

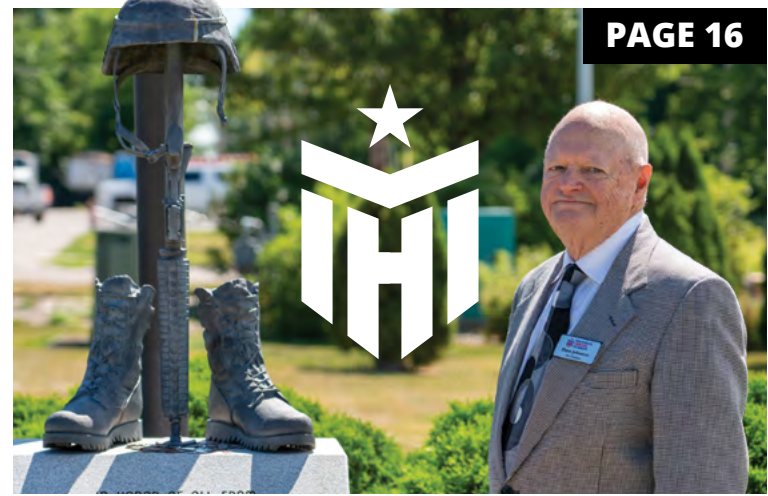
# IMPACT

**Mackinac Center Takes Up  
Construction Workers' Fight  
Against Government Overreach**

**PAGE 20**



- 3 **Mackinac in the Media**
- 4 **"We Got It, and We Quit"**
- 6 **Mackinac's Website Chief Carries on a Family Tradition**
- 8 **For CapCon, Emphasis is Impact**
- 10 **Frank Beckmann Center For Journalism Raises First Million, Sees Enormous Impact**
- 12 **Michigan Supreme Court Sides With Mackinac Center, Cato institute, ACLU on Unconstitutional Searches**
- 14 **The Price of Everything**
- 16 **A Visit to the Michigan Heroes Museum Will Not Disappoint**
- 18 **Showing Local Officials the Best Way to High-Speed Internet Access**
- 20 **Mackinac Center Takes Up Construction Workers' Fight Against Government Overreach**
- 24 **Oklahoma Governor Latest Public Official to Call for Protecting Public Employees' Rights**
- 26 **The Art of Public Records Requests**
- 28 **Learning From our Supporters**



### THE WALL STREET JOURNAL

#### Can We Build It? Not With Michigan's Prevailing-Wage Mandate

"Michigan law is clear: The prevailing wage is supposed to be dead. All my guys want to do is build the local library at the best cost to taxpayers. But before that can happen, a judge needs to throw the book at Gov. Whitmer."

*Jimmy Greene, President of Associated Builders and Contractors of Michigan and Mackinac Center Legal Foundation client*



#### No One Subsidizes Business Like Michigan

"Lawmakers ought to be maintaining the few existing limitations on the program, not figuring out how to give away taxpayer funds more freely."

*James Hohman, Director of Fiscal Policy*



#### Ohio Jobs Head for Right-to-Work States

"The Buckeye State remains a manufacturing intensive state. Policymakers there would be wise to adopt a right-to-work statute."

*Todd Nesbit, Assistant Professor at Ball State University and Michael LaFaive, Senior Director of the Morey Fiscal Policy Initiative*

### The New York Times

#### Even With Biden as a Pro-Labor Champion, Unionizing Is Still a Grind

"Overall support of Republicans by union households is almost back up to where it was under Ronald Reagan, who won two landslide elections, says Jarrett Skorup, the senior director of marketing and communications at the Mackinac Center for Public Policy, a nonprofit institute that advances the principles of free markets and limited government."

*Farah Stockman, New York Times Editorial Board*

### The Detroit News

#### Whitmer, Nessel must end Line 5 legal games

"It's now well past the time for Whitmer and Nessel to admit they've been wrong and get out of the way. They need to cease their actions to impede the construction of the Line 5 tunnel and allow this essential infrastructure project to proceed."

*Jason Hayes, Director of Environmental Policy and Derk Wilcox, Senior Attorney*

### GRAND RAPIDS Business Journal

#### Holland can get better internet without taxpayer risk

"It is crucial that cities use their funds appropriately, and not put taxpayers on the hook for 25-year commitments that are unlikely to offer meaningful benefits after the first few years."

