

JULY/AUGUST 2023

IMPACT



**UNDERSTANDING
MICHIGAN'S TAX BATTLE:**

**THE FIGHT TO SAVE
TAXPAYERS \$714 MILLION**

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Detroit Free Press

Film incentives aren't worth the cost. Don't bring them back to Michigan

"Film producers, not state economies, are the winners from the subsidies."

James Hohman, Director of Fiscal Policy, and Jarrett Skorup, Vice President of Communications and Marketing



A Decade After Bankruptcy, Is Detroit Better?

"Competent city management can improve the quality of life for Detroiters. But there's no policy that Washington or Lansing lawmakers can put in place to force city officials to manage their services better."

James Hohman, Director of Fiscal Policy



Electric vehicles are the least effective way of satisfying consumers' needs

"Mandates from on high should always concern customers and voters because they are inefficient and take away consumer choice."

Jason Hayes, Director of Energy and Environmental Policy

The Detroit News

Michigan Reconnect needs reform

"Because the state is not collecting any data about the kind of jobs Reconnect graduates are getting, it's hard to know if that information is true. Yet state officials seem bent on expanding the no-strings-attached scholarships, heedless of the lackluster results to date for both beneficiaries and taxpayers."

Jennifer Majorana, Policy Analyst



School Choice Is Empowering Students and Teachers — And Devastating Unions

"One reason why is Janus: The decision has cost unions hundreds of millions of dollars in revenue because they can no longer force public employees to pay them dues."

Jarrett Skorup, Vice President of Communications and Marketing



Canary in a Cigarette Smuggling Coal Mine

"Banning menthol cigarettes would only exacerbate America's substantial trade in cigarette tax evasion and avoidance, this time with an assist from transnational crime syndicates."

Michael LaFaive, Senior Director of Fiscal Policy, and Todd Nesbit, Adjunct Scholar



The Janus Legacy

I joined 65 friends, allies and supporters in June to honor Mark Janus on the fifth anniversary of his landmark win in the U.S. Supreme Court.

At a quiet Washington, D.C., reception hosted by our friends from the Institute for the American Worker, we applauded Mark and his all-star lawyers — Bill Messenger of the National Right to Work Legal Defense Foundation and Jacob Huebert of the Liberty Justice Center.

Thanks to the efforts of Mark and his legal team, millions of public employees in the United States are no longer forced to support a labor union as a condition of employment.

Mark is a modest man; during his brief remarks he spent most of the time thanking people in the room. But the case wouldn't have happened without his courage.

So what has his courage accomplished?

The Supreme Court recognized that the constitutional protections of free speech and free association shield public employees from being forced to pay a union. The ruling applies to 20 million public employees. But it is especially relevant to the 7 million workers in 22 states that do not have a right-to-work law — states like California, Illinois and New York.

Photo by Shutterstock

“Five years in, these efforts are working. Nine states have changed policy to expand worker freedom. People in all 50 states have exercised their Janus rights.”

Our experience in Michigan six years prior to the Janus ruling was important. We passed a right-to-work law in 2012, but when only 1% of eligible workers left their union in the first year, we realized that employees needed help to exercise their new civil right. We provided legal support and information about the process. Public employees responded to our educational efforts; more than 30% of the Michigan Education Association’s members have so far decided to leave the union.

The insight that freedom is not self-executing fueled our preparations ahead of the 2018 Janus v. AFSCME decision. We could not be confident that unions or states would adequately inform employees of their new rights. So we worked with organizations across the country to identify public employees, set up educational websites and secure lawyers who could explain Janus rights. The day the Supreme Court released the decision, these groups sprang into action.

A significant amount of litigation flowed from Janus. Some court cases helped workers stymied by their unions’ stubborn refusal to let them leave. Others sought to expand the precedent, such as the Mackinac Center’s cases to extend Janus to airline employees and lawyers. (We await the day the Supreme Court agrees to review these two

issues.) By my count, more than 12 organizations regularly litigate on behalf of unionized workers.

We also saw an opportunity to promote good labor policy in other states. Through our Workers for Opportunity initiative, we work with governors, attorneys general and state lawmakers. For example, the Michigan Civil Service Commission adopted a rule that gave state employees an annual reminder of their rights. More recently, Florida has made it easier for public employees to exit the union.

Five years in, these efforts are working. Nine states have changed policy to expand worker freedom. People in all 50 states have exercised their Janus rights. We estimate that 1.2 million workers have declined to join their union, keeping at least \$720 million of their own money annually. ■



A handwritten signature in black ink that reads "M. Reitz".

