

IMPACT

PAGE 10

A NATIONAL LEADER

Mackinac Center's Michael Reitz
wins Overton award



A stylized rainbow logo consisting of three concentric, semi-circular arcs. The top arc is yellow, the middle is orange, and the bottom is white. Each arc is composed of several segments, with small dots at the ends of the segments.

OPPORTUNITY MICHIGAN

The Mackinac Center has created a network of people, like you, who want to see Michigan become a better place to live.

If you're interested in learning more, please visit **OpportunityMichigan.org** today.

Board of Directors

Hon. Clifford W. Taylor,
Chairman
Retired Chief Justice,
Michigan Supreme
Court

Joseph G. Lehman, President
Mackinac Center for
Public Policy

Jim Barrett
Retired President
& CEO, Michigan
Chamber
of Commerce

Daniel J. Graf
Chief Investment
Officer, Amerisure
Mutual Holdings, Inc.

Richard G. Haworth
Chairman Emeritus,
Haworth, Inc.

J.C. Huizenga
President, Westwater
Group

Edward C. Levy Jr.
Executive Chairman,
Edw. C. Levy Co.

Rodney M. Lockwood Jr.
President, Lockwood
Construction Company,
Inc.

Joseph P. Maguire
President,
Wolverine Development
Corporation

Richard D. McLellan
Attorney, McLellan Law
Offices

D. Joseph Olson
Retired Senior Vice
President and General
Counsel, Amerisure
Companies



LETTER FROM THE PRESIDENT

What Have We Learned in the COVID-19 Lockdown Era?

We don't have the luxury of waiting until the pandemic ends to assess what we've learned. We can't afford to wait for all the proverbial data. People need help now, and we need to help now with the knowledge we have. Here are some things we know after 18 months.

Fear and greed are far more potent than we realized. Millions of people voluntarily and immediately limited their own activities and eagerly obeyed unprecedented government restrictions in exchange for a promise of some protection from the new virus. Not letting a crisis go to waste, government officials furiously issued diktats which increased their control of our lives, while media companies stoked customers' fears, every click and every view adding to their bottom lines. COVID is the health of the state. And of the media.

The pandemic was not a "black swan." The lockdowns were. (A black swan is an extraordinarily unlikely event with extreme consequences.) A pandemic like COVID was thoroughly predicted. But we didn't anticipate the politicians' fervor to impose lockdowns denying civil rights, the willingness of people to submit to them, or, especially, the technology that enabled them. Without Amazon and Zoom, there would have been no mass lockdowns: Their political price would have been too high for politicians to pay.

Even power-hungry politicians must yield at some point, no matter the emergency. College football is back, complete with tens of thousands of potential COVID spreaders breathing on each other. Why? No politician wants to be the first one to lose an election for ordering people to stop watching football. In Michigan, Gov. Gretchen Whitmer held a hard line on lockdowns as long as her job approval ratings remained in the low 60s. When they slid, she eased her edicts. For most politicians, politics > science.

Sometimes lawmakers don't actually want to govern. Gov. Whitmer achieved nationwide

fame for arrogating to herself unilateral pandemic-fighting powers, bypassing the Legislature. She issued nearly 200 executive orders, leaving little of Michigan society untouched. Legislators said they wanted a voice in pandemic policy, but when the Michigan Supreme Court invalidated the governor's executive orders in a case brought by the Mackinac Center Legal Foundation, they did not send the governor their own policies. So she continued most of what she had been doing before, until the public began to sour on her job performance.

Government transparency remains a strong bridge between the philosophical left and right. Even our friends on the left applaud the Mackinac Center's work to get to the bottom of Michigan's data on COVID-related deaths in nursing homes. We've been to court to make the state open its books on how the governor's policies may have put vulnerable people in harm's way.

That's not all we learned, but it's all that will fit here.

The times are unsettled. People yearn for certainty and stability. The Mackinac Center was formed to advance sound ideas in the policy world — in easy times and especially in hard times. What that means for us now is that it's a great time to be a leader. ■

By Joseph G. Lehman

Joseph G. Lehman is the president of the Mackinac Center.

Board of Scholars

Donald Alexander
Western Michigan
University

Thomas Bertonneau
SUNY - Oswego

Brad Birzer
Hillsdale College

Peter Boettke
George Mason
University

Theodore Boema
Wichita State University

Alexander C. Cartwright
Ferris State University

Michael Clark
Hillsdale College

Matt Coffey
Central Michigan
University

Dan Crane
University of Michigan
Law School

Shikha Dalmia
Reason Foundation

Chris Douglas
University of Michigan
- Flint

Jefferson Edgens
University of Wyoming

Ross Emmett
Arizona State University

Sarah Estelle
Hope College

Hugo Eyzaguirre
Northern Michigan
University

Tawni Ferrarini
Northern Michigan
University

Burton Folsom
Hillsdale College (ret.)