*Ted Bolema, Founding Director of the Institute for the Study of Economic Growth and Jarrett Skorup, Senior Director of Marketing and Communications*

# “WE GOT IT, AND WE QUIT”

In May, I was privileged to deliver brief welcoming remarks to European think tank leaders and others from around the world in Warsaw, Poland. Originally, we were to have gathered in Kiev, Ukraine, in 2020 for the Atlas Network’s Europe Liberty Forum. The pandemic, lockdowns and a Russian invasion changed all that.

Some Ukrainians came and told their stories of the war. Many attendees from places not under attack ferried over enough non-lethal battlefield supplies to fill an SUV that would be driven across the border.

Ukraine had been on an upward trajectory (with setbacks along the way) since throwing off the Soviet Union’s yoke in 1991. It became safer to openly go about the business of think tankery — proposing reforms, exposing problems, challenging unethical officials.

Public policy wasn’t exactly a blank slate in the former Soviet republic, but independence — almost universally celebrated — brought with it a fresh start. My Ukrainian think tank friends identified plain old government corruption as perhaps the nation’s most pressing policy problem. Little else mattered, they said, if officials misused their offices, stole public funds and doled out favors to their cronies.

Progress was slow, but there was progress. Then Russia attacked and invaded on a scale far larger than its past transgressions in Georgia and Ukraine.

In Warsaw, Ukrainian think tank leader Natalya Melnyk summarized the cost of treating independence itself as a sufficient victory. “We fought for independence, we got it, and we quit,” she told the audience.

She now wishes her fellow countrymen had done more in their 31 years of independence to strengthen their institutions and the nation they uphold, to say nothing of stemming corruption. If Ukraine had been stronger — with an even greater commitment to rule of law, free-market economics and civil rights — she may have deterred the attackers altogether or quickly repulsed them.

We’ll never know for sure. No one should blame the victim in a war of unprovoked aggression, but serious challenges are better faced from strength than from weakness.

Michigan and America have big problems, too, but I tell Natalya’s story to underscore the importance of never giving up the effort to keep what we have and improve on it. It’s easy to be discouraged by

“It’s easy to be discouraged by focusing on headlines designed to frighten and disorient readers, in the search for views, click-throughs and subscriptions.”

focusing on headlines designed to frighten and disorient readers, in the search for views, click-throughs and subscriptions.

Ukrainians would likely trade some of their problems for ours. Ukrainian member of Parliament Maryan Zablotskyy, a friend of mine and former think tank president, even thinks it would be worth the trade-offs to import America’s “gun culture” (the very term he uses). He’s convinced that if Ukrainian civilians were as well armed as ours, there wouldn’t have been an invasion. (See his organization, Ukrainian Arsenal of Liberty, for more.)

We’ll never know if that’s right, but we can be pretty sure we’ll be better positioned to overcome Michigan’s, and America’s, problems if we preserve our strengths, double down on them and prepare for the unexpected. ■



Joe

By **Joseph G. Lehman**  
President of the Mackinac Center



# Mackinac's Website Chief Carries on a Family Tradition

A profile of Isaiah Bierbrauer, our  
Information Systems Developer

If you've ever visited Mackinac.org and noticed how quickly it loads, you have Isaiah Bierbrauer to thank.

Don't be fooled by his youthful appearance. Isaiah has worked at the Mackinac Center for more than 15 years. He started as a part-time volunteer in 2007, and his willingness to help and learn quickly made a big impression.

Isaiah was invited to continue as a contractor soon afterward, and he now works full-time as an information systems developer. Working at the Mackinac Center was an easy choice.

"In the think tank world," he says, "it's one thing to have great ideals and another to actually accomplish them. Mackinac does both."

In his current role, Isaiah oversees web development, manages databases and creates online tools for our employees. If you've been to any of Mackinac's numerous websites, you've almost certainly experienced his handiwork. He was the driving force for the recent redesigns

of both Mackinac.org and MichCapCon.com, ensuring that nothing went wrong during the transition between the old and new versions. Isaiah has a sharp eye for detail, making sure every pixel is perfect while ensuring Mackinac's online presence works securely on both mobile and desktop platforms.