By Michael J. Reitz

Executive Vice President



**MACKINAC
STAFF
PROFILE**

THIS JOURNALIST KEEPS IT REAL



MEET DAVID BONDY, THE MACKINAC CENTER'S DIGITAL AND VIDEO CONTENT MANAGER

When Dave Bondy turned to the Mackinac Center for news and analysis, he didn't anticipate it would lead to a new job. But it did, and he is now the Center's digital and video content manager.

Dave was a news reporter and anchor for more than 25 years. In 2020 he sought help from the Mackinac Center as he investigated Gov. Gretchen Whitmer's overly restrictive response to the COVID-19 pandemic.

"I respected the research and really admired how the Mackinac Center was willing to stick its neck out on issues when so many others wouldn't," Dave says.

Dave has journalism in his blood. As a high school student, he was a freelance reporter for the Detroit Free Press, covering high school sports. He later had an internship at CNN as part of his studies at Eastern Michigan University. After graduating from college, he entered the world of TV reporting, starting in Evansville, Indiana, before moving to Wilmington, North Carolina. "I was the news guy standing on the beach reporting on hurricanes," he says of his time there. Dave worked in Pittsburgh, Pennsylvania, and a few places in Michigan.

"My father was a pipefitter and my brother a United Auto Workers member. Both thought I was crazy to go get a college degree to work a job that paid less than what they were making," Dave says with a chuckle. "But it paid off."

When his mother was diagnosed with Alzheimer's, he moved back to Michigan to help. His wife Katie is a native of Frankenmuth, and they both wanted to be near family. Dave found a job at Mid-Michigan Now, a Fox-NBC conglomerate in Flint.

"In 2020, after COVID hit, I started to become skeptical of the state," Dave says. "Michigan had really restrictive governor-imposed regulations

but wasn't releasing much data. I was digging into this, and I found that the Mackinac Center was as well."

The early months of 2023 were the right time for

him to change jobs. The Mackinac Center had an opening, and Dave was ready to leave the industry he knew. He also had a wife and two young kids and didn't want to work the 2 p.m.-to-midnight shift anymore.

"I wanted to be somewhere where I could do something I totally believed in," he says. "There are so many things I've learned here about government that blow my mind. Being able to dig deeper into matters that I care about and take time on really important issues. You just can't do that anymore in the mainstream media." ■

"I wanted to be somewhere where I could do something I totally believed in."



By Jarrett Skorup

Vice President for Marketing and Communications

BASANTA ADHIKARI FIGHTS

“According to Nepal’s calendar, we are living in 2080,” Basanta Adhikari told attendees at a June lunch hosted by the Mackinac Center. “So in terms of the calendar we are 56 or 57 years ahead. But in terms of economic development we are a century behind.”

Adhikari, founder of Bikalpa-an Alternative, a free-market think tank in Nepal, aims to change that. His talk at the Midland Country Club focused on the regulatory challenges faced by young entrepreneurs and citizens in Nepal.

Since its establishment in 2014, Bikalpa-an Alternative has advocated for economic and individual freedoms for all Nepalese. Through research and public engagement, it helps individuals actively shape their country’s future.

Adhikari shared stories from his own journey and explained how his deep-rooted appreciation for freedom and prosperity – he named his children “Liberty” and “Freedom” – fueled his commitment

to spread these values across Nepal. His grassroots liberty movement is driven by his ambition to provide equal opportunities for all citizens to prosper and exercise their rights.

The road ahead is challenging. Adhikari and his team face an uphill struggle to defend the principles of a free-market society, with limited support from organizational allies. Even so, they remain dedicated to countering populist and illiberal policies through research, advocacy and engagement with young people.

Adhikari told the story of how Bikalpa-an Alternative helped dismantle overregulation and barriers to entry for entrepreneurs. When the government loosened some regulations, young business leaders were encouraged to stay in the country, which has driven economic growth. Under Adhikari’s leadership, Bikalpa-an Alternative received the Asia Liberty Award from the Atlas Network in 2019. It was also a 2021 finalist for the Atlas Network’s Think Tank Shark Tank Award. ■



By Jordan Barker
Advancement Intern



OVERREGULATION IN NEPAL



Thanks to the unwavering dedication of Basanta Adhikari and his team, younger generations in Nepal now face fewer restrictions and enjoy greater individual freedoms.