John Grether
Kettering University

David Hebert
Aquinas College

Michael Hicks
Ball State University

Ormand Hook
Mecosta-Osceola ISD

Harry Hutchison
George Mason
University School
of Law

David Janda
Institute for
Preventative
Sports Medicine

Annette Kirk
Russell Kirk Center

David Littmann
Mackinac Center for
Public Policy

Dale Matcheck
Northwood University

Charles Meiser
Lake Superior
State University (ret.)

Glenn Moots
Northwood University

George Nastas III
Marketing Consultants

Todd Nesbit
Ball State University

John Pafford
Northwood University
(ret.)

Mark Perry
University of Michigan
- Flint

Lawrence W. Reed
Foundation for
Economic Education

Gregory Rehmke
Economic Thinking/
E Pluribus Unum Films

Steve Safranek
Private Sector
General Counsel

Howard Schwartz
Oakland University

Martha Seger
Federal Reserve Board
(ret.)

James Sheehan
SunTrust Robinson
Humphrey

Rev. Robert Sirico
Acton Institute

Bradley Smith
Capital University Law
School

Chris Surprenant
University of New
Orleans

Jason Taylor
Central Michigan
University

John Taylor
Wayne State University

Richard K. Vedder
Ohio University

Harry Verseyer Jr.
University of Detroit
Mercy

John Walter Jr.
Dow Corning
Corporation (ret.)

Mike Winther
Institute for Principle
Studies

Gary Wolfram
Hillsdale College

140 West Main Street, P.O. Box 568
Midland, Michigan 48640
989-631-0900, Fax 989-631-0964
www.mackinac.org mcpp@mackinac.org

IMPACT is published six times a year by the Mackinac Center for Public Policy, a nonprofit, nonpartisan, tax-exempt research and educational institute classified under section 501(c)(3) of the IRS code.

JOHN LAPLANTE Editor

ILIA VANDERHOOF Designer

INSIDE THIS ISSUE

- 3** What Have We Learned in the COVID-19 Lockdown Era?
- 5** Exploring Aviation History, Public Policy at Air Zoo
- 7** Mackinac Center Legal Foundation Paves the Way in Michigan Education Reform
- 9** Experts in the Field
- 10** A National Leader
- 13** Powering Up
- 15** Working for Right-To-Work
- 16** Mackinac in the Media
- 17** The Never-Ending Struggle for a Coherent and Consistent Law
- 18** A Scholar and a Detective
- 20** High School Students Make the Case for Free Markets



PAGE 18



PAGE 9



PAGE 14



PAGE 10

BLOG

Keep up-to-date on the latest policy stories from Mackinac Center analysts.

Mackinac.org/blog

DATABASES

Labor contracts, superintendent salaries, school grading and more. Our online databases provide easy access to important information.

Mackinac.org/databases

CAPCON

Michigan Capitol Confidential is the news site of the Mackinac Center that provides unique news coverage.

MichCapCon.com



Exploring Aviation History, Public Policy at Air Zoo

After a year of lockdowns and restrictions on public gatherings, the Mackinac Center cherishes opportunities to once again get together with others interested in public policy issues. On Aug. 19, the Center welcomed a crowd of supporters to a luncheon at the Air Zoo Aerospace & Science Museum in Portage. The topic for discussion was more than appropriate: emergency powers and pandemic mismanagement.

Michael Van Beek, the Center's director of research, presented "10 Rules for Responding to Pandemics," a paper published earlier this year. It uses Michigan's experience with the COVID-19 pandemic as a way of learning how policymakers can better handle a pandemic. It deals primarily with improving the process governments use to respond, emphasizing the importance of collaboration, consistency and transparency.

Van Beek pointed out that although a pandemic can pose a serious risk to the public, policymakers need to remember all health concerns when crafting policies to mitigate its potential harms. A focus on just the disease at hand can lead to a worse overall outcome if more people suffer from other health ailments as a result. He also explained why public officials should use a risk-based analysis to determine where interventions are needed, as opposed to the subjective approach of labeling certain behavior "essential" and other behavior "nonessential."

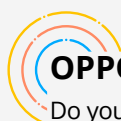
Attendees also heard an update on the latest happenings in Lansing from David Guenther, the Mackinac Center's senior strategist for state affairs. While the summer is often a slow time for the Legislature, there were still important policies to debate, such as the details of the state budget. Guenther provided an inside look at how these debates were shaping up and explained the Center's priorities in promoting sound public policies.