Isaiah doesn't rest on his laurels though. "I love revisiting things I've made, reevaluating how they're performing and improving on them,"

he says. He carries with him a strong sense of ownership and responsibility, constantly thinking of ways to streamline tasks. Isaiah is most proud of his work on VoteSpotter, an app covering Michigan politics, which he built from the ground up.

Isaiah was born in Midland in July 1991 and has nine siblings. He grew up familiar with the Mackinac Center.

"Both of my parents worked at the Mackinac Center. My mother did mailings and later my dad joined as a janitor before transitioning to operations administrator." They were both drawn to Mackinac's philosophy of small government and wanted to help make a difference. Most importantly, they were all drawn to the atmosphere and people that the Center attracts. "I love my co-workers, they're a great group of people and wonderful to work with." ■

“It’s one thing to have great ideals and another to actually accomplish them. Mackinac does both.”

# FOR CAPCON, EMPHASIS IS IMPACT



Michigan Capitol Confidential wasn't the only news outlet in Michigan to report that the state gave a \$100 million economic development grant to Ford Motor Co. in June, with the stated goal of creating 3,030 electric-vehicle jobs.

But we were the first to note that the deal would be unaffected by the news, in July, that Ford would be laying off 8,000 people — to fund its transition to EVs.

In effect, Ford would be hiring blue-collar workers with one hand and laying off white-collar workers with the other.

Only one in three Michigan lawmakers — the members of the House and Senate appropriations committees — had a vote in the expenditure, which took place through a legislative transfer rather than new legislation. Gov. Gretchen Whitmer didn't even have to sign it.

In back-to-back weeks, the committees voted yes, and that was that.

When Ford and Michigan economic development officials testified before the Senate committee, legislators didn't even ask any questions.

This is business as usual in Lansing, and most of the media treated it as such.

Except us. In the pages of CapCon, these are questionable behaviors. Our impact is found in putting the proper emphasis on news events. What's treated as normal often fails to serve the Michigan taxpayer.

Why do companies the size of Ford and General Motors consistently hold their hands out for government money? What would happen tomorrow if the state stopped giving out corporate welfare?

No one in official Michigan can bring themselves to give the answer: a century-long auto heritage would dry up in a matter of years.

Ford's director of economic development, Gabby Bruno, spoke the plain truth to the Senate committee.

"These jobs and investments wouldn't be possible without the support of the state," Bruno said. "Public-private partnerships like the one that we're discussing here today are important to

keep Michigan at the forefront of automotive manufacturing."

Which is to say: It's not history, heritage or expertise that keeps auto jobs in Michigan. It's taxpayer money.

A week earlier, Rep. Jeff Yaroach, R-Richmond, had asked, "Is this what we're left with, that we have to pay companies to stay in Michigan?"

Yaroach argued, as we would at CapCon, that there are other ways to attract and expand business investment.

If overactive regulators and too-heavy taxes are the problems that drive Michigan's biggest companies to seek relief, they're problems that small businesses face daily, without relief.

Michigan's roads and public schools are holding the state back, too.

Companies don't just plop a factory into a cornfield. They need to attract or relocate workers, and those workers have families. What's the quality of life outside of the factory? Where will the kids attend school? What are the roads like on the way?

These things matter, too.

Michigan must focus on the health of its entire economy. Instead, it mostly ensures a few large companies remain well-fed.

When lawmakers try to cut business deals for the chosen few, they can expect scrutiny from Michigan Capitol Confidential. ■



**By James Dickson**

*Managing Editor of Michigan Capitol Confidential*

# Frank Beckmann Center For Journalism RAISES FIRST MILLION

## Sees Enormous Impact

The Frank Beckmann Center for Journalism has raised its first million dollars. This gets us one-third of the way toward our goal of \$3 million, all of which will be matched dollar-for-dollar by a generous donor.

The Beckmann Center houses our impact journalism arm, Michigan Capitol Confidential. It's also home to the "Mackinac on Michigan" radio show on WJR and our journalism interns, who learn how to generate and produce stories. Our transparency initiatives, which include filing hundreds of Freedom of Information Act requests every year, also take place there.



In the first six months of the Frank Beckmann Center for Journalism, our team has accomplished the following:



Aired seven radio shows with 25 guests, including three candidates for governor, leaders in the state House and Senate, congressional candidate John James, education expert Corey DeAngelis, and a variety of reporters and Mackinac Center policy staff.