Photo by Sanjay Hona on Unsplash





Reform-minded Public Officials Join **Workers for Opportunity** Advisory Board



J. Stuart Adams
Utah



Heath VanNatter
Indiana



Justin Hill
Missouri



Greg Vital
Tennessee



Scott Plakon
Florida



Leah Vukmir
Wisconsin

June 27 marked the five-year anniversary of *Janus v. AFSCME*, a landmark U.S. Supreme Court decision about public employees. On that day, the Mackinac Center's national Workers for Opportunity initiative announced its new board of advisors, which will guide the initiative's effort to reform labor policy across the land.

The daily life of citizens is shaped in many ways by unions' political activities: how our children are educated, what jobs are available, and how lawmakers spend taxpayers' money. Workers for Opportunity has become, over the past five years, an indispensable resource for righting the balance of power between people and unions.

This year has already been the most successful one to date for our work.

We consulted with Florida Gov. Ron DeSantis and his administration to upend public unionism and enact the most robust labor reform in the nation. A new law in Florida institutes paycheck protection — removing the state's role in collecting union dues from teachers and other public employees. Our success there contributed to reforms in Tennessee, Kentucky and Arkansas.

Lawmakers in Indiana, Alaska and Oklahoma have considered Workers for Opportunity's "opt-in" approach to unions. With opt-in, the state must tell all public employees, each year, that they have a right to refrain from union membership. The policy also requires employers to get proof of consent, annually, before they withhold any dues payments for a union.

This year, Tennessee became the first state to require that companies receiving taxpayer dollars protect their employees' right to vote by private ballot if union organizers target their workplace. This protection, which Workers for Opportunity promotes, means that unions cannot intimidate workers into signing a public pledge of support.

We are proud of these successes and eager for more. Our new board members will share their policy expertise with us. They are proven champions of employee freedom, with a record of victories in labor reform. The members are:

- **Justin Hill**, director, and former Missouri House of Representatives member
- **Scott Plakon**, former Florida House of Representatives member
- **Heath VanNatter**, Indiana House of Representatives member
- **Leah Vukmir**, former Wisconsin senator
- **J. Stuart Adams**, president of the Utah Senate
- **Greg Vital**, Tennessee House of Representatives member

With the board's guidance, Workers for Opportunity continues to press for expanded employee freedom. We educate lawmakers on prospective laws that help public employees know their rights, ensure they have the secret ballot on questions about union representation, and allow them to withdraw from union membership without facing unnecessary or unconstitutional red tape.

We look forward to working alongside our advisory board members to usher in a new era of labor reform. ■



By Justin Hill

*Workers for Opportunity
Director of the Board of Advisors*



By Lindsay B. Killen

*Workers for Opportunity
Senior National Advisor*

The Mackinac Center Welcomes the Intern Class of 2023

With 19 interns, this is our largest class to date

Thérèse Boudreaux is one of the four Michigan Capitol Confidential interns. She attends Hillsdale College, where she studies politics. She enjoys working in public policy and conducting research. In her free time, Thérèse enjoys community service.

Valerie Check is an energy and environmental policy intern. A sophomore at Hillsdale College, Valerie plans to attend law school and then work in environmental policy. She studies English and is a member of the college mock trial team.

Recent Hillsdale College graduate **Andrew Davidson** works for the Mackinac Center Legal Foundation. Andrew received a bachelor's degree in philosophy and plans to pursue a career in law. He enjoys reading and playing the piano.

Saginaw Valley State University senior **Malik Smith** is a continuing advancement intern. Malik is from London and started his internship in January. He is studying supply chain management and is currently a resident assistant at SVSU. Malik enjoys playing and coaching soccer.

Alyssa Patterson serves in the communications department. A senior at Central Michigan University, she studies business management and marketing. Alyssa wants to prepare for a career in the liberty movement. She has already worked in the United States Congress and the Michigan Legislature.



Left to Right: Valerie Check, Sarah Rakoczy, Alyssa Patterson, Caroline Vanchura, Victoria Aultman-Hoffman, Amelia Molitor, Thérèse Boudreaux, Gregory (Willie) Taylor, Anna Fox, Chris LaBella, Malik Smith, Matthew Wright, Gabriel Powell, Brian Ntwali, Jordan Barker, Ewan Hayes, Andrew Davidson, Will Young, Dixon Anderson

Ewan Hayes is an intern with Michigan Capitol Confidential. He studies philosophy at Hillsdale College, where he will be a senior in the fall. He plans to continue working in the liberty movement and eventually pursue graduate school.