In addition to participating in the lunch and lecture, attendees toured the Air Zoo. The museum is affiliated with the Smithsonian Institution and has on display more than 100 aviation- and space-related artifacts, including several full-size airplanes. For thrill seekers, it also features full-motion flight simulators and a few amusement rides. Dozens of attendees took advantage of this opportunity and enjoyed learning more about the history of aviation and the role Michigan and the Kalamazoo area play in that story.

The Center plans to continue hosting luncheons like this one throughout the rest of the year and into 2022. Most of these events will be in our new Freedom Embassy, right across the street from the state Capitol, but we plan to continue to host them in different parts of the state so that we can engage with a broader audience. Look for an event in your area soon!

MICHIGAN VOTES

Want to know what your legislators (and others) have been voting for? MichiganVotes.org helps keep Michigan politicians accountable to their constituents.
MichiganVotes.org



OPPORTUNITY MICHIGAN

Do you want to get more engaged with public policy in Michigan? Opportunity Michigan is right for you.
OpportunityMichigan.org

LITIGATION

Our public interest law firm advances individual freedom and the rule of law in Michigan.
Mackinac.org/MCLF



 Hile family



 Bagos family

Mackinac Center Legal Foundation Paves the Way in Michigan Education Reform

COVID-19 and policies enacted in response to the pandemic have set back learning for many students and frustrated many parents. More than ever, parents are looking for alternatives to the public school model for their children, and, especially in Michigan, they are realizing just how little choice they have.

In 1970, Michigan adopted a discriminatory provision to its constitution that prevents private schools and their students from receiving any form of public aid. Since then, this provision has prevented parents across the state from being able to afford the education of their choice for their child.

Parents might be able to find some relief, though, from something known as 529 education savings accounts. These accounts, originally meant for postsecondary education, also receive favorable tax treatment under federal law. Michigan law lets parents use these for college tuition, but to date, prohibits parents from using them for K-12 tuition. It does, though, let parents use

them to pay for public school Tuition Enrollment Programs.

That's why the Mackinac Center Legal Foundation sued the state of Michigan on behalf of five families who all have one goal: to give their children the best possible education they can.

Spread across the state, these five families have a wide variety of experiences with education choice, some more successful than others. The Bagos family, for example, was forced to enroll their children in the local public school, which did not offer in-person schooling until the end of the 2020-21 school year. While they knew that a local private school would be a better fit for their family, Jessie and Ryan Bagos had other financial constraints and could not afford to send their children to the school they knew would be best for them.

The Hile family, on the other hand, was successful in enrolling their daughter in the local private school, but that came with other costs. By taking their daughter out of the public school

system, they have to pay for tuition. But even more, she is missing out on the Kalamazoo Promise, a scholarship fund for public school children that helps pay for college tuition. Being able to use a 529 education savings plan could greatly cut the family's costs, both now and in the future. ■

by Taylor Piotrowski

Taylor Piotrowski is the Projects and External Affairs Coordinator at the Mackinac Center



Lindsay Killen, vice president for strategy and communications at the Mackinac Center



Steve Delie, director of labor policy and Workers for Opportunity at the Mackinac Center



Michael J. Reitz, executive vice president of the Mackinac Center

Experts in the Field

Mackinac Center staff lead panels at State Policy Network Annual Meeting

The Mackinac Center for Public Policy has always had a strong presence at State Policy Network's Annual Meeting, and this year was no exception. Most of the staff attended the conference, held in Orlando, Florida, at the end of August, with the majority being general attendees or event volunteers. Four members of our staff, however, had the honor of speaking on a panel to share their experience.

Lindsay Killen, our vice president for strategy and communications, was a part of a panel titled "Empowering the American Worker: States to Learn From." Joined by Chantal Lovell of CML Strategies and Dave Trabert of the Kansas Policy Institute, the three experts discussed the most important reforms to consider when enacting statewide labor policy. Drawing on examples from Mackinac's own initiatives, My Pay My Say and Workers for Opportunity, Killen gave guidance to other organizations interested in entering the labor policy arena.

In another labor panel — focused on collective bargaining, public sector accountability and policing —

Steve Delie, director of Workers for Opportunity, joined Austen Bannan, Greg Glod, and Currie Myers of Americans for Prosperity. They held a conversation on government unions and how collective bargaining can undermine accountability within government institutions. Similar to the first labor panel, this discussion touched on model policy and other best practices for changing labor policy across the nation.