Hired two interns, Genevieve O'Gara and Gabriel Powell. Genevieve has written more than 20 news articles, including breaking stories about Michigan's Certificate-of-Need law that kept one hospital from expanding. She also examined diversity, equity and inclusion programs at a dozen public schools. Gabriel has filed nearly 1,000 public records requests and collected data for a study comparing how well (or poorly) state agencies respond to open records requests.



Filed three lawsuits against insufficient government transparency, with more in the works. One client, Carol Beth Litkouhi, is a mom in Rochester who appeared on "Fox & Friends," where she discussed her efforts to find out what is being taught in her school district.



Doubled our advertising spending and expanded our email lists, all to reach as many people as possible with the work described above.

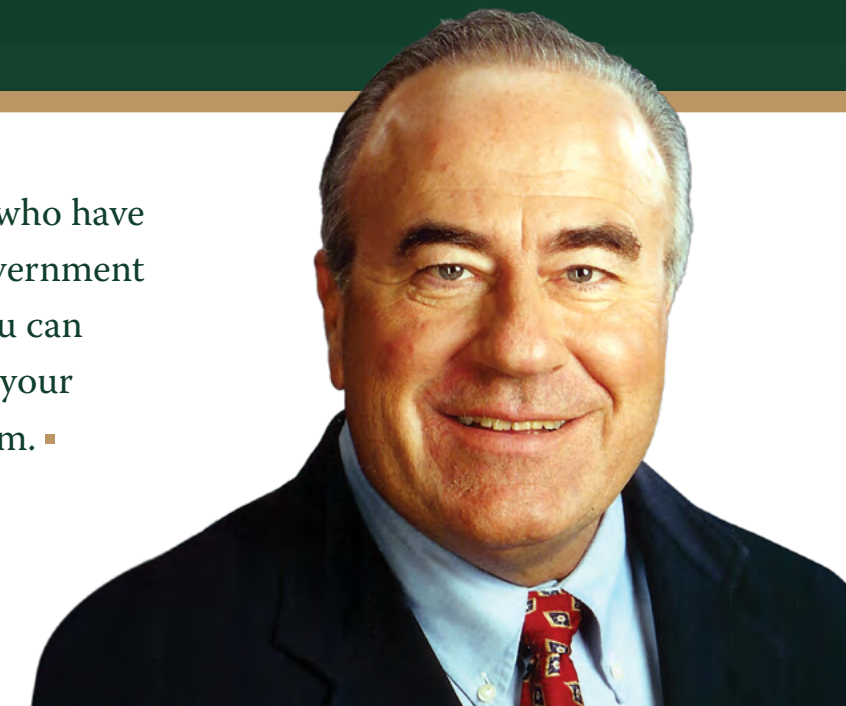


Published more than 200 articles at Michigan Capitol Confidential to hold governments accountable.

CENTER FOR JOURNALISM

We couldn't be more thankful for those who have supported our mission of promoting government transparency and impact journalism. You can learn more about these efforts and have your financial gift matched at [www.FBCFJ.com](http://www.FBCFJ.com).

[www.FBCFJ.com](http://www.FBCFJ.com)



# MICHIGAN SUPREME COURT SIDES WITH MACKINAC CENTER, CATO INSTITUTE, ACLU ON UNCONSTITUTIONAL SEARCHES



The Mackinac Center, Cato Institute and American Civil Liberties Union have teamed up to protect the Fourth Amendment rights of Michigan residents. When the city of Grand Rapids enacted an unconstitutional policy, all three organizations condemned it, and the Michigan Supreme Court agreed.

Grand Rapids directed its police department to stop people, question them, photograph them and take their fingerprints — even when officers had no warrant and no charges would be issued. People would find themselves in a fingerprint database, simply for not carrying an ID.

It's good that police work to prevent crime, but not at the cost of violating innocent individuals' privacy by putting them in a government database against their will. A person's innocence isn't something that needs to be proved. Instead, it is the government's job to show that the person is guilty of a particular crime. Mere suspicion is not sufficient to overcome the public's interest in privacy. In an amicus filing with the court, the Mackinac Center argued that by searching and fingerprinting citizens without evidence, Grand Rapids officials violated the Fourth Amendment's protections from unreasonable searches and seizures.

