERING THE STATE'S PERSONAL INCOME TAX RATES.

"Tell me if you would SUPPORT or OPPOSE lowering Minnesota's personal income tax rates for all tax brackets."

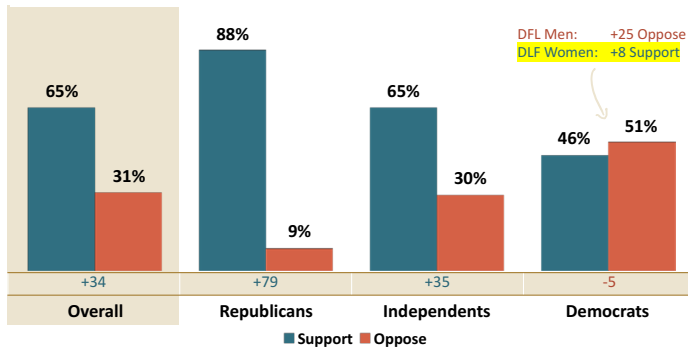
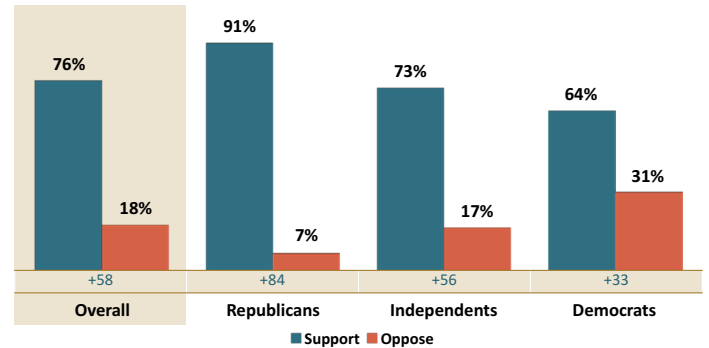


FIGURE 5: CUTTING STATE GOVERNMENT SPENDING IS POPULAR WITH VOTERS ACROSS PARTY LINES.

"Tell me if you would SUPPORT or OPPOSE cutting the state government spending by 10 to 20 percent across the board by eliminating waste and fraud."



new direction by huge margins: 35 percent in the west/northwest, 22 percent in the northeast, 21 percent in the suburbs, and 17 percent in the south.

TAXES & SPENDING

Minnesotans support lowering personal income tax rates in all brackets by a two-to-one margin (65 percent to 31 percent). While Republicans favor tax cuts by a massive 79-point margin (88 percent to 9 percent), independents are not far behind (65 percent to 30 percent).

A majority of Minnesotans (76 percent to 18 percent) across party lines support cutting government spending 10 to 20 percent by eliminating waste and fraud. Republicans agree by 91 percent to 7 percent, independents agree by 73 percent to 17 percent, and it is shocking to see that even Democrats agree by more than two-to-one (64 percent to 31 percent).

TRANSPORTATION

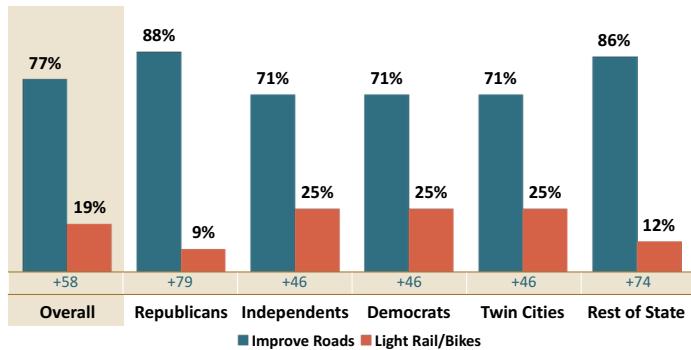
Minnesotans voiced their unmistakable unified preference for state spending to improve roads before funding light rail and bike lanes (77 percent to 19 percent). Included in this remarkable result is the fact that all groups favored roads by at least 71 percent. Republicans were at 88 percent, independents and Democrats were both at 71 percent, as were residents of the Twin Cities. Residents outside the Twin Cities favor roads by a margin of 86 percent to 12 percent.

TEACHING 'WHITE PRIVILEGE'

Minnesotans reject the notion of using public school classrooms to teach a curriculum of "white privilege" by 53

FIGURE 6: VOTERS ACROSS PARTY LINES AND THE STATE WOULD RATHER IMPROVE ROADS BEFORE FUNDING LIGHT RAIL AND BIKE LANES.

“In terms of transportation funding for projects here in Minnesota, would you rather have your tax dollars go to building and improving roads, highways, and bridges, or go to developing and building light rail and bicycle lanes?”



percent to 33 percent. Republicans disagree with the policy by a 61-point margin (73 percent to 12 percent). Independents oppose by a narrower 8-percent margin (46 percent to 38 percent). Democrats favor the policy 51 percent to 39 percent. It is interesting to note that by age, only people ages 18 to 34 support the policy (50 percent to 38 percent). Other age groups disapprove of the policy by margins between 13 percent and 39 percent.

DISCIPLINE BY RACIAL QUOTAS

By a margin of 59 points, Minnesotans across the board reject the notion of using racial quotas in student discipline, 71 percent to 12 percent. (Editor’s note: A lengthy analysis of that discipline policy, “Lesson Not Learned,” can be found on page 28 of this magazine.) The unambiguous rejection exists throughout the state: Republicans (80 percent), Democrats (69 percent), independents (61 percent), the Twin Cities (70 percent), and the rest of the state (72 percent).

SANCTUARY STATE

Minnesotans also reject by 60 percent to 36 percent the idea of making Minnesota a “sanctuary state,” in which federal immigration laws will not be enforced. Only Democrats favor this policy (58 percent to 35 percent).

ABOLISHING ICE

Minnesotans oppose the proposal to eliminate the Immigration and Customs Enforcement agency by more than two-to-one, 62 percent to 29 percent. Even a majority of Democrats disagree with the plan, 51 percent to 41 percent. ★

FIGURE 7: THE TOPIC OF TEACHING WHITE PRIVILEGE AND WHITE SUPREMACY IN SCHOOLS HAS CLEAR PARTISAN DIFFERENCES.

“Turning our attention to the issue of education. Do you support or oppose teaching students in Minnesota public schools about white privilege and white supremacy?”

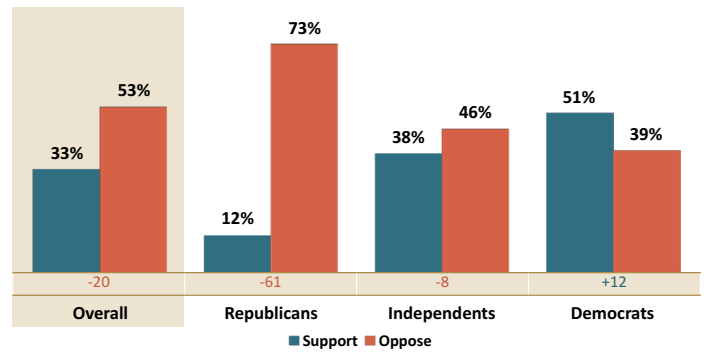


FIGURE 8: ONLY VOTERS UNDER 34 YEARS OLD SUPPORT TEACHING WHITE PRIVILEGE AND WHITE SUPREMACY IN MINNESOTA'S SCHOOLS.

Support/Oppose Teaching About White Privilege And White Supremacy By Age

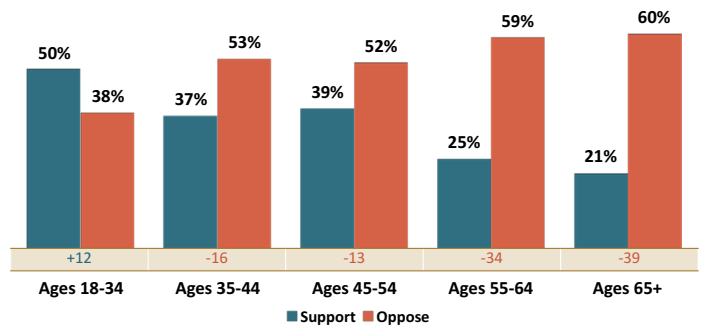
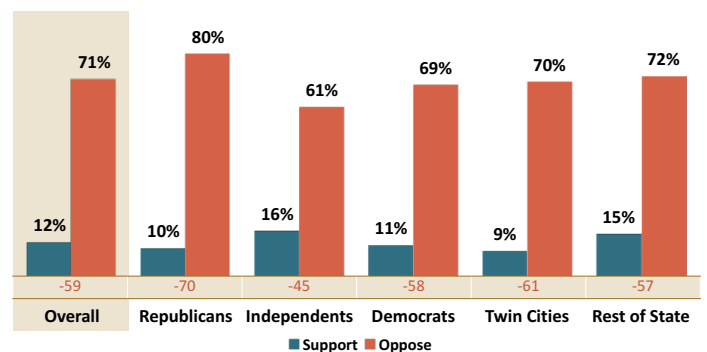


FIGURE 9: USING RACIAL QUOTAS IN DISCIPLINING STUDENTS IS MET WITH WIDESPREAD OPPOSITION.