Moving out of the policy realm, Executive Vice President Mike Reitz participated in a panel to discuss office culture and Mackinac's intentional culture statement. Joined by Justin Owen of the Beacon Center of Tennessee, Aly Rau of the Pelican Institute for Public Policy and Brad Gruber of State Policy Network, the four executives had a conversation about how to be intentional about introducing cultural values into the office and to making sure that the staff feels seen and appreciated.

Jon VanDerhoof, creative projects manager, led the inaugural meet-up for creative professionals. At every annual meeting, there are several networking

meet-ups for professionals in various policy areas. After noticing a lack of opportunities for members of creative teams in the network (videographers, artists, graphic designers, etc.), VanDerhoof proposed, and was chosen to lead the first meet-up of its kind.

These appearances by the Mackinac Center staff are an important part of making sure our recent achievements, work, and progress are well-known within the network. By sharing our experiences, we can help new organizations, or those that are new to certain policy areas, with a fresh set of eyes from experienced professionals. ■



A National Leader

Mackinac Center's Michael Reitz wins Overton award

Several awards are presented at State Policy Network's annual meeting, but one has a specific tie-in to the Mackinac Center: the Overton Award. It's named after Joe Overton, the Mackinac Center's former senior vice president who died at an early age in 2003. The award is given to executive vice presidents and chief operating officers who, in the words of SPN, "fully occupy the space which Joe Overton filled: a leader serving as a bridge from vision to reality, from ambition to implementation."

Unlike other SPN awards, the Overton Award has only been given out a handful of

times since its inception in 2003, the last time being in 2018. Rather than honor someone with this award at each meeting, State Policy Network has chosen to wait until the right person comes along — someone who would make Joe Overton proud.

We are proud to announce that this year's recipient of the Overton Award is our own executive vice president, Mike Reitz, who offers this reflection on the award's namesake.

If you spend any time talking to long-time Mackinac Center donors, they will tell you their Joe Overton story. It

might be an interaction they had with him, a speech he gave, or something he wrote, but the picture of the man is entirely consistent, no matter who you speak with. Joe Overton was a man of integrity, excellence and action. He held a sincere faith and a passion about ideas and liberty. Overton understood the idea of addressing the major drivers of culture, policy and politics. One of his favorite quotes came from Henry David Thoreau: "There are a thousand hacking at the branches of evil to one who is striking at the root."

STATE POLICY NETWORK

State solutions. National impact.



My colleagues who worked with Joe Overton before his death will tell you he was intense, brilliant, perhaps a little intimidating. And also considerate: One year the organization's finances were tight, and he paid a colleague's bonus out of his own pocket. Overton helped people reach their potential by setting high expectations. In 2001 he wanted to launch a service that would describe every bill and every vote in the Michigan Legislature. A colleague told him "Joe, that's impossible! That's thousands of bills and amendments! Impossible!" Overton asked him, "Okay, but what would it take?" And they got it done. The right team with the right vision can do the impossible.

Joe Overton was tragically taken from this earth 18 years ago, but friends of the Mackinac Center can be proud that his legacy is honored by the State Policy Network's Overton Award.

I am grateful to work with my colleagues

at the Mackinac Center. We enjoy strong leadership from our board of directors and Joe Lehman. And the Mackinac team is the best in the business. This team, along with our friends and allies, made Michigan a right-to-work state, secured historic pension reform, expanded educational options for students, eliminated wasteful corporate subsidies, killed the abhorrent SEIU dues skim in Michigan and ended Gov. Whitmer's attempt to govern by emergency indefinitely. Working with these fine people — it's the best job I ever had.

Joe Lehman, the Mackinac Center's current president, worked with Joe Overton for 17 years. He offered this observation: "Mike's influence and leadership, like Joe's, are felt nearly everywhere in Michigan public policy and throughout the entire State Policy Network." ■

Joe Overton was tragically taken from this earth 18 years ago, but friends of the Mackinac Center can be proud that his legacy is honored by the State Policy Network's Overton Award.





‘I saw how regulation hurts people’

Darin Chase was a licensed real estate agent by the age of 18.

But he had a problem.

“I looked like I was 15, so it was hard for me to get business,” Chase said.

Fortunately, Chase also had a lot of hustle and a unique approach to the business. He

put those skills to work building a career and, later, founding Homesite Mortgage in southeast Michigan. Today his company finances about \$200 million of housing each year.

Chase understands the value and dignity of home ownership.

He grew up in a 700-square-foot home in a small blue-collar neighborhood in Warren. It was the kind of neighborhood where, if someone was having a cookout, the neighborhood kids could drop in and have a hot dog, no questions asked, Chase said.