The court agreed. Justices found that the act of fingerprinting constituted a "physical trespass onto a person's body," meaning it is a "search" for purposes of the Fourth Amendment. The unanimous opinion declared that "a brief, on-the-scene detention is not a violation of the Fourth Amendment" if the police have a reasonable suspicion justifying the stop. But, justices added, a blanket practice of photographing

and fingerprinting residents violated constitutional protections.

A ruling to the contrary would have empowered police, with no evidence, to build a general database of innocent individuals, without ever needing a warrant. It would also have drastically expanded the permissible length and scope of police encounters, thereby depriving innocent citizens of their liberty. It would be, in short, a severe blow to personal freedom.

Government should not be empowered to intrude on a person's life without a substantial justification. This case makes it clear that, in Michigan, the justification must go beyond a mere suspicion. Michigan police will, instead, need to show enough evidence to obtain a warrant before fingerprinting a suspect. This requirement protects the interests of the public, while still giving police the tools they need. The Mackinac Center applauds this decision, and we are glad to have been able to participate in the broad coalition of interests fighting for a strong Fourth Amendment. ■



**By Steve Delie**  
*Director of Labor Policy*

# The Price of Everything

A state-focused think tank like the Mackinac Center can offer solutions to many problems stemming from poor government policy. Other times, though, call for it to advise state policymakers on ways they should respond to problems not of their own making.

For the most part, inflation is one of those problems.

The United States is grappling with an inflationary episode not seen since 1981, when Ronald Reagan was a first-year president and “Indiana Jones and the Raiders of the Lost Ark” was a smash hit.

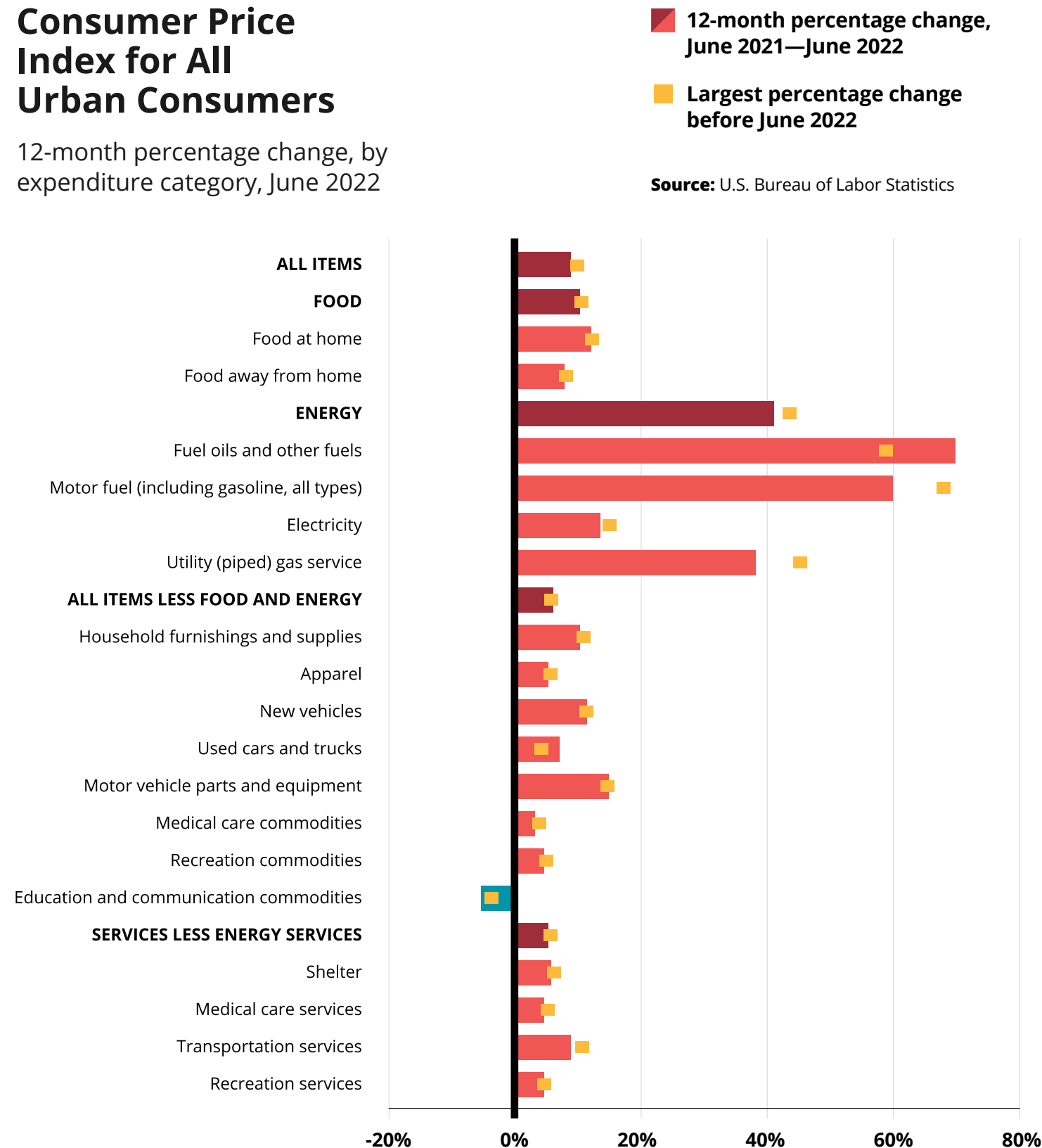
In June, the widely reported Consumer Price Index revealed significant inflation, increasing 9.1% over 12 months (although it has moderated since). The CPI measures prices for a basket of consumer goods and services for urban residents, including housing, energy, food and transportation.