“Do you support or oppose requiring that public schools in Minnesota use racial quotas for disciplining students for bad behavior?”



**UNINTENDED
CONSEQUENCES**

Lesson Not Learned

Race-based quotas for discipline led to violent chaos in St. Paul schools, so Minnesota's Department of Human Rights decided to double down on the program statewide.

In a breathtaking abuse of power with grave implications, Minnesota's Department of Human Rights claims that 43 school districts and charter schools are disciplining black and Native American students above their proportion of the student population. These racial 'disparities,' it says, are caused by racially discriminatory teachers and school policies, not differences in student misconduct.

By Katherine Kersten

American Experiment Policy Fellow Catrin Thorman contributed research to this report.

A sea change in discipline is coming to Minnesota's public schools. Expect increased violence, brazen challenges to teachers' authority, and a chaotic environment where learning is an uphill battle. Teachers who try to exert control will find their hands tied, and some kids—no longer accountable for their behavior—will feel free to provoke mischief and mayhem.

What's driving this destructive revolution? The Minnesota Department of Human Rights (MDHR). The department has targeted 43 school districts and charter schools around the state, claiming they are disciplining black and Native American students and students with disabilities at a rate that exceeds their proportion of the student population.

The department charges that these racial "disparities" are caused by racially discriminatory teachers and school policies, not differences in student misconduct. It has threatened that—unless school officials radically change their discipline policies and out-of-school suspension practices in ways that reduce statistical differences—MDHR will take them to court.

Under this pressure, as of early September, 37 districts and charters—from the Bloomington and Robbinsdale Public Schools to out-state districts like Winona and Cass Lake-Bena—have capitulated and signed such agreements. (Together, the 43 targeted districts and charters enroll 40 percent of the students in the state, including 68 percent of all black students and 55 percent of all Native American students.) The department has issued administrative

charges against two districts "that did not want to work with MDHR" for "violating" the Minnesota Human Rights Act.

The policy of grounding school discipline in racial quotas has had disastrous consequences virtually everywhere it's been tried. It has provoked classroom disorder and violence and undermined effective education in cities from Los Angeles to New York City.

MDHR steadfastly ignores the mounting evidence that race-based discipline policies produce disorder and undermine learning. That's because its crusade is driven—not by facts or the requirements of law—but by a political ideology. That ideology holds that students of widely different socio-economic and family backgrounds, as groups, all misbehave

in school at exactly the same rate. Based on this premise, the department attributes any significant group disparities to racist teachers and discipline practices, by default.

MDHR's claim that teachers' racial bigotry is harming black and Native American students and blighting their life chances is scandalous if true, defamatory if false.

The department's overarching goal in its crusade appears to be to impose its race-focused ideology by

fiat on all public schools across Minnesota, without the need to convince legislators to change the law. Through threats of litigation and bad publicity, it is strong-arming districts to dilute their approach to discipline in ways that will likely become the new standard that all Minnesota schools must embrace to avoid being dragged into court.



About the Author: *Katherine Kersten, a writer and attorney, is a senior policy fellow at Center of the American Experiment. She served as a Metro columnist for the Star Tribune from 2005 to 2008, and as an opinion columnist for the paper for 15 years between 1996 and 2013. She was a founding director of the Center, and served as its chair from 1996 to 1998.*

MDHR's campaign for race-based discipline

MDHR began its campaign in response to expectations that the federal government will soon back off on enforcing Obama-era race-based discipline policies. However, the department's decision to use state human rights law as a vehicle to compel schools to adopt race-focused discipline practices appears to be virtually unprecedented in the nation.

MDHR launched its initiative in Fall 2017, sending letters to 43 school districts and charter schools. Through these letters and other forms of department communications, MDHR declared that schools across Minnesota have three kinds of statistical group discipline differentials that it alleges violate the Minnesota Human Rights Act. The department summarized the situation this way:

- State-wide, “students of color,” who make up 31 percent of the school population, receive 66 percent of suspensions and expulsions.
- Students with disabilities, at 14 percent, receive 43 percent of suspensions and expulsions.
- Fifty-five percent of suspensions and expulsions are for “subjective” infractions, such as disruptive conduct, threat/intimidation and verbal abuse, while 45 percent are for “objective” infractions, such as fighting and possession of weapons. The department maintains, without evidence, that this level of subjective offenses—which involves teacher discretion—is a function of racial bias on the part of teachers and school administrators.

On its first page, MDHR's letter stated that the targeted school district or charter's discipline disparities—which it listed—“may” violate the Minnesota Human Rights Act. Later in the letter, however, the department declared it “believes” the district or charter is in fact violating the Act. MDHR added that it “is willing to forego” an investigation or

St. Paul Experience St. Paul's desperate failure of punishment quotas by race

The St. Paul schools provide a test case of MDHR's theories about the efficacy of race-based discipline quotas.

There, in 2010, Superintendent Valeria Silva launched what the district's website called “the most revolutionary change in achievement, alignment and sustainability within SPPS in the last 50 years.” Silva introduced all the tactics MDHR is now imposing and put millions of dollars behind them. Her goal: Black students' suspension rate—then 15 times higher than Asian students'—would decline to no more than twice the Asian rate.

How did Silva's new approach work out?

St. Paul students quickly learned they could misbehave with impunity. One veteran teacher put it this way: “We have a segment of kids who consider themselves as untouchable.”

Regarding the district's new therapeutic approach to discipline, former St. Paul fourth-grade teacher Aaron Benner—himself an African-American—wrote in the *Pioneer Press* that “there is no limit to the number of times a disruptive student will be returned to your class.” In 2014, he told the St. Paul School Board that safety, not teaching, had become his “number one concern.”

Anti-racism training for teachers? “Many of us...often go home in tears,” one teacher told *Pioneer Press* columnist Ruben Rosario. “Please, don't give us more staff development on racism or...how to de-escalate a student altercation.... We teachers feel as if we are drowning.”

Requiring teachers to quell student violence? In 2015, Central High School teacher John Ekblad suffered a permanent traumatic brain injury while attempting to defuse a cafeteria fight. The next day, Ramsey County Attorney John Choi branded rising student-on-staff violence “a public health crisis.”

Incredibly, despite this six-year nightmare—which did not erase the racial discipline gap or improve minority academic performance, as promised—St. Paul is one of the school districts MDHR has targeted in its race-based discipline campaign. There is no better evidence of the department's disconnection from reality.



Aaron Benner, former St. Paul school teacher

administrative charges if the district or charter “agrees to negotiate a settlement agreement.”

School officials who received the letter might well ask how any investigation conducted by the department could be fair, since it had already concluded that a statistical gap, in and of itself, is proof of unfair, discriminatory practices.

MDHR did not explain in its letter how demographic differentials in school discipline statistics violate the Human

Rights Act, in its judgment. Nor did it explain what measure it had used to determine how many suspensions of black, Native American or disabled students are “too many.”

To justify its accusations of illegality, the department merely asserted—without evidence and without citing legal precedent—that “disparate outcomes are denying educational access and negatively impacting educational outcomes” for black, Native American and disabled

students “under the Act.”

MDHR’s letter raised countless questions, beyond whether differences in discipline rates for demographic groups do, in fact, violate the law.

For example, is the department asserting that a school’s discipline rates must conform to strict racial quotas? (Clearly, this is the safest course to follow for school officials who wish to avoid drawing MDHR’s attention.) If the law does allow some flexibility, on what grounds does it do so? Why is any racial imbalance tolerable if demographic gaps are illegal?

Likewise, if it’s clear as a school year progresses that “too many” black students have been suspended, must administrators suspend fewer of them going forward, regardless of what they have done? Or should officials handle the imbalance—and the threat of MDHR retaliation—by finding ways to suspend more white or Asian students to ensure racial balance?

Must racial discipline ratios be the same for schools in high-poverty areas and those in middle-class areas? Or is there some allowance for a district or charter with many low-socioeconomic students?