When Chase began work in real estate shortly after graduating from Warren Woods Tower High School, he sought out what he calls “good deal” homes. These are cases in which homeowners are in foreclosure but want to keep the home and can do so, with a little help. He also looked for cases in which homeowners are in foreclosure and want to sell but need help improving the property to make it attractive to buyers.



Darin Chase, shown here at the Shelby Township office of Homesite Mortgage, is a Mackinac Center supporter and member of Mackinac Center Legacy Society.

He found “good deal” homes by getting a foreclosure list from the county and then knocking on doors.

“I was fearless at that age,” he said, recalling only one occasion when he was kicked off the homeowner’s property.

While other real estate agents

waited for the county to host a foreclosure sale, Chase reached out before the sale and invited homeowners to work with him — either to keep their homes or to improve and sell them. He then arranged for investors he knew to either refinance or rehabilitate the homes.

“They were able to save their house and get back on track,” Chase said of people who wanted to keep their homes. And for those who wanted to sell, “The homeowners left with their dignity intact.”

After several decades in the real estate business, Chase founded Homesite Mortgage in 2004, growing it to a team of 35 with Michigan offices in Shelby Township and Oak Park.

“Once I got deeper into this highly regulated industry, I saw how regulation hurts people,” he said. “My mom did not teach me anything political. I just saw the obvious wrongs of overreaching government and the obvious benefits of individual freedom.”

A Mackinac Center supporter since 2009, Chase said he appreciates the Center's successful lawsuit against Gov. Gretchen Whitmer during the pandemic as well as its role in freeing government workers from forced unionism.

"What you guys are doing is fighting these battles and winning," he said. He also has joined Mackinac Center Legacy Society by naming the Mackinac Center as a beneficiary of his estate plan.

"I want to leave a legacy for my family, a financial shot in the arm. But another thing that is a legacy is

their freedom. I'm helping to ensure a future, free-thinking society for my daughter, granddaughter and nieces — and for their kids. Without that, I think their lives would have meaningfully less quality." ■

To learn more about joining Mackinac Center Legacy Society, contact Lorie Shane at 989-698-1909 or shane@mackinac.org.

Timing is Everything

By Bob Aukerman

In life, "timing is everything." So, also, when it comes to taxes.

Famously, George Steinbrenner, the billionaire owner of the New York Yankees, died in 2010 — the one year in which the federal estate tax had expired. But one need not go so far as to "time" one's death to save on taxes. While the taxman taketh away, the taxman also giveth through tax incentives.

As a reader of IMPACT, you undoubtedly are aligned with the Mackinac Center's advancement of free markets and limited government. Once having decided to support this purpose, it makes sense to consider how you can leverage your gifts by being tax efficient.

Making charitable gifts while you're alive rather than only upon death can cut your income tax bill. With those tax savings, you can afford to make larger gifts if you choose to.

Tax efficient strategies include: (a) Bunching itemized deductions every other year; (b) Making qualified charitable contributions

from IRAs, (c) Buying charitable gift annuities to counteract the elimination of the lifetime "stretch" on inherited IRAs, and (d) Using more complex arrangements such as trusts.

In deciding when and how much to give, consider your goals and circumstances — then crunch the numbers. For example, calculations will show how much your tax bill may be cut by giving during different years of your lifetime,

So, why not give more during your lifetime, when you can see the good your gift provides and also enjoy the income tax deductions?

These are some key reasons I and others are making gifts benefiting the Mackinac Center while we are still alive. Yes, timing is everything. ■

Bob Aukerman is a CPA, attorney and supporter of the Mackinac Center. He can be reached at 989-750-3506. Whether you choose to support the Mackinac Center during your lifetime, in your estate plan, or both, please feel free to contact us to learn more.



Powering Up

Why we're intervening in Michigan's energy planning process

The Mackinac Center has entered a policy fight to help protect utility customers from unreasonable, expensive, and potentially dangerous plans from one of Michigan's large utilities.

During the January 2019 polar vortex event, when temperatures across the Midwest plunged to -20°F, three things kept the lights and heat on across Michigan: natural gas, nuclear, and coal. In contrast, wind and solar were effectively AWOL. When they were needed most, they made up less than 5% of the region's fuel mix.

Despite these contrasting performance records, the long-term Integrated Resource Plans — IRPs — of Michigan's utilities will place customers at the mercy of unreliable renewable energy sources. But before that happens, state regulators at the Michigan Public Service Commission must give their blessing, and the Mackinac Center's Environmental Policy Initiative and the Mackinac Center Legal Foundation are intervening to slow or stop Consumers Energy's latest IRP.