Inflation is an invisible tax; it makes what we earn worth less. Consider the nearby chart of recent price changes in the spending categories that matter to most people.

Bad policy choices play a large role in causing these increases. One policy actor is the Federal Reserve. As Nobel laureate Milton Friedman said, “Inflation is always and everywhere a monetary phenomenon.” The Federal Reserve made a conscious decision to make access to money easy through historically low interest rates, and its effect was compounded by record federal spending during the pandemic.

## Consumer Price Index for All Urban Consumers

12-month percentage change, by expenditure category, June 2022



“The Federal Reserve made a conscious decision to make access to money easy through historically low interest rates, and its effect was compounded by record federal spending during the pandemic.”

To counter the damage of easy monetary policies, the Federal Reserve is now hiking interest rates to make borrowing more expensive. As the price of almost anything rises, households and businesses demand less of it. This is true of bread and bacon — and loans to invest in housing or finance automotive purchases. The challenge is that the Federal Reserve isn’t good at engineering a “soft landing,” the expression often used to suggest it can reduce inflation without also causing or exacerbating a recession.

Michigan’s state lawmakers can’t change Federal Reserve decisions. What they can do is properly prepare for the next rainy day, whether it is induced by our central bank or not. To the Legislature’s credit, the fiscal 2023 budget does just that to some degree, but there’s also more that could be done by the Legislature and by Michigan’s many local governments. Being prudent in spending is a good place to start. It would reduce pressures to raise income tax rates, an act that would add stress to households during trying times. ■



**By Michael LaFaive**  
*Senior Director of the Morey Fiscal Policy Initiative*



📍 Frankenmuth, Michigan

# A VISIT TO THE MICHIGAN HEROES MUSEUM WILL NOT DISAPPOINT



IN HONOR OF ALL FROM  
THE STATE OF MICHIGAN  
WHO HAVE SERVED IN

THE WAR ON TERROR  
OPERATION IRAQI FREEDOM  
OPERATION ENDURING FREEDOM

NEVER FORGET THOSE WHO HAVE MADE  
THE ULTIMATE SACRIFICE



When you visit the Michigan Heroes Museum, you might be greeted by past President Dave Johnston, who has a special passion for the stories of those it exists to honor. A one-of-a-kind institution, the museum commemorates the military service of Michigan residents who served in wartime. It also honors the 16 astronauts who hailed from Michigan.

During his time as president of the Frankenmuth Chamber of Commerce, Dave was invited by Stan Bovich, the museum's founder, to join the museum's board of directors. Under Stan's leadership, the Michigan Heroes Museum developed the largest Medal of Honor collection in the country. In most cases, the museum even has a uniform from the Medal of Honor recipient. Dave agreed to Stan's request to join the board and in time became the museum's president.