MDHR shrouded its crusade for race-based discipline policies in secrecy. It declined to make public either the letters or the identity of the districts and charters targeted. As a result, parents and other citizens were unable to comment or to examine the data that allegedly exposed their teachers as racists until their local school administrators were cowed into signing a “settlement agreement” with MDHR, and a radical new approach to discipline was a fait accompli.

MDHR’s claims are flawed

Black and Native American disparities

Contrary to MDHR’s claim, the Minnesota Human Rights Act does not confer rights on demographic groups. It prohibits discrimination in education against individuals, and provides that individual students and their parents can request an

investigation if they believe discrimination has occurred at school.

Paradoxically, by encouraging—indeed, compelling—Minnesota schools to treat students differently in discipline matters based on their skin color, MDHR actually appears to be promoting violation of both federal law and our state’s Human Rights Act.

The U.S. Court of Appeals for the Seventh Circuit explained why a race-

representatives and others whose purpose is to “create best practices for reducing suspension and expulsion rates for *students of color, American Indian students, and students with disabilities* (emphasis added).”

The selection devices this committee identifies will be chosen to affect the racial and ethnic composition of the students that a school disciplines. As such, these “best practices” will require

Metrics that Measure Problem Correction

Out of School Suspensions Unduplicated Reasons for Suspensions	16-17	17-18	18-19	19-20	20-21
Non-Discretionary Activities	159	TBD	89	66	50
Subjective Discretionary	132	TBD	57	38	30
Total	291	TBD	146	104	80

Bloomington Public Schools’ new “Discipline Plan” commits it to reduce out-of-school suspensions for objective infractions, such as assault, arson and possession of weapons or illegal drugs, from 159 (the 2016-17 figure) to 50 by 2020-21, a 69 percent decline. Its goal is to reduce “subjective” offenses, such as disruptive conduct and threat/intimidation, from 132 (the 2016-17 figure) to 30 in 2020-21, a 77 percent decline. Targets may be revised when 2017-18 data become available.

based approach to school discipline—which views students not as individuals but as members of racial groups—violates federal law, in its unanimous 1997 decision in *People Who Care v. Rockford Board of Education*. In the words of the court:

“Racial disciplinary quotas violate equity in its root sense. They entail either systematically overpunishing the innocent or systematically underpunishing the guilty. They place race at war with justice.”

Like federal law, the Minnesota Human Rights Act prohibits schools from treating a student differently on the basis of his or her race, sex or other protected characteristics. The law bars schools from dealing with black students one way on discipline matters, and white and Asian students another.

Yet this is precisely what MDHR is pushing schools to do. It is instructing them to find ways to reduce suspensions, not for all students, but for those of certain skin colors. As part of its campaign, the department has formed a statewide committee of school district

deliberate discrimination.

In a recent article in the *Texas Review of Law & Politics*, U.S. Civil Rights Commissioner Gail Heriot explains why actions of this kind violate the law.

“If... in moving towards its goal and expected outcome, [a school’s] employees end up consciously or unconsciously doing exactly what the law forbids—doling out discipline on the basis of a student’s race or ethnicity—it will be in violation of the law, not in some sort of heightened compliance with it owing to its efforts to respond to disparate impact,” she wrote.

Here’s another problem: MDHR’s primary mission under Minnesota law is to enforce the state’s Human Rights Act. But the department’s stance that the law requires demographic discipline quotas creates glaring logical inconsistencies in its enforcement of the act.

Consider this: In Minnesota schools, boys are involved in about 73 percent of disciplinary actions (suspensions and expulsions) and girls about 27 percent. The discipline rate for white students

is about twice that of Asian/Pacific Islander students, according to the Minnesota Department of Education (MDE) website. Nationally, white boys are suspended at more than twice the rate of Asian/Pacific Islander boys.

By MDHR's logic, these disparities must be due, not to actual differences in student misconduct, but to teacher bias against boys and white students. Yet MDHR does not blame the male/female and white/Asian discipline gaps on teacher bias, condemn them as violations of the Human Rights Act, or insist that schools change their policies to eliminate them. On the contrary, it passes over them in silence.

Why? In part, because acknowledging these disparities would require MDHR to admit that discipline gaps can have causes that are wholly unrelated to discriminatory teachers and school practices. Often, demographic differentials are rooted in socioeconomic and family risk factors beyond schools' control, as social science research makes abundantly clear.

One gap of this kind involves chronic absenteeism, defined in Minnesota as missing 10 percent or more of school days. In 2015-16, the chronic absenteeism rate was 37 percent for Native American students and 25 percent for black students, but only 13 percent and 10 percent for white and Asian students, respectively.

Likewise, out-of-wedlock birth rates and poverty rates in Minnesota are far higher for African-Americans and Native Americans than for whites and Asians. And at the national level, young black males between the ages of 14 and 17 commit homicide at 10 times the rate of whites and Hispanics of the same age.

Like the gaps just described, Minnesota's racial discipline differentials are best explained by socioeconomic causes and family risk factors. In 2014, a ground-breaking study by J.P. Wright and colleagues in the *Journal of Criminal Justice* found this to be true

nation-wide. Using the largest sample of school-aged children in the nation, the authors concluded that teacher bias plays no role in the racial discipline gap, which is "completely accounted for by a measure of the prior problem behavior of the student."

The credibility of MDHR's claims on the role of teacher bias is further undermined by the fact that schools with black principals and mainly black teachers are just as likely to have a large racial discipline gap as schools with white principals and mainly white teachers, according to social science research.

The department claims suspension

white discipline rates seen here are repeated in virtually every state in the nation. Clearly, there is nothing unique about Minnesota's racial discipline gap.

Students with disabilities disparities

Another discipline gap that MDHR attributes to teacher bias involves students with disabilities, who are suspended at about twice the rate of those without disabilities. This violates the Human Rights Act, according to the department.

A disparity of this kind might initially strike some Minnesotans as unfair, since the term "disability" suggests dyslexia, blindness or similar impediments to learning.

In fact, however, students with disabilities include those with "emotional and behavioral" disorders (EBD). Students with this diagnosis exhibit "physically or verbally abusive behavior," "impulsive or violent, destructive, or intimidating behavior" and/or "behaviors that are threatening to others or excessively antagonistic," according to the Minnesota Department of Education.

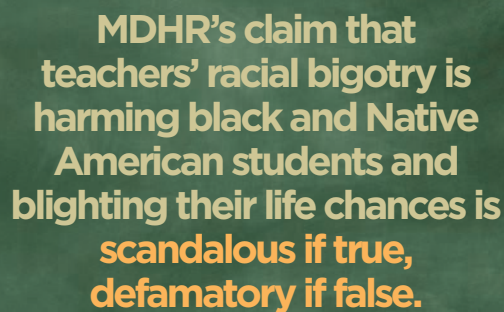
EBD students are precisely those one would expect to

cause trouble in the classroom, and thus to have higher discipline rates. How does this reflect bias on the part of teachers?

Subjective violation disparities

Finally, MDHR claims that school districts and charters violate the Human Rights Act if too many of their suspensions are for "subjective" discretionary infractions, such as disorderly conduct, harassment and bullying. According to its website, the department "found that the majority of reasoning behind the assignment of suspensions and expulsions were [sic] subjective and thus showed bias."

How many is "too many?" MDHR says only that the statewide breakdown of 55 percent subjective, 45 percent objective is illegally discriminatory. These numbers appear wholly arbitrary, and the department has given no indication of what it



MDHR's claim that teachers' racial bigotry is harming black and Native American students and blighting their life chances is scandalous if true, defamatory if false.

and expulsion rates for black and Native American students in Minnesota significantly exceed national rates. But this is not the case, according to data from the U.S. Department of Education Office of Civil Rights (OCR).

According to OCR, in 2011-12, nationally, 20 percent of black male and 12 percent of black female students were suspended, on average. In Minnesota, these figures were lower—19 percent and 10 percent, respectively. Nationally, 13 percent of American Indian/Pacific Islander boys were suspended and 7 percent of girls were suspended, on average. In Minnesota, the numbers were 16 percent and 10 percent. Nationally, 6 percent of white boys and 2 percent of white girls were suspended, on average. In Minnesota, the figures were 4 percent and 1 percent.

The differences between black and

would regard as passing legal muster.

If black and Native American students commit more objective infractions (such as fighting and possession of weapons) than their peers—as seems likely—logic suggests they are also more likely to commit “subjective” offenses. But MDHR has not released statistics on these racial breakdowns.

As a side note, it is interesting to observe that MDHR’s skepticism about the credibility of teachers’ reports on subjective offenses is an abrupt about-face from its position in the past. For example, in 2014, Commissioner Kevin Lindsey helped lead the charge for legislative passage of the Safe and Supportive Schools Act, Minnesota’s comprehensive anti-bullying law.