The company proposes to close or cease purchasing electricity from several large, reliable electricity generation facilities. (One is a nuclear plant and two others use a mix of coal, natural gas and oil.) The state-regulated monopoly wants

to close them well before their useful life ends, to help it meet a completely voluntary goal of achieving net-zero CO2 emissions by 2040. Its plan will shift billions in stranded costs away from investors and onto customers.

To add insult to injury, Consumers Energy proposes to spend billions more, building unreliable solar facilities. In fact, the utility believes it can meet 90% of its customers' needs with a mix of renewable energy, energy efficiency, energy storage and demand response by 2040. That word salad means the average customer will be forced to use less electricity, at less opportune times, and at much higher costs. The company's fragile new electricity system will ensure utility customers consume electricity when it is available, not when it's needed or wanted.

While the utility claims it will control costs, the Mackinac Center worked with our partners at the Center of the American Experiment to calculate the actual costs of the plan. We estimate that over the next 30 years, the IRP will impose \$21.7 billion in additional costs on customers, of which \$15.7 billion will go to utility profits.

One key question we ask when facing policy challenges is, "If not the Mackinac Center, who?" Sadly, it's increasingly clear that the monopoly

utilities face little to no opposition as they shutter reliable, affordable and safe generating facilities. In fact, most of the groups involved in the IRP process support this dangerous, renewable-heavy plan. Some are pushing for even more expensive and extreme outcomes.

The costs — human, economic, and environmental — of relying on solar and wind for essential electricity are becoming increasingly clear. The utility's plans are neither reasonable nor prudent. As we have seen in both Texas and California, relying on solar and wind can be downright dangerous during periods of extreme weather.

We're outfunded and outnumbered, but the Mackinac Center exists for this type of challenge. With your continued support, we're confident we can make a difference.

By Jason Hayes

Jason Hayes is the director of environmental policy at the Mackinac Center.



Working for Right-To-Work

The meaning behind the numbers

“What do you want to do when you grow up?” As a 20-year-old college student, I remain unsure of how to answer that question, but there is one thing I am sure about: I want my work to change people’s lives for the better. That is why I came to intern with the Mackinac Center this summer. Every person I have met here strives to improve people’s lives through sound policy, and every project I have worked on contributes to that goal.

One of these projects involves measuring the changes in union membership since 2018, when the *Janus v. AFSCME* Supreme Court decision ruled forced unionization for public employees was unconstitutional. This case was a major victory for right-to-work efforts, but it was not the end of the struggle to free employees from mandatory union dues or agency fees. The Mackinac Center’s Workers for Opportunity initiative educates workers about their rights and resists unions’ attempts to hang on to unwilling members through unannounced dues skimming and limited opt-out windows.

Since the *Janus* decision, the number of government workers paying union dues has dropped by an estimated 10-15%. Along with Caleb Baker, the other communications intern, I was assigned to update the numbers used to calculate that percentage. The two of us sent out hundreds of public records requests to states, cities, counties and school districts across the United States. Under statewide government transparency laws, we requested the number of employees paying union dues from each entity, then added this year’s numbers to a data set that goes back to 2018.

As we input the responses, the trend became clear: Union membership keeps declining nationwide.

Three years after the *Janus* decision, tens of thousands of employees continue to opt out of union dues annually, illustrating the importance of the Mackinac Center’s endeavors to ensure workers can exercise their *Janus* rights.

I try to keep in mind that the drop in the number of those paying money to a union is not just a statistic in a spreadsheet. Thanks to the *Janus* decision and the ensuing battles fought by Workers for Opportunity and other like-minded organizations, public sector workers are better off. They can exercise their freedom to choose what speech they support and what groups they associate with, instead of being forced to financially support politically involved organizations they may not agree with. One in five of these employees has used his or her newfound freedom to walk away from a union – and if the downward trend continues, more workers will follow.

The right-to-work fight started long before my summer at the Mackinac Center, and it will last long after I have returned to college. I am grateful for the opportunity I have had to contribute to this project, and I will continue to watch how it changes workers’ lives for the better. ■

By Jennifer Wiland

Jennifer Wiland, who served as a summer intern, is a junior at Hillsdale College



Mackinac in the Media



Holly Wetzel

Communications Manager

Getting the government to be transparent is usually an uphill battle, but this past year, it has proved to be even more challenging. Fortunately, the Mackinac Center recently secured a legal victory in a transparency lawsuit against the University of Michigan. We filed the lawsuit in March after the university denied part of a Freedom of Information Act request earlier this year. In an article in MLive, Steve Delie was quoted on the court’s ruling, saying, “[W]e are happy the court upheld the rule of law and transparency in government by ruling in our favor.”