Recent Hillsdale College graduate **Gabriel Powell** joins us for his second summer. He is a Mackinac Center Legal Foundation intern and previously worked as a communications intern. Gabriel received a bachelor's degree in politics and will attend Notre Dame law school in the fall.

Sarah Rakoczy is an intern in the communications department. Sarah is a senior attending Saginaw Valley State University, where she is president of the Turning Point USA chapter. Sarah is studying political science and plans to run for office one day.

Gregory (Willie) Taylor works with the advancement team. A senior economics major at Saginaw Valley State University, Willie came to Michigan from Cary, North Carolina, to play college football. He hopes to become an officer in the U.S. Marine Corps.



The Mackinac Center's work, including this magazine, is made possible by the Mackinac Center Board of Directors:

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Caroline Vanchura is a CapCon summer intern, having been with us since September 2022. She will be a freshman at Ave Maria University this fall, studying philosophy. Caroline, who enjoys reading and writing, is the eldest of 10 siblings.

Brian Ntwali, this year's education policy intern, studies economics, math and computer science at Hope College. Brian aspires to spread the liberty movement in his home country of Rwanda. He enjoys reading and participates in an economics-focused book club on campus.

Michigan State University student **Matthew Wright** is an intern in energy and environmental policy. He hopes to attend George Washington University to pursue a law degree. A self-described "proud nerd," Matthew enjoys history and science fiction.

Will Young, also a Michigan State University student, joins the CapCon team as an intern. He is majoring in marketing as well as media information. Will wants to have a career in either marketing or cyber insurance.

Victoria Aultman-Hoffman has been with us for more than two years and enjoys working with donors in the advancement department. Victoria plans to continue working in the nonprofit think tank world upon graduation this fall. She was married in July.

Jordan Barker celebrated his one-year anniversary as an advancement intern at the Mackinac Center in March. He recently graduated from Northwood University and is returning in the fall to get a master's degree. Jordan enjoys spending time on the lake and golfing.

Dixon Anderson has been with the Mackinac Center since October 2021. He is the graphic design intern, with a goal to continue in a career of the same field. Dixon describes himself as an artist, an avid music lover, and someone passionate about environmental policy.

Amelia Molitor joins us for her second summer as an intern in the advancement department. She studies psychology and theology at Walsh University. Amelia, soon to be sophomore, plans to pursue work in a Catholic diocese as a counselor.

Anna Fox started in May as a government affairs intern, working in the Mackinac Center's Lansing office. Anna is a graduate student at Michigan State University, studying public policy. She enjoys traveling and studying historical figures.

Chris LaBella, a recent graduate of the University of California, Santa Barbara, is this summer's fiscal policy intern. Chris wants to pursue a master's degree and work for a think tank. He enjoys playing the guitar, hiking and camping. ■



By Alyssa Patterson

Mackinac Center Intern



By Sarah Rakoczy

Mackinac Center Intern



MICHIGAN OPEN RECORDS LAW NEEDS TO BE REWRITTEN

Michigan government offices should work for the people, not for themselves. That's why the Mackinac Center recommends a constitutional amendment that would fix the state's broken open records law.

Our proposal amendment includes annotations that explain why changes are needed and what their intended effects would be. This ideal Freedom of Information Act closes loopholes, revises exemptions that government employees use to justify redactions, and significantly increases fines for noncompliance. The recommended changes also shift the expense associated with applying permissive redactions onto the government, instead of requestors. Taken together, the amendment changes the incentives public bodies face, making the open records process quick, cheap and transparent.

Michigan needs these changes because it consistently ranks as one of the worst states in the nation for government transparency. Citizens attempting to obtain public records frequently find themselves stonewalled by long delays. When government offices finally respond, they usually ask for a payment to cover the costs of locating and reviewing records. But the estimated expense can be so high that a requestor has no choice but to abandon the request. Michigan residents who have the patience and means to obtain the information they seek often face another hurdle: The documents providing the information have so many redactions as to be, at best, confusing. Worse, they can be worthless.

The rules intended to make Michigan's open records law work for citizens don't help much. Requestors who wish to challenge fees, delays and redactions have two options: appeal to the head of the public body that maintains the records they seek or go to court. The first option rarely solves the problem, since it asks the public body that holds the records to review its own work. The second option is usually too expensive and time-consuming for the average citizen.