Far from dismissing bullying as a “subjective” offense—likely to be tainted by teacher bias—Lindsey emphasized the importance of preventing bullying of every kind. “Every student deserves to be free of harassment, intimidation and bullying in all its forms,” he declared on MDHR’s website. Now, the department is

pushing schools to dial back bullying-related discipline (especially for black and Native American students) to conform to racial discipline quotas.

Flaws in the data

MDHR’s accusations of racism against Minnesota educators appear even more inexcusable when analysis makes clear the data the department relied on do not support its claims.

MDHR drew these data from the Discipline Incident Reporting System (DIRS), maintained by MDE. It has described the data it used to identify targeted school districts and charters as “public data.”

The limited scope of the data—which school districts and charters submit to MDE—makes it impossible to draw the connections between demographic suspension rates and teacher bias that MDHR has.

Two limitations in DIRS data are most problematic:

First, MDHR claims that a district or charter violates the law when too many of its suspensions are for “subjective” discretionary infractions.

In fact, it’s impossible, using public DIRS data, to link the students suspended—including their race—with the kind of offense they committed, either objective or subjective. As a result, there’s no way to determine the demographic breakdown of the students involved in infractions of any kind.

Second, public DIRS data include no information about a suspended student’s disciplinary history. This is a crucial omission, because MDHR insists it does not seek not to prohibit suspensions, but merely to ensure a school district uses them as a last resort, after exploring “alternative” measures.

But DIRS does not reveal whether a student misbehaved once—or 10 times—before receiving a suspension. Nor does it indicate how many times that student was given the chance for a “restorative conversation” before a suspension was handed down as a last resort.

As a result, many of the suspensions MDHR assumes were racially

motivated were likely “warranted” by its own criteria.

The conclusion is unavoidable: MDHR has made irresponsible—indeed, defamatory—claims that Minnesota teachers are racially biased, without the data to back them up. Its speculation that teachers punish black and Native American students more harshly than white students for the same offense is utterly baseless.

Given this fact, it is troubling to learn that many targeted school districts and charters have agreed to seriously dilute their discipline policies to fend off MDHR’s threats of litigation.

For example, the Bloomington Public Schools’ new “Discipline Plan” commits it to reduce out-of-school suspensions for objective infractions, such as assault, arson and possession of weapons or illegal drugs, from 159 (the 2016-17 figure) to 50 by 2020-21, a 69 percent decline.

Its goal is to reduce suspensions for “subjective” offenses, such as disruptive conduct and threat/intimidation, from 132 (the 2016-17 figure) to 30 in 2020-21, a 77 percent decline. Targets may be revised when 2017-18 data become available.

MDHR is strong-arming school districts into adopting costly and disruptive discipline policy changes

As of early September 2018, 37 school districts and charter schools had signed an agreement with MDHR to adopt race-based discipline policies. In some cases, details are still being worked out.

The agreements differ in a number of respects, but all create incentives to sweep student infractions under the rug to make a school’s racial numbers “look good.” Many also create burdensome new obligations and reporting requirements that amount to unfunded mandates, and some require districts to work with costly outside anti-racism consultants.

In general, the agreements appear to place entire responsibility for reducing the discipline gap and improving student behavior on teachers and school of-

ficials. They ask for and expect nothing in terms of improved behavior from students and their parents. While stressing students' right to respect, they are generally silent about teachers' corresponding right to respect, orderly classrooms and safe working conditions.

Most of the agreements include the following themes:

First, schools must replace traditional discipline policies with a therapeutic, "non-punitive" approach like "restorative justice" or Positive Behavioral Interventions and Supports (PBIS), a behavior-modification program that focuses on talk therapy and mediation.

Second, schools must implement "professional development" training to eliminate teachers' and staff members' supposed racial biases and to build so-called "cultural competency."

For example, the Rosemount-Apple Valley-Eagan school district's agreement commits it to provide "implicit bias" and "cultural proficiency" training for teachers, and to review "student curriculum, pedagogy and academic offerings with an equity lens to ensure inclusivity."

(A question: Where "cultural competency" is concerned, what happens if a school district determines that black students are culturally disposed to "shout out" in class, whereas Asian students are not? Should black students who continually interrupt the teacher get a pass, while Asian students are disciplined for the same thing?)

In its agreement, the Cass Lake-Bena school district—which has many Native American students—has agreed to "implement yoga and mindfulness strategies and provide Native Drum and Flute Classes providing students a deeper understanding of Indian Cultural Identity."

Third, schools must rely on faculty and staff to deal with student misconduct, and minimize the use of police officers, known as School Resource Officers (SROs).

For example, the Bloomington school district's agreement states that "fighting that does not involve physical injury or a weapon" will be "handled by school

officials unless SRO is necessary to protect the physical safety of students, school personnel or the public."

The agreement fails to acknowledge how difficult it can be to predict when fighting will lead to physical injury, and how dangerous it can be to expect a 60-year-old teacher to control a belligerent, 250-pound high school student (or an enraged fourth-grader, for that matter).

Finally, the settlement agreements generally require school districts and charters to participate in a statewide "Diversion Committee"—run by MDHR—that will develop "best practices" for school discipline, as well as "legislative proposals" aimed at reducing suspensions for minority students. The department apparently intends to use this group to create a discipline template to which all Minnesota public schools must conform to avoid future litigation.

The track record of the new approach to discipline

MDHR assures Minnesota educators and citizens that the new, race-based discipline regime it is forcing on the state's public schools will "help all children succeed." The department insists its new approach will allow schools to "retain local control," "maintain safe environments" and "offer alternatives to suspension."

Yet bountiful evidence makes clear this effort—which substitutes distant bureaucrats' judgment for that of teachers and school administrators on the front lines—is doomed to failure.

The track record elsewhere

Race-based discipline policies have increased danger and disorder in schools, while failing to meaningfully improve academic performance.

In 2014, for example, the New York attorney general compelled the Syracuse Public Schools to reduce racial disparities in suspensions.

Violence quickly mushroomed out of control. In 2015, a teachers' union survey found that the district's teachers and staff felt "helpless" to combat it. Two-thirds of respondents reported

worrying about their safety, 57 percent had been threatened, and 36 percent had been physically assaulted—shoved, kicked, head-butted, choked or bitten. Many described daily harassment in the form of crude and abusive language, often racially or sexually charged.

In 2017, after a Syracuse high school student stabbed a teacher twice, the Onondaga County district attorney issued an urgent call for reversal of the 2014 discipline policy changes.

"Teachers tell us that the 'progressive' (or 'positive' or 'restorative') approach" to discipline "just doesn't work," writes Max Eden, an expert on school discipline at the New York-based Manhattan Institute.

Eden's study of New York City schools survey data found that the percentages of teachers and students reporting physical fights, gang activity and drug use spiked sharply after Mayor Bill de Blasio imposed discipline reforms aimed at making it more difficult to suspend students for "disorderly" or "noncompliant" behavior.

Teacher surveys from a dozen cities around the country yield similar findings. In Philadelphia, where suspensions for non-violent classroom behavior were banned in 2012-13, "more than 80 percent of teachers believe that suspensions are valuable for maintaining safety, removing disruptions so other students can learn, sending a signal to parents about their children's behavior, and helping to ensure that other students follow the rules," according to Eden. In Oklahoma City, 65 percent of teachers favor more enforcement of traditional discipline.

There is little evidence that reducing suspensions improves minority students' academic performance, as MDHR claims.

For example, after the Philadelphia public schools banned out-of-school suspensions for low-level "conduct" offenses—such as profanity and failure to observe classroom rules—and cut the length of suspensions for more serious misconduct, the attendance of previously suspended students improved, but their academic achievement did not. "Never-suspended" peers in most schools that

reduced suspension rates experienced a decline in academic performance relative to a comparison group.

Likewise, a 2018 study by the Wisconsin Institute for Law and Liberty found that academic performance declined in the state's public schools after PBIS was widely adopted there in order to reduce suspensions.

Eden regularly follows three school districts—Fresno, California, Buffalo, New York, and Oklahoma City—where teachers' unions maintain an open forum for comments on discipline.

"The same horrible themes run throughout," he says. These include "principals refusing to manage misbehavior, turning a blind eye to violence, sweeping evidence under the rug, even rationalizing and excusing clear death threats." In conclusion, says Eden,

"Teachers are telling us that administrators are behaving abominably. It's almost impossible to believe that adults, charged with the care of our nation's children, could act like this. But given the top-down mandates to reduce disciplinary statistics, this crass negligence is only a rational response to perverted incentives."