If you’ve been following the Mackinac Center Legal Foundation’s work, you may be familiar with our lawsuit representing distinguished attorney Lucille Taylor, challenging Michigan’s mandatory state bar dues. While the 6th U.S. Circuit Court of Appeals did not agree with our arguments, we have filed an appeal with the U.S. Supreme Court. Bloomberg Law, Detroit Legal News, Michigan Lawyers Weekly and several other legal-focused outlets have covered the case.

Michigan’s emergency power laws not only shaped the everyday lives of individuals, but, as Patrick Wright told The Detroit News, they “definitely put our legal system through a stress test.” The article looks at the 51 lawsuits that challenged the state’s pandemic rules. As the news outlet writes, the Mackinac Center’s case “possessed the arguments that helped overturn Gov. Gretchen Whitmer’s 188 pandemic executive orders when the Michigan Supreme Court decided a 1945 emergency powers law was unconstitutional.”

President Joe Biden recently signed an executive order on zero-emissions vehicle sales and also announced plans to further increase fuel emissions standards. In an article published by the Detroit Free Press, many were quick to praise this move, but the Mackinac Center stood out as a less enthusiastic voice. As Jason Hayes was quoted in the article, “When it comes to efficiency, government mandates struggle to keep up with societal evolution. Rather than listening to markets, they push their own wants and desires.” Hayes was also quoted in the Center Square, saying the administration’s “push for electric vehicles is not driven by consumer demand, but political motives.”

One policy issue that tends to blur party lines is the fight both for and against corporate welfare. In an op-ed published in The Washington Post, James Hohman discusses how lawmakers on both sides of the aisle are coming together to fight corporate welfare, particularly at the state level. He writes that lawmakers have “the facts on their side, as studies show that such subsidies can harm, not help, economic growth and almost always fail to drive the promised job creation.” On the flip side, corporate welfare programs included in the federal infrastructure package received bipartisan support, as Jarrett Skorup writes in a National Review essay. ■

The Never-Ending Struggle for a Coherent and Consistent Law

Richard McLellan and his 34 years chairing the Michigan Law Review Commission

For the last 34 years, one man in Michigan was responsible for finding and fixing the innumerable defects contained in the state's ever-growing volume of law. That man was Richard McLellan, one of the Mackinac Center's founding members. McLellan was chair of the Michigan Law Revision Commission, a role he assumed in 1986 and retired from last year.

It takes something special to devote oneself to scouring state statutes for contradictions, anachronisms and other problems. But McLellan fit the mold perfectly. Early in his career as a Lansing lawyer, working for Gov. William Milliken and then Gov. John Engler, he learned the importance of having a "fundamental understanding of the structure of the law," as he puts it.

One of the first research projects McLellan undertook as a young attorney clearly demonstrated this point. He thoroughly reviewed the Michigan Constitution — every clause and every word — and identified and described, in plain English, the scope of executive power available to governors. This research repeatedly served multiple governors, and McLellan notes that this proved to him the "power of a white paper." It's no wonder he was keen to start a public policy research organization like the Mackinac Center shortly after becoming chair of the MLRC.

The value of the law review commission may



not be obvious at first blush, and McLellan is the first to recognize the limits on its power to improve the law. When asked to name the most significant achievements of the MLRC, McLellan abruptly responds, "None!" — an odd admission, but unsurprising for anyone who knows him.

The commission only makes recommendations to the Legislature — it cannot initiate reforms. But the benefits of such organizations can be found across the globe. Political systems that are historically influenced by the British legal system, such as in Canada, Australia and Hong Kong, have relied on them for decades.

McLellan also emphasizes that the MLRC fills a gap in the state. Regularly reviewing and improving existing statute is not high

on anyone's priority list: no special interest group, nor the Legislature, nor the governor's office. If the commission would not do this work, it would simply not get done. It does, though, and it serves the public interest. Conflicts in the law will need to be sorted out one way or another, and settling them legislatively is more appropriate and efficient than leaving it for the courts to decide.

No one knows better than McLellan that there remain numerous deficiencies in Michigan law, and that's why the public needs organizations like the MLRC and the Mackinac Center. The state's response to the COVID-19 pandemic demonstrated the problems with poorly defined statutes: They can lead to significant legal controversy in times of crisis — even abuse of power. The never-ending challenge of fostering a coherent and consistent body of law, McLellan says, is "why the Mackinac Center will be in business forever."