Lawmakers, advocates and others have tried to amend the law over the years. Some changes have moved the state in the right direction. None, however, go far enough to craft an effective Freedom of Information Act that holds government accountable. To make the open records law the tool it should be, lawmakers must rewrite it from top to bottom.

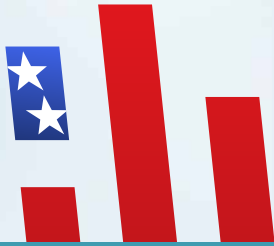
To see the changes we have suggested, please visit www.mackinac.org/studies. If legislators adopt our recommendations, the people of Michigan will be better able to use the state's FOIA law to hold government accountable. ■



By Stephen Delie

Director of Transparency and Open Government

UNDERSTANDING MICHIGAN'S TAX BATTLE: THE FIGHT TO SAVE TAXPAYERS \$714 MILLION



Photos by Adobe Stock

The Mackinac Center Legal Foundation has filed suit against the treasurer of the state of Michigan for illegally hiking taxes on Michigan residents. If we win, we will save Michiganders nearly \$714 million a year and prevent the state government from using a shaky interpretation of the law to pocket taxpayer dollars.

The Michigan Legislature amended the state's tax code in 2015 to include an automatic trigger mechanism for individual income taxes. The trigger mandates that the "current" rate be reduced if the state budget accumulates a large enough surplus. That condition was met this year, when unexpectedly high revenues left Lansing flush with cash.

The House and Senate fiscal agencies predicted that the surplus would trigger this 2015 law, resulting in a reduction in the personal income

tax rate from 4.25% to 4.05%. They understood this law to be a permanent reduction of the most recent tax rate.

Hoping to avoid this permanent tax cut, Gov. Gretchen Whitmer tried to run out the state's surplus by writing checks worth almost \$800 million to Michigan households. Her proposal failed to secure passage by a March 1, 2023, deadline, however. The governor then accepted the cut for calendar year 2023, saving residents nearly \$714 million for the year.

A few weeks later, State Treasurer Rachael Eubanks asked Attorney General Dana Nessel's office whether the tax cut could reasonably be interpreted as a temporary one. The very next day, the attorney general responded, claiming that the law's mention of the "current rate" referred specifically to the tax rate at the time of the law's

adoption. In other words, the “current rate” language specifies a default higher rate to which the tax rate resets after a one-time reduction.

Attorney General Nessel’s view of the 2015 law is shaky at best. If the Legislature had wanted “current rate” to refer to a specific, fixed percentage, it would have written that number into the statute. Likewise, if lawmakers had wanted the rate to revert to that percentage after a year of reduced taxes, they would have said so. Volumes of state and federal tax law contradict the attorney general’s reading: State governments use numbers when referring to specific rates and phrases like “current rate” when referring to the most recent rate, which changes permanently after a tax cut.

What the law demands is a permanent reduction of Michigan’s income tax rate. “Current rate” describes the most recent rate at the time of a revision, not a fixed percentage to which all tax rates revert after one year. It is legally incorrect to use the 2015 law to hike income taxes; this is an automatic law which lowers taxes every time there is a sufficiently large budget surplus.

Although the attorney general’s opinion contradicts years of legal precedent and hinges entirely on one unlikely meaning of the term “current,” Treasurer Eubanks accepted it as legally binding. Unless the courts overturn this illegal tax hike before the end of the year, the increase will take effect on Jan. 1, 2024, letting Lansing collect nearly \$714 million more per year from taxpayers.

The Mackinac Center Legal Foundation filed suit in August against the state treasurer. If we win in court, we will preserve Michigan’s 2023 tax cut for future years and save Michiganders hundreds of millions every year.

Since most small business owners file their state taxes as individual taxpayers, this cut will also boost Michigan’s small business economy and keep entrepreneurs in the state. Even more importantly, a victory in this case means that state officials must answer to the law as it is written instead of redefining it as they think would be expedient.

The Mackinac Center Legal Foundation successfully sued the Michigan Economic Development Corporation in 1995, during Gov. Rick Snyder’s term, for failing to disclose massive General Motors tax credits. Now, we’re suing Gov. Whitmer’s administration for trying to reverse this year’s personal income tax cut. Regardless of who is in power, the Mackinac Center is proud to hold public officials accountable to the law and ensure that they govern with integrity. ■



By Andrew Davidson
Legal Foundation Intern

Meet Our Clients

Associated Builders and Contractors of Michigan



Members of ABC Michigan experienced much-needed tax relief this year. The nearly 80% of independent builders and contractors across the state represented by ABC Michigan are already dealing with the effects of the anti-free-market policies that have been passed in Lansing this year. Now, their taxes may be hiked as well. Many of ABC Michigan's members will face a larger financial impact than individual taxpayers, because taxes for their business are filed under the personal income tax.