How MDHR's crusade will harm Minnesota

Here in Minnesota, students, teachers and school communities will pay a high price for MDHR's egregious bureaucratic overreach.

The quality of education will likely decline, especially in low-income neighborhoods. Children who come to school ready to learn will be the biggest victims, as the resulting chaos makes their quest for a decent education more difficult than ever.

Making matters worse, MDHR is targeting the charter schools—like Best Academy in Minneapolis—that many minority or low-income families have chosen in an effort to escape failing city schools. These high-expectations, "beat the odds" charters offer structure,

discipline and academic rigor not generally found in other public schools. Now, MDHR is compelling them to dilute the very conduct standards and discipline policies that undergird their success.

Teachers will suffer too. Morale is likely to plummet, early retirements will increase, and recruiting and retaining good teachers will become much more difficult.

We can also expect a surge in costly lawsuits by students and teachers who are injured or harassed. Schools have a duty to protect the children under their care, but MDHR's new policies are tying their hands as they seek to control school violence and bullying. Federal civil rights

result, policies that effectively restrict suspensions to only the most serious offenders will tend to increase black students' proportion of all students disciplined.

MDHR's fundamental problem

Schools must do two things to ensure an orderly classroom environment that is conducive to learning. They must 1) adopt high standards of conduct, and 2) enforce discipline policies that hold students accountable for their behavior. But this commonsense approach is wholly inconsistent with MDHR's ideology, which focuses on students' skin color, not their conduct.

At base, what's driving MDHR's power grab is the department's distorted and inflated vision of its own mission.

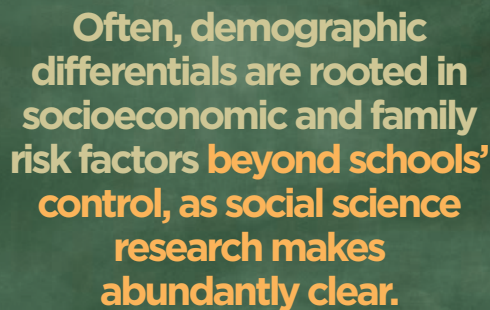
MDHR's leaders aren't content to enforce the state's human rights act, as written. They have far more grandiose aspirations. As Commissioner Lindsey declared in an unguarded moment, MDHR's race-based discipline crusade is intended to do no less than prepare Minnesota for its demographic future.

The department's "efforts" to reduce statistical differentials in discipline rates, Lindsey said in a press release, "will help build a stronger Minnesota that is ready to embrace the dramatic demographic changes in our near future as our population ages and becomes more diverse."

Where in Minnesota law is MDHR given authority for social planning of this kind?

The truth is, the department is using claims of teacher racial bias—a defamation for which it can produce no evidence—as a vehicle to press its utopian vision on Minnesota's children and their families and teachers.

MDHR leaders are well aware that socioeconomic factors play a major role in the racial discipline gap. For example, the department promises in many settlement agreements to help school districts



Often, demographic differentials are rooted in socioeconomic and family risk factors beyond schools' control, as social science research makes abundantly clear.

lawsuits are possible as well.

Finally (and ironically), schools that change their discipline policies in line with MDHR's directives will likely see their racial discipline gap increase, rather than decrease.

In 2017, James Scanlan, an attorney based in Washington, D.C., explained this statistical phenomenon in testimony before the U.S. Commission on Civil Rights. According to Scanlan, while policies that generally relax behavior standards cause the numbers of students of all races who are suspended to decrease, they cause the proportion that black students make up of suspended students to increase.

This is because black students who are disciplined tend to make up a larger proportion of students with multiple suspensions than they make up of students who receive one or more suspensions. As a

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obtain resources from philanthropic and government sources in order to improve their students' economic and social situation. The resulting "enhanced alignment of government programs and services seeking to assist low-income households and eliminate homelessness may have a positive impact on reducing behaviors that could result in suspension and expulsion," according to MDHR.

But if this is so, why does the department blame teacher bigotry—rather than students' low socioeconomic status—for the racial discipline gap? The truth is, MDHR needs to attribute the gap

The department attributes any significant group disparities to racist teachers and discipline practices, by default.

to racial discrimination: This is what gives it authority to force its race-based discipline ideology on the children and families of Minnesota.

Long-term, MDHR intends to use its bureaucratic power, its insulation from accountability, and its almost limitless budget and access to the courts to create what it views as a just society. By targeting 43 school districts and charter schools, it intends to strike fear into all the rest—whose leaders will scramble desperately to do whatever it takes to avoid a similar fate.

MDHR is promoting a radical plan to single-handedly turn Minnesota schools upside down in the name of an ideology that has brought havoc across the country, while failing to improve the lot of minority students. This breath-taking abuse of power has grave implications for the academic preparedness and capacity for self-government of our state's future citizens. ★



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The background of the entire page is a photograph of the Statue of Liberty, showing the top of her head with the crown and the top of her right arm holding the torch. The image is in a slightly desaturated, greenish-tan color.

INTERVIEW

How Deep is the Crisis in

AMERICAN FREE SPEECH?

American Experiment President **John Hinderaker** interviews renowned legal scholar **Alan Dershowitz** about attacks on First Amendment rights, and what can be done.

Professor Dershowitz, I graduated from Harvard Law School in 1974, and you were already on the faculty. You've had a remarkably long run at the law school.

Alan Dershowitz: It was 50 years. I started when I was 25 years old. I had students in my class who were older than I was. I remember my first class I taught there, I had David Gergen, Stuart Eizenstat. I had so many people who had distinguished careers. I've had over 10,000 students, and I would say I'm proud of almost all of them. I won't name the ones I'm not so proud of. But I've been very fortunate to be able to have some influence on the legal thinking of generations of students.

There's a widespread sense that free speech is under attack in America in a way that we haven't seen for a long time. Talk about that a little, if you would.

I grew up during McCarthyism, so I understand when free speech is in danger. Free speech was very much in danger

When you hear about hate speech on college campuses, it's only hate speech from the right. Nobody tries to ban hate speech from the left.

when I was a college student, and I defended the free-speech rights of people who I fundamentally disagreed with, communists and people of every background. In those days, it was the right that was trying to suppress free speech. Today, it's the hard left that's trying to suppress free speech. Just think about a headline in the last hours, where the *New Yorker* under pressure from hard-left people, cancels a speech by a controversial conservative speaker and the public seems to accept that.

Today, conservative speakers are banned on college campuses. There was an effort to ban me at Berkeley because I am pro-Israel, support the two-state solution and have a moderate view on the Middle East. The ban failed because I threatened to bring a lawsuit. But there are great dangers with limitations of free speech on college campuses today. College students are the future leaders of our country. And so, the kind of diminished respect that we seem to have for the marketplace of ideas among young people has the danger of spreading to leaders of our country in years to come.

It seems to me there are multiple threats to free speech. You've mentioned the universities as one place where free speech, especially conservative speech, is very much under attack. What do you see as the solution?

The solution is that students demand the right to hear speakers of every background and every type. Free speech is also being suppressed in the classroom itself. We have teachers who will not allow alternate points of view to be expressed in their classrooms. They use the lectern as a vehicle for propaganda, teaching students not how to think, but what to think. And that's another subtler danger to free speech. I remember, too, that universities are not just the properties of a current student body. The constituents of universities include alumni, donors, and other people in the community. And I think there ought to be more active efforts to make sure that the university remains an open marketplace of ideas to all points of view.

One thing Center of the American Experiment has exposed over the last year or two is that suppression of free speech and political indoctrination now extends down into high schools and even earlier grades.

I think we're seeing a diminution of free speech, generally, all through our culture. And I think it's very, very dangerous, because you're right. Even in high schools there are efforts to constrain the open marketplace of ideas. I think it has to stop.



Professor Alan M. Dershowitz is the Felix Frankfurter Professor of Law at Harvard Law School. He has been called one of America's "most distinguished defenders of individual rights," and "the best-known criminal lawyer in the world." A graduate of Brooklyn College and Yale Law School, he joined the Harvard Law School faculty at age 25, after clerking for Judge David Bazelon and Justice Arthur Goldberg.

Another battleground in the free speech wars is how the left outsources censorship to Silicon Valley. We've seen how the tech titans of Silicon Valley, all of whom seem to lean left, minimize conservative voices in a variety of ways. And that's a tricky issue, because those private companies are not subject to the First Amendment.

It's a very tricky issue, and the hardest part of it is—I'm speaking for myself now—I don't know what the truth is. I hear people like Sheryl Sandberg and others testify to Congress that it's not true. They use objective algorithms, they

say, and they don't put their thumb on the scale against conservative points of view. They acknowledge that most of their employees are on the left, but they claim there's no impact.