Dave is inspired by the lives of the brave men and women from Michigan who fought and, in many cases, died in the line of duty. An admirer of both President Dwight Eisenhower and President Ronald Reagan, he firmly believes that while we sometimes need to compromise in life, we should never compromise in our principles.

Those principles were one thing that drew him to become a supporter of the Mackinac Center

for Public Policy. Yet it was another individual with a passion for honoring veterans who truly inspired him to support the Mackinac Center: Frank Beckmann.

Like Dave, Frank was a staunch supporter of the Michigan Heroes Museum. He was also a board member. From time to time, Frank would broadcast his show from the museum, and he always made certain to have lunch at the Bavarian Inn in Frankenmuth, where the buttered noodles were a favorite.



When Frank partnered with the Mackinac Center to launch the Frank Beckmann Center for Journalism, Dave supported the project enthusiastically. He had always been impressed with the Mackinac Center's work,

especially in keeping the public informed on government activity, and he is pleased that the Beckmann Center amplifies this focus even further.

Next time you find yourself in Frankenmuth, be sure to pay a visit to the Michigan Heroes Museum. You can ask for a guided tour or simply explore at your own pace. Don't forget to ask for Dave Johnston, and plan to listen in awe while he recounts the true, courageous acts of valor of Michigan's heroes. ■





Showing Local Officials the Best Way to

# HIGH-SPEED INTERNET ACCESS

Federal spending is at an all-time high, the state of Michigan's coffers are overflowing, and most local governments are flush with cash. With this much money available to them, even the most fiscally conservative elected officials will be tempted to spend unwisely.

One new popular way of spending taxpayer funds is to try to improve access to the internet. Working from home, virtual schooling and streaming media have all rapidly become more common in recent years. Most homes rely on high-speed internet.

For decades, the internet has been improving. Almost everyone has access to faster speeds at

prices similar to what they paid a decade ago. In most areas of the country, Americans have faster speeds, lower costs and more reliable service than the rest of the world.

But some households and places have fallen behind. And the federal government is spending billions of dollars in an attempt to fix this.

Individuals, associations and companies are pressuring politicians to create government-owned networks, encouraged by an influx of federal broadband dollars and a strong state treasury. The businesses that stand to benefit from this spending get local governments to

hire them to produce reports, run marketing campaigns and build new networks. They downplay the costs. They forecast rosy financial scenarios, which often convince elected officials to fund broadband projects — with taxpayer dollars, of course.

The Mackinac Center has covered technology issues for decades and serves as a counter to these interest groups. When we kept getting asked what municipalities can and should be doing, we compiled our ideas in a new report. It's called "A Broadband Toolkit for Local Governments: How Michigan Cities Should Expand Access to High-Speed Internet."

This report recommends that local officials understand what the needs of their communities are and then act accordingly to remove government barriers to private investment. They should foster competition among private providers and resist one-size-fits-all approaches that promise a technological solution. If, after that, they need to expand service to select areas, they should use vouchers or open-bid partnerships with private companies, rather than building and running their own networks.

Many local government officials have received this report, and some are using it to argue against putting taxpayers on the hook for risky plans. We'll work to keep educating local governments on how best to serve their communities' needs without making taxpayers liable for more government boondoggles. ■



**By Jarrett Skorup**

*Senior Director of Marketing and Communications*



# Mackinac Center Takes Up Construction Workers' Fight Against Government Overreach

Mackinac Center Legal Foundation takes a stand against prevailing wage and Gov. Gretchen Whitmer

In 2018, Michigan's Legislature ended prevailing wage, a program that increased the cost of taxpayer-funded projects and improperly favored unionized businesses. By adopting a citizen-backed initiative, legislators expressed their clear view that prevailing wage was not beneficial to the people of Michigan. Earlier this year, however, Gov. Gretchen Whitmer and her administration reinstated prevailing wage unilaterally. The Associated Builders and Contractors of Michigan has now sued to challenge that reinstatement, with the Mackinac Center Legal Foundation serving as legal counsel.

On Oct. 7, 2021, Gov. Whitmer held a press conference to announce the return of prevailing wage. There was no executive order or directive; the governor merely announced a policy change. Her reasoning was straightforward: The Legislature's act to repeal prevailing wage was not the same as banning it. The governor coupled this with a claim that