National Federation of Independent Businesses



NFIB represents nearly 10,000 small and independent businesses across Michigan and more than 287,000 nationwide. Many small businesses in the state saw thousands of dollars in tax relief this year, because nearly 60% of small businesses in the state pay their business taxes through the individual income tax. Businesses in Michigan are already facing financial hardships due to the legacy of COVID-19 shutdowns and strict regulations. Raising taxes would place yet another burden placed on businesses in a state that is already facing ongoing population decline.



Lawmakers Dale Zorn and Ed McBroom

When Sen. Ed McBroom, R-Waucedah Township, and Rep. Dale Zorn, R-Onsted, voted for the tax cut trigger back in 2015, they and everyone in the Legislature understood that the reduction was meant to be permanent. Taxpayers deserve clarity on how much of their money they may or may not keep. Lawmakers need an accurate picture of how much revenue will come in each year in order to budget money responsibly.



Owen Pyle

From running a ski company in Idaho to starting multiple Long John Silver's franchises in Michigan, Owen Pyle knows what it takes to help businesses grow. He is currently president and CEO of Concord Capital Management, an investment company he started in 1974. Owen's six decades of experience as a businessman have helped shape his belief that tax cuts incentivize businesses and residents to stay in Michigan.



Ross VanderKlok

Ross VanderKlok believes in checks and balances and the need for government officials to follow the law. A security manager from the Grand Rapids area, Ross is fighting to keep Michigan's income tax low. He knows that he is a better steward of his own money than the state. Ross prefers to keep his money local by donating to causes he supports, whether they be charities or his church.



Barbara Carter

Barbara Carter is a retired registered nurse and has a Ph.D. in education. While Barbara saw modest relief under the tax cut, her concern is that hiking the tax rate again hurts low-income individuals. She wants to ensure Michigan taxpayers get the relief they deserve and were promised.



Bill Lubaway

Bill Lubaway is an accountant and has worked in finance for the majority of his career. A retired hospital CFO, Bill is especially frustrated with the administration's attempts to backdate receipts of revenue to avoid this income tax cut. He sees this attempt as a violation of the basic principles of accounting and financial management.



Rodney and Kimberley Davies

Rodney and Kimberley Davies recognize the importance of keeping more of the money they earn. At a time when every trip to the grocery store gets more expensive, the Davies are fighting so families like theirs can save every possible dollar.

Kickball for a Cause

The Mackinac Center believes that a free-market economic approach is the most direct path to helping people live productive, free and prosperous lives. We also believe that taking time to listen to people is essential to our work.

We support Michiganders from all walks of life while learning about how public policies affect their daily lives. One way we do this is to work with local nonprofit organizations, which can provide a variety of nontraditional opportunities for outreach.

One organization we've had the privilege to work alongside is Whose House Our House. This Detroit nonprofit bridges the gap between law enforcement and the community through mentorship programs, fellowship groups and sporting events.

A nonprofit must do many things to survive, including the challenging work of building a network of financial supporters who will contribute to its mission. The Mackinac Center mentors Whose House Our House and lends insight on how it can build its fundraising capacity. This has recently led to Whose House Our House securing a major grant to fund a podcast studio, which will

help spread awareness of the organization among potential funders and the community.

In June, the Mackinac Center teamed up with Whose House Our House for its "Playing Together to Evolve Together Kickball and Flag Football Tournament" in Hamtramck. This was the event's third year.

Several members of the Mackinac Center staff traveled to Hamtramck to serve as volunteers, selling concessions as well as preparing and serving lunch. Some even participated in the kickball tournament alongside local law enforcement officials and members of the community.

"We need to come together as one, both as a community and as a society," said Elijah Richardson, executive director of Whose House Our House. "That's why we have events like this — to build fellowship and a positive relationship."

The Mackinac Center is a leading expert in free-market policy, with experts who find facts, statistics and figures. But nothing beats hands-on interaction with people who feel the effects of policy in their daily lives. ■





By Taylor Anderson
Outreach Manager

ONLINE RESOURCES



MichCapCon.com

Michigan Capitol Confidential reports with a free-market news perspective.