I think the first step is to learn the truth, and we're not going to learn it from Congress. We're not going to learn it from corporate officials. I would like to see scholarly work done on this, with the cooperation of these companies, with objective, neutral people looking into what the truth is and in what way the thumb of censorship may be on the scales. As I say, I don't know the reality. I don't believe the self-serving arguments of either side at this point; I don't take them as gospel. Then, once we know the truth, we can decide whether to treat these very, very large corporations as essentially public utilities or whether we should just allow the marketplace to operate and allow conservatives to come up with their own algorithms.

I'm also concerned that free speech has become very adversarial, and the media have become adversarial. As a defense lawyer, I'm used to an adversary system. I present one version of the facts, and prosecutors present another version. Then there's a fact finder, judge or jury. I never thought that was going to be true of the media. But today, if you want to figure out the truth, you have to watch all sides; you're going to get totally different versions of the truth from CNN, from Fox, from the *New York Times*, and from other places. And the editorial page has morphed into the front page. The *New York Times*, for example, now features news analysis on the front page. Well, news analysis is often a disguise for editorials. So, I do think we're seeing the introduction of an adversarial system into the media. And many people only want to hear one side.

There are people who watch only Fox, and people who watch only MSNBC. And they accept the truth of Fox and the truth of MSNBC as the ultimate truth. Now, that's not as bad as the *New York Times*, because everybody knows Fox has a point of view. Everybody knows MSNBC has a point of view. But the *New York Times* claims it publishes all the news that's fit to print. I don't believe

that. I think the *New York Times* publishes all the news that fits its narrative. And its narrative has been moving further and further to the left. I can think of so many instances where important news just never appeared in the *New York Times* because it didn't fit the narrative of its editors and its publishers.

I think most people have figured out that newspapers like the *Times* and the *Washington Post* very much have a point of view, and people read those newspapers with that understanding in mind.

I hope so. But I think there are a lot of people who don't. I know people who just believe everything they read in the *New York Times* or hear on NPR. And I know people who believe everything they hear on Fox News.

We have teachers who will not allow alternate points of view to be expressed in their classrooms. They use the lectern as a vehicle for propaganda, teaching students not how to think, but what to think.

Going back for a moment, Professor, to the tech titans of Silicon Valley. You see YouTube demonetizing Prager University's videos and Facebook labeling Diamond and Silk, a comedy duo that likes President Trump, as "unsafe." I find it very hard to see things like that and not believe there is a thumb on the scale.

I've been victimized myself. I gave a series of lectures to Prager University, and one of them talked about the establishment of the state of Israel as purely historical. It talked about how Israel was established by the pen, not the sword, that most of its founders were lawyers and that they insisted on full legal

documentation, that the land was bought from distant landlords. It was all factual, all documented. And YouTube decided that it was not appropriate for children to watch. I'm not bringing a lawsuit because I have concerns about bringing lawsuits against the media, but Prager is bringing the lawsuit about my video.

Interesting. You mentioned the possibility of bringing competitors to some of these platforms, that maybe conservatives should set up their own Facebook, their own Twitter, whatever. But isn't there a problem arising from network effects? In other words, I wonder whether these platforms don't tend to be natural monopolies. You know, we used to have Facebook and Myspace. Well, now we just have Facebook. And the value of the platform depends in considerable part on the fact that everybody's on it.

It's interesting because you now get conservatives who are generally completely in favor of free market competition complaining about the free market effects of Facebook establishing a monopoly. And it's the liberals who for years have said we need some government regulation that are now saying hands off. This is a very difficult problem. I think a lot more thought has to go into it.

You know, taxi cabs are owned by private companies, but they can't refuse to serve people, and they can't discriminate against people in certain neighborhoods. Sometimes private companies serving the public have obligations beyond simply what the market provides. It's complicated. Of course, the difference is that taxis need medallions. They need some government approval, whereas Facebook can operate with no government approval at all. So, it's very complicated. And for a civil libertarian like me who believes strongly in free speech and in government staying out of regulating the media, it presents a particularly difficult dilemma.

As a civil libertarian, I put myself in that category, as well. The natural assumption for hundreds of years has been that the threats to free speech will come from the government, from

an administration that's in power. This is a very strange world that we're living in where that doesn't really seem to be the source of the major threats.

Threats come from numerous directions. Ultimately, I think, the greatest threats do come potentially from government, because government has the power to shut down free speech much more than any private individual. Private individuals, private companies have the power to put the thumb on the scale, but only government really has the power to shut it down. I mean, just look at the former Soviet Union or Nazi Germany or any of the places where real repression occurred. It occurred largely from a government. But I think, today, we're seeing additional threats to free speech come from universities, from faculty, from students, from Antifa and other groups, as well as potentially from social media. So, we need a system of checks and balances in place where the media checks the President, the President and the Government, then legislatures and judiciary branches all play a role in making sure we expand the marketplace of ideas and keep it open.

The First Amendment, obviously, is the legal bulwark of free speech, but it doesn't exist in a vacuum. We have a First Amendment because we, as a people, put a high value on free speech and the open exchange of ideas and vigorous debate. But there are a lot of Americans who no longer support that principle.

That's why we have the First Amendment in the Constitution. You can't change the First Amendment except by the amending process, which is almost impossible under our constitutional system. So, the First Amendment is here to stay, fortunately. And the First Amendment says that even if the majority of the people don't want to hear free speech, they have no choice. They can't suppress it. When I was growing up during the McCarthy period, I would say the vast majority of the people would have banned Communist speech. And when I defended the rights of Nazis to march in Skokie, Illinois, the vast, vast majority

of the people would have said, "No, no, no. Nazis aren't included in free speech." But the First Amendment trumped. And I think that's why it's so important, and that's why we need the First Amendment to be counter-majoritarian. To make sure that the majority never tells us what we can hear and what we can say.

The American Civil Liberties Union is one organization that historically defends free speech, even when it is unpopular. It's not clear to me that the ACLU is as four-square a defender of free speech as it has been historically. What do you think?

I agree 100 percent. The ACLU no longer has free speech as its first priority. It has equality, women's rights, and a whole range of agenda-driven left-wing issues as its primary priorities. And it plays an effective role to suppress free speech on college campuses. It's really asleep at the wheel about some of the most important issues regarding free speech in America. Today, if free speech clashes with the rights of women or the rights of gays or the rights of progressives, you're going to have at least a debate within the ACLU as to whether or not to support the free speech of people who they regard as anti-progressive.

There's a great organization called FIRE [Foundation for Individual Rights in Education], which looks into suppression of free speech on college campuses. But even FIRE came under attack at Yale when they tried to prevent [Greg Lukianoff, FIRE's president and CEO] from speaking because he was calling for free and open free speech from all points of view, even those regarded as sexist or racist or homophobic. I personally abhor these points of view, but I defend the rights of people to express them.

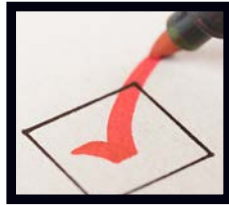
One powerful attack on free speech is the idea that there is a hate-speech exception to the First Amendment, which survey data suggest appeals to many, many college students. This is an old question in constitutional law that's been answered many times, right?

But the *New York Times* claims it publishes all the news that's fit to print. I don't believe that. I think the *New York Times* publishes all the news that fits its narrative.

And answered correctly, because one person's hate speech is another person's protected speech. When you hear about hate speech on college campuses, it's only hate speech from the right. Nobody tries to ban hate speech from the left. When people call Zionists fascists or when they attack pro-Trump supporters it's not regarded as hate speech. Hate speech is not neutral. Hate speech is a weapon that the left today uses against centrists and conservatives in much the way hate speech was used, perhaps, the other way in years past. But the concept of hate speech should have no role, none whatever, in legal or constitutional analysis.

And historically, it hasn't. Just within the last year or so, there was another nine-to-zero decision by the U.S. Supreme Court on copyright, as I recall. But again, the proposition that hate speech is protected speech was reaffirmed.

I think the Supreme Court will continue to uphold free speech in the face of attacks from the left. I hope it will also uphold it against attacks from the right. There's no room for affirmative action in free speech. You can't have different free speech depending on race, ideology or political party. There has to be a circle of civility, which is adopted by universities. Whatever is permissible on the left must be permissible on the right. Whatever is not permissible on a college campus has to be not permissible on all sides of the political spectrum. You can't have any kind of favorable treatment of one kind of speech over another. That is the death of the First Amendment when that happens. ★



Employee Freedom

Why ‘affirmative consent’ will be the new battleground to end forced unionism.