Michigan is fortunate that its law review commission was headed for three and a half decades by one of its very best legal minds. While the impact of the MLRC might appear small, it serves an important purpose, required by the reality of lawmaking. This work will never end, and neither will McLellan's influence on Michigan law. ■



MEET THE STAFF

A Scholar and a Detective

A profile of Michael LaFaive, senior director of the Morey Fiscal Policy Initiative



Within days of reading Milton Friedman's "Free to Choose," Michael LaFaive was set on being an economist. At the time, he was a community college student in Santa Monica, California.

"I grew up in Traverse City but left for adventure," LaFaive said. "I went to Southern California and discovered Milton Friedman. At the time, I thought there were two sets of ideas in the world — Republican and Democrat. But I found that to not be the case."

After earning an undergraduate and graduate degree in economics at Central Michigan University, he went to work for Gov. John Engler. While working in constituent services, he attended a Mackinac Center event in Lansing and began getting introduced to its work.

"In my spare time while working for the state, I did my first study for the Mackinac Center, which was on unfunded federal mandates imposed on the state of Michigan," LaFaive said. "I came on full time in 1995, immediately taking over our 'Michigan Privatization Report.'"

In the 1990s, Michigan was a much different place. Unions were much more powerful. The Michigan Education Association was much more of an industrial union, representing janitors and cooks. Any discussion of opening their services to competitive bidding was met with fierce opposition and protests.

But LaFaive made a difference through his research, including one unusual technique.

"The Mackinac Center had a suspicion that the MEA was privatizing some of their own services and they asked that I look into it," he said. "So, I sat across the street from the union's headquarters and found contractors who came in and provided janitorial, food and security services for the union."

This exposed the union as hypocrites, causing a stir in the press. Lawmakers then excluded competitive bidding from the bargaining process. Today, 70% of school districts contract out food service, transportation, or other noncore services.

Privatization is one of four policy pillars of the Morey Fiscal Policy Initiative, which LaFaive leads. The others are budget, taxes and economic development.

The Mackinac Center named its fiscal policy initiative after the Morey family, which founded the Morbark Corporation in Winn, Michigan. Norvel "Nub" Morey made the first \$1 million gift to the Center. That giving tradition was continued and expanded by Nub's son Lon Morey and the Morey Foundation.

"Our supporters all have fantastic stories and backgrounds, and my favorite part of the job is meeting and becoming friends with them," LaFaive said. "I've been honored to do that with the Morey family and others, too."

He is married to Gessica, a Peruvian-born U.S. citizen.

"A former colleague was married to a woman who grew up near Gessica and she called me and said, 'Hey, this woman is perfect for you.' I spent four hours a night learning Spanish — I didn't want my charm to be lost in translation! — and seven months later, we were engaged."

The LaFaives have two sons. The eldest, fitting for a believer in limited government and freedom, was born on the fourth of July. ■

High School Students Make the Case for Free Markets

Winning essays in the inaugural Bauervic Foundation High School Essay Competition are now available online at www.mackinac.org/essay. We hope you have the opportunity to read these well-researched and thoughtful articles about COVID-19 and government overreach, written by three Michigan high school students who represent the rising generation of free-market, limited government supporters.

These essays were selected as the top entries in the competition, sponsored by the Bauervic Foundation and jointly presented by the Mackinac Center and Northwood University in spring 2021.

The goal of the competition and its related activities is to educate high school students about a current policy issue and assist them to become effective advocates for free-market solutions.

The Bauervic Foundation recently announced that it will continue its sponsorship in 2022; details of next year's contest will be released soon at the essay website, www.mackinac.org/essay. The Mackinac Center is proud and grateful to help spearhead this project and encourages its supporters to share information about the contest with friends and family members.

Please visit www.mackinac.org/essay to read these winning entries:

- “Government Overreach Has Done More Harm Than Good,” by Liliana Lulgjuraj of Rochester. In her essay, Lulgjuraj describes the impact of COVID-19 lockdowns on small businesses in Michigan.
- “Pandemic Policies and the Michigan Economy,” by Isaac Yokom-Mcdonald of Cheboygan. Yokom-Mcdonald’s essay focuses on unemployment and the state economy, an issue he experienced firsthand when the youth center where he worked at on a part-time basis closed its doors during the pandemic.
- “Emergency Declarations: Economic Destruction Put in Place by the Governor,” by Alexandria Gibson of Freeland. Gibson also researched the impact of small business closures on Michigan.

The Mackinac Center congratulates these winners again, as well as all the participants. We look forward to releasing details of the 2022 competition later this year. ■