WorkersForOpportunity.org

Advancing the liberty of employees across the country and protecting First Amendment rights.



Mackinac.org/MCLF

Our public interest law firm advances individual freedom and the rule of law in Michigan.



OpportunityMichigan.org

Want to get more engaged with public policy in Michigan? Opportunity Michigan is right for you.



FrankBeckmannCenterForJournalism.com

Keeping citizens informed with news and analysis that expose government overreach and abuse.



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MACKINAC FIGHTS 

FOR THE LITTLE GUY

“This community has parents who value education, and it showed in the students I taught.”

- Mary Klenow



“Money is like manure. It is not worth a thing unless you spread it around.”

Mary Jeanne Klenow, a resident of Midland, Michigan, says this line from the musical “Hello Dolly!” guides her approach to charitable giving.

Mary Jeanne is a lifelong educator with an interest in helping others. It’s a desire she saw in her grandfather, who owned a local grocery store and was one of the first residents of East Tawas. He helped the town grow out of its infancy, Mary Jeanne says.

After three years in Europe teaching dependents of U.S. servicemembers, Mary Jeanne settled down in Midland.

“This community has parents who value education, and it showed in the students I taught,” she says. While employed as a first grade teacher, she earned a master’s degree in the teaching of reading. When the Midland school district needed someone to coordinate its reading program, she was the obvious choice. Mary Jeanne understood the long-term impact she could have on the entire school district by educating the educators.

Right-to-work has been a key issue for the Mackinac Center from its inception, and Mary

Jeanne appreciates the Center’s support for teachers who find themselves at odds with a union. When she started teaching in Midland, there was no union. But the Michigan Education Association moved in, and Mary Jeanne and a small number of her co-workers refused to be forced into joining. This tiny minority of educators consented to having their dues put into escrow instead of the union coffers. She has no idea what happened to that money and is still interested in discovering where it went.

The Mackinac Center is one vessel she uses to ensure her charity is being used wisely. “I’m impressed by the many staff members I’ve met,” she says. “They all feel the same way. Mackinac fights for the little guy.” For Mary Jeanne, it all comes down to educating children and adults to make the best of themselves and their community. ■



By Ryan Rickel

Director of Strategic Partnerships

CapCon Sets Record Straight on Teachers Union

“If men were angels, no government would be necessary,” James Madison said.

Well, if people spoke honestly, no journalism would be necessary.

Journalism is about testing claims against facts and telling the public what’s true.

When Randi Weingarten, head of the American Federation for Teachers, told a congressional panel that “we spent every day from February (2020) on trying to get schools open,” Michigan Capitol Confidential saw an opportunity to fact-check.

Editor John LaPlante compared Weingarten’s words in 2023 against what she and other leaders

of teachers unions did between 2020 and 2022. Words and deeds were in conflict.

LaPlante found that the Detroit affiliate of the union had an odd way of trying to reopen schools: It declared what it called a “safety strike” in August 2020, with 91% of members voting to give their approval.

In July 2020, union affiliates blocked Detroit school buses from picking students up for summer school. They also sued to prevent the return of in-person schooling. The union itself was an impediment to reopening schools. Parents were, for months, the only voice in favor of returning to the classroom. Some spoke out at risk to their livelihoods.

Union opposition wasn't limited to Detroit. In America's biggest cities, teachers unions fought hard against the return of in-person learning.

They can attribute this to "an abundance of caution," that favored phrase of the school leader canceling school for a snowstorm that has not yet hit. But they can't say it didn't happen.

Yet when Weingarten testified before Congress, she did deny it. She tried to rewrite history.

Defeat is an orphan. The lockdown, stay-home, shut-down approach of 2020 has been discredited. Its most eager defenders, including Weingarten and Michigan Gov. Gretchen Whitmer, now distance themselves from those days. Nobody embraces the COVID regime anymore.

That's the good news. We welcome Whitmer and Weingarten to the side of sanity. But they are late arrivals, and in 2020 they were part of the problem. ■



By James Dickson

Managing Editor of Michigan Capitol Confidential

BY THE NUMBERS

2X

Michigan's fourth-grade reading scores declined two times more than the national average after the pandemic

43rd

Michigan's rank in fourth-grade reading

1/3

Proportion of students who could go to school full time and in person in 2020-21

2022

School unions were opposed to schools reopening to in-person instruction as late as 2022.