Center of the American Experiment launched the Employee Freedom Project in November 2015 to help free public employees from forced unionism and end the dominance of public-sector unions in setting state policies. Our motivation was that it is hard to make progress on education, pension reform, and other issues when public employees are required by law to fill the coffers of Education Minnesota, AFSCME Council 5, the SEIU and AFL-CIO, all well-oiled political machines masquerading as collective bargaining agents.

Since the project’s launch, the Center helped defeat certification of a union preying on child care providers for poor families, is working to decertify a union

that skims dues from Medicaid benefits for the disabled (see sidebar nearby), and is educating public employees on their constitutional right to take a job without funding the union’s political agenda (which was restored by the U.S. Supreme Court’s ruling in *Janus v. AF-SCME*). As we look ahead to the 2019-2020 legislative session, we have some bold ideas that would enforce *Janus* and expand employee freedom.

The Center wants citizens to understand that unions often thwart bi-partisan policy proposals that have little, if anything, to do with employee compensation or work rules—and the unions do it by leveraging the paychecks of our fellow citizens who work as public employees.

The unions effectively use the rhetoric and symbols of class warfare (e.g., raised fists) to keep employees anxious and dependent on the union. This makes us all feel more divided than we really are.

For over forty years, unions have enjoyed a position of power not occupied by any other player in our representative democracy. Once certified, they are the *exclusive representative* for all employees in a bargaining unit, even employees who choose not to join the union. As such, they take a cut of every employee’s paycheck. And the kicker is that the government collects the dues, *even PAC money*, for the union. Under Minnesota labor law, unions are not required to stand for recertification; and it is nearly

BY KIM CROCKETT

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impossible for employees to decertify a union once it is in place. That is why we call them “government unions.”

Think about the billions of dollars that have flowed into the coffers of government unions since the 1960s. How has that funding shaped and warped our political process? The Supreme Court held in 1977 that forcing public employees to fund a union *as a condition of employment* did not violate the Constitution. The Court had naively concluded that explicit political activities could be distinguished from collective bargaining and that unions could be trusted to fairly charge non-members just for the cost of representing them. The Court acknowledged in the *Janus* case last June that the distinction is unworkable, ruling that everything unions do is political speech, and that citizens who work in the public sector cannot be forced to fund it.

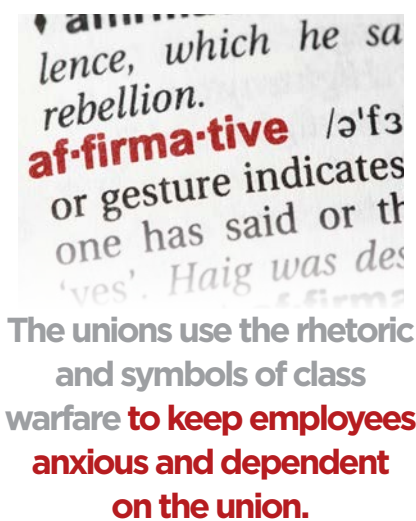
Public-sector union money invariably flows to one political party and an increasingly radical, openly socialist agenda that interprets policies through the divisive lens of race, gender and class. If you doubt this assertion, visit the website of any government union. You will find advocacy for open borders, voting rights for illegal aliens and socialized healthcare. Think about what has happened to our electoral politics, the size of government and our culture since 1971. Think about what has happened to the Democratic party since 1971. Would Hubert Humphrey recognize it?

It is therefore hard to overstate the importance of *Janus v. AFSCME* to our constitutional Republic and democratic process. While most employees are not rushing for the exits, the Court’s long-anticipated decision had immediate financial consequences for unions and, over time, will reduce the power of government unions and force them to focus more on actual representation of members and less on politics.

Across Minnesota, government employers stopped deducting “fair-share” fees from the paychecks of employees who had exercised their long-standing, constitutional right not to join the union.

These so-called “fair-share” fees were anything but “fair” at 85 percent of full union dues, which for teachers can be over a thousand dollars a year. Those fees, now illegal, were essentially a forced contribution to the DFL.

The Center estimates that union revenue will fall about \$10 million over the next year in Minnesota alone. For example, Education Minnesota reported in 2017 that 6,534 educators paid fair-share fees, representing an estimated \$5.3 million in lost revenue. (We deal in estimates because unions are not subject to detailed disclosure laws on



finances, but federal filings should reveal the impact on membership.) Over the next five years, we expect that 20 to 25 percent of public employees will resign from union membership, and that fewer new employees will join as the *Janus* decision changes the default from nearly automatic union membership to having a choice.

Here is the Court on *Janus*: “The idea of public-sector unionization and agency fees would astound those who framed and ratified the Bill of Rights. ... We do know ... that prominent members of the founding generation condemned laws requiring public employees to affirm or support beliefs with which they disagreed. ... Jefferson denounced com-

pelled support for such beliefs as ‘sinful and tyrannical’ ...”

Private-sector unionism, which bargains over profits, peaked in 1966 at about 35 percent of Minnesota’s private workforce. It has now shrunk to about six percent. Most workplaces are safe and the perceived utility of paying a union has shrunk dramatically. By contrast, public-sector unionism, which became legal in Minnesota in 1971, bargains over taxes. It continues to grow even though most employees work in an office and get pay and benefits that are comparable to, or exceed, the private sector. (They will never hear that from the union.) In Minnesota, about 98 percent of 34,000 state employees are represented by a union. The municipal public workforce, including K-12 schools, has about 250,000 employees, and one of the highest rates of unionization in the nation, at 54 percent.

Fair-share payers like Mark Janus and Rebecca Friedrichs, who took their legal argument all the way to the Supreme Court, got an immediate pay raise in June. But more importantly, their First Amendment rights were recognized for the first time in their public careers.

But how did the *Janus* decision help employees who belong to the union? The Court made it clear that employers and unions had to have *the affirmative consent* of employees before dues are deducted from paychecks. Justice Joseph Alito, writing for the majority, said, “States and public-sector unions may no longer extract agency fees from nonconsenting employees,” and “[n]either an agency fee nor any other payment to the union may be deducted from a nonmember’s wages, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.” The decision establishes an opt-in procedure for “nonmembers ... waiving their First Amendment rights, and *such a waiver cannot be presumed.*” (Emphasis added) Further, Justice Alito wrote, “Rather, to be effective, the waiver must be freely given and shown by ‘clear and compelling’ evidence.”

Mrs. Greene Goes to Washington Scheme to Skim Union Dues from Medicaid Payments to the Disabled May Soon End

If an Obama-era policy is rolled back, families of disabled people will be protected from a dues-skimming scheme that diverts Medicaid dollars into the political coffers of government unions. At the same time, the fight to end the dues-skim is still very much alive here in Minnesota.

The Center is continuing to work with a coalition of almost 11,000 personal care attendants (PCAs), that wants to decertify the SEIU's Healthcare Minnesota union. According to labor lawyer Doug Seaton, it is the largest decertification effort in U.S. labor history.

Medicaid funds a program that pays family members or friends to provide in-home care for disabled Americans; compared to



PCA Kris Greene traveled to the Capitol with the Center's Kim Crockett to meet with officials.

and protect the transfer of Medicaid dollars to the SEIU, which in turn funds an increasingly leftist DFL agenda.

MNPCA attorney Doug Seaton assured *Thinking Minnesota* that, "The state decertification fight is not over. In addition to an on-going case in Ramsey County Court that could result in a decertification vote, MNPCA is collecting a second round of cards from PCAs." If MNPCA is successful, a new election would be ordered in early 2019. The Center's efforts at the federal level may yield big results yet this year. In 2014, the Obama administration, as a gift to government unions, codified an exemption that allowed union dues to be deducted from Medicaid benefits. The Center and other colleagues

around the country reached out to members of Congress and to Health and Human Services officials (HHS) to explain how this scheme is hurting families in

Minnesota and ten other states. MNPCA's lead PCA Kris Greene traveled to the Capitol with Kim Crockett to meet with officials and tell Minnesota's story. (See photo)

This summer, HHS announced a proposed rule that would make it harder for unions to skim funds from cash-strapped welfare programs. The Center helped several dozens of PCAs and state lawmakers submit comments in favor of the rule. If approved, Minnesota and ten other affected states could no longer deduct dues from PCAs on behalf of unions like the SEIU. *The union would have to collect its own dues.* This is a powerful shift because PCAs who are members of the union may not realize what they are paying in dues. If they have to pay the dues directly, it could be a game changer. Given that the SEIU is taking three percent of PCA wages, up to \$948 a year, union executives may have a hard time justifying the dues-grab to PCAs. In 2016, the scheme brought in an estimated \$200 million in eleven states, but the Center thinks that amount has been reduced as PCAs learn about the union. If it is no longer a money-maker, the unions will lose interest.