Supreme Court Reins in Regulatory Overreach in Land-use Case

Landowners across the nation won in June when the U.S. Supreme Court issued its ruling in the case *Sackett v. Environmental Protection Agency*, which involved a longstanding Mackinac Center interest. Justices said the federal government had overstepped its authority when, in the name of regulating the “navigable waters” of the United States, it punished a family for moving dirt around on its land.

In 1972, Congress enacted the Clean Water Act, which made it a crime to discharge prohibited pollutants — and natural material such as dirt, sand and rocks — into the navigable waters of the United States.

The Army Corps of Engineers soon overstepped its authority, punishing a Macomb County developer for putting fill on its land. The resulting controversy eventually reached the high court in the 1985 case *United States v. Riverside Bayview Homes*. The court sided with the Corps.

An even more egregious example of bureaucratic overreach was the migratory bird rule, whereby if a bird could land on water somewhere on a piece of land, federal agencies could regulate it. The court overturned that rule in a 2001 case.



John Rapanos answers reporters' questions in 2006 following his Supreme Court victory. Looking on are Joseph Lehman, then the Mackinac Center's executive vice president, and Patrick Wright, then senior legal analyst.

Another case from Michigan involved John Rapanos of Midland County. The Corps said he violated the Clean Water Act by filling in some wetlands on his property. As with *Riverside Homes*, the alleged violation occurred far from a navigable body of water. The Mackinac Center helped John, filing one of its earliest briefs with the Supreme Court. The brief told justices the problem they faced was a doctrine that let agencies interpret ambiguous statutes, as opposed to having Congress make clear choices.

The court, which called the Clean Water Act a potent weapon that imposes “crushing consequences even for inadvertent violations,” punted on the question of defining “navigable



Photo by Tim Mossholder on Unsplash

waters.” Landowners continued to suffer from the legal ambiguity, as they could face imprisonment for negligent discharges. They also could be fined at a rate of over \$60,000 per day. The “civil penalties can be nearly as crushing as their criminal counterparts,” the court observed.

The fourth challenge to regulatory overreach came from the Sackett family, which in 2004 had purchased an Idaho lot to build a home. The Sacketts began to backfill with rocks and dirt, until the Environmental Protection Agency started threatening daily fines of \$40,000. The EPA had again expanded its jurisdictional reach by defining “water of the United States” to include wetlands adjacent to nonnavigable tributaries. It said that such land, either alone or in conjunction with similarly situated wetlands, creates a “significant nexus” to a traditional navigable waterway. This meant that the agency had authority to regulate what happened to the land. The Sacketts’ land had a nonnavigable tributary on the other side of a 30-foot road. That tributary eventually fed into a nonnavigable creek which then fed into a lake, which the EPA considered navigable.

The Sacketts prevailed in their legal struggle, after years of accumulating fines and facing potential criminal sanctions. After two trips to the United States Supreme Court (both litigated by the Pacific Legal Foundation) and nearly two decades, the Sacketts and advocates of property rights were able to see regulators constrained. The court, finally, limited federal regulatory authority by defining “waters of the United States” to mean relatively permanent bodies of waters connected to interstate navigable waters and the wetlands sharing a surface connection with those waters.

If the federal government again seeks to maximize its control over almost every land-use matter in this country, it will be up to Congress, not the agencies, to make that effort. If it does so, friends of liberty will need to pressure Congress to balance individual property rights with concerns about environmental protection. ■



By Patrick Wright

Vice President for Legal Affairs

Internship Program Delivers Benefits Now, with More to Come

The pursuit of a brighter future requires organizations that understand the importance of long-term thinking. The Mackinac Center for Public Policy exemplifies this mindset.

Since its inception in the late 1990s, the Mackinac Center's internship program has played a vital role in connecting young minds with the principles of liberty. Each summer, a group of college students joins the Center. They come from diverse backgrounds and share a common passion for advancing the ideals of liberty and limited government.

The intern program supports the Center's work by providing help for various projects. Through hands-on experiences, interns work with experienced professionals to address real-world policy challenges.

The program also has long-term benefits in nurturing a new generation of scholars, analysts

and advocates. By doing so, it ensures that the Center's principles will have advocates for decades to come.

Expanding the talent pool brings substantial advantages not only to the Mackinac Center but also to free-market organizations at large. Numerous think tank and policy advocacy groups proudly count former Mackinac Center interns in their ranks.

Our internship program demonstrates the value of investing in young talent. We appreciate the support of our dedicated contributors as they help us cultivate aspiring leaders and shape the future of economic freedom. ■



By Joseph Rupert
Advancement Manager