To be clear, even if the Obama-era rule is fixed, unions that have already been certified would continue *until they are decertified*—which is why MNPCA is not giving up. Decertification is the only way to get rid of these predatory unions.

The proposed rule is proof that Mrs. Greene can go to Washington and make a difference. ■



Decertification is the only way to get rid of these predatory unions.

institutionalization, the disabled receive better care and it is less expensive for the taxpayer. In 2014, PCAs were declared "public employees" by Minnesota's Legislature and Governor Dayton and unionized by the SEIU with just 13 percent of PCAs voting to unionize. Most PCAs had never heard of the SEIU or the union election until the Center reached out to them starting in 2016. So, with the Center's help, PCAs formed a coalition to educate PCAs and demand a decertification election. (See, www.MNPCA.org)

Last fall, MNPCA delivered nearly 11,000 signed cards to the office of Governor Mark Dayton demanding a *fair union election*. The administration and Attorney General Lori Swanson, however, used their executive power and taxpayer dollars to fight MNPCA

Using this language, the Court shouts a warning to unions and employers to end business as usual. The Court has flipped the default from a model where employees “opt-out” of the union to a model where employees must “opt-in” to the union.

The practical consequences are being litigated. The unions argue that *Janus* affects only employees who did not belong to the union as of June 27, 2018 and they are blocking the exits from union members who want to leave. Legal scholars and policy shops around the country, including the Center, argue that employers should immediately end the deduction of union dues until they have clear written consent from employees. To do otherwise is to risk future liability, putting taxpayers at risk of paying legal bills and settlements.

Employees who have previously signed a union card cannot be presumed to have freely given their consent. Moreover, the terms of membership laid out by unions do not meet the strict scrutiny required by the First Amendment.

First, employees who signed union cards before *Janus* were giving up a First Amendment right they did not know they had (the right not to fund the union’s political speech). Any union card signed before June 27, 2018 is, therefore, not a valid waiver of that right.

Second, this is the “choice” employees were given: if they did not join the union, they still had to pay 85 percent of dues to (allegedly) cover just the cost of collective bargaining, and even though they paid for bargaining, they lost the right to vote on a contract. On top of that, they lost all membership benefits like liability coverage and other perks, but they still had to accept whatever the union negotiated on their behalf because the union is their exclusive representative. And then there is union intimidation. One teacher told the Center when she refused to join the union, two union reps followed her into the hall, one on each side, harassing her like mean girls in sixth grade. Some call that choice; we call it duress.

Finally, union cards, which are not

negotiable, authorize the deduction of dues (including PAC money) and set the conditions for resigning from membership. The union card for Education Minnesota, for example, states that a resignation can be submitted only during a narrow seven-day window once a year (this year it is September 24-30). (Learn more at EducatedTeachersMN.com)

If you are represented by AFSCME or the SEIU, the narrow window for resigning is usually based on the anniversary



The Center estimates that union revenue will fall about \$10 million over the next year in Minnesota alone.

date of when you signed the card. Some cards even attempt to block resignations for several years at a time. We call these “Hotel California” cards. You can check in, but you can never leave.

Interpreting what the High Court meant by “affirmative consent” will be the battle ground for the next several years. Lawsuits have been filed in Minnesota and around the country on behalf of employees who are union members and agency fee payers. The exclusive representational status that unions now enjoy as a matter of law will, too, be challenged. These issues will play out in the courts and state legislatures all over the country. And the Center is delighted to be in the middle of it all.

The Employee Freedom Project has accomplished a great deal since its launch. In addition to our work on the *Janus* case, the Center has challenged

the expansion of government unions into home-based care funded by Medicaid. We estimate unions were skimming about \$200 million annually from Medicaid programs for low-income parents and the disabled in eleven “blue” states. We are confident union revenues are down and the legal bills are up due to the Center’s efforts and our national partners. Even better, more Medicaid dollars are going to the intended beneficiaries rather than government unions.

What is next? In addition to educating employees about their *Janus* rights, the Center looks forward to introducing lawmakers to several ideas that would enforce *Janus* and expand employee freedom. For example, the state should immediately end the practice of collecting union dues, require unions to collect PAC money separately from dues, and post a “*Janus* Rights Notice” in all government workplaces.

No one expects all this to be the end of public-sector unionism in Minnesota. In the short term, we could see increased labor unrest and a lot of angry union rhetoric, but over time, as unions, employees and elected officials adjust, our public sector should be more, not less, civil. A *Janus* win could usher in healthier public-sector unionism if enough employees exercise their rights, and if union leaders treat members as customers to be served instead of taking them, and their money, for granted. ★



About the Author: *Kim Crockett is vice president and senior policy fellow at Center of the American Experiment. She is a co-director of EducatedTeachersMN.com, an online resource for teachers in Minnesota.*

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“In a free self-governing society there will always be a battle of ideas and the Center provides ammunition for those battles.”



Names: Steve and Sue Rice

Occupations: Steve is an Ophthalmologist, Sue was an HR manager.

Alma Maters: Steve attended the University of Winona, Mayo Medical School and Sue attended the College of St. Catherine.

Policy Interest: Healthcare, Limiting the role of government.

LIBERAL MINNESOTA?

Our *Thinking Minnesota* survey reveals Minnesotans aren't as liberal as many think.



John Hinderaker

For those who assume Minnesotans are liberal when it comes to politics, this month's *Thinking Minnesota Poll* has some eye-opening results.

The conventional wisdom is that Minnesotans exhibit conservative values in their personal lives but hold mostly liberal political views. The first part is true: by many measures—such as work ethic, percentage of births to unwed mothers, community participation as volunteers, contributions to charities, etc.—Minnesotans demonstrate social mores that would generally be described as conservative.

But for those who assume Minnesotans are liberal when it comes to politics, this month's *Thinking Minnesota Poll* has some eye-opening results. Start with taxes, perhaps the most basic dividing line between liberals and conservatives. Minnesota is undeniably a high-tax state, but most voters say they don't want it that way. By a stunning 65 percent to 31 percent, Minnesotans favor cutting personal income tax rates in all tax brackets.

Other tax cuts are popular, too. When told that Minnesota's corporate income tax rate is the third-highest in the country, voters favor reducing it by 56 percent to 39 percent. And by 50 percent to 39 percent, Minnesotans would like to see the estate tax abolished.

Results of the poll on spending are similar. Minnesotans are skeptical that state government spends their tax dollars wisely: poll respondents attribute 20 percent to wasteful spending. So, not surprisingly, Minnesotans overwhelmingly support, by 76 percent to 18 percent, cutting state government spending by 10 to 20 percent to eliminate waste and fraud.

When we turn to non-fiscal issues, Minnesotans continue to display a conservative bent. On immigration, proposals that are popular on the left fall flat. By 62 percent to 29 percent, Minnesotans oppose abolishing ICE. And by 60 percent to 36 percent, they don't want Minnesota to be a sanctuary state.

On education, only 33 percent of Minnesotans favor the common practice of teaching the political doctrines of white privilege and white supremacy to public school students, while 53 percent are opposed. And race-based discipline quotas, the subject of Katherine Kersten's article in this issue, fare even worse, being opposed by 71 percent with only 12 percent in favor.

On transportation, too, Minnesotans lean to the right—or that is what they tell pollsters, anyway. The state's transportation policies emphasize trains and bicycle paths, but 77 percent of Minnesotans prefer that our agencies concentrate on roads and bridges. Only 19 percent want to see their money go to light rail and bicycle paths.

Minnesotans are more closely split on health-care but still lean toward conservative policies. By 51 percent to 42 percent, Minnesotans favor policies that increase competition in the health insurance market rather than the single payer, government-only plan that is favored by the left.

These responses suggest that when it comes to specific policy issues, Minnesotans are not so different from our neighbors in Iowa, the Dakotas and Wisconsin, who are generally stereotyped as more conservative. But that raises an obvious question: why do some Minnesotans apparently not vote for the policies they tell us they want?

The reasons why people vote for political candidates are complex. Issues are important, but so are candidates' personalities, an overriding emotional commitment on a single issue, and often simply family tradition. But if there is one takeaway from the *Thinking Minnesota Poll*, it is this: conservative political candidates in Minnesota shouldn't shy away from conservative positions because most voters are with them. But they should sharpen and highlight the policy differences between them and their liberal opponents. ★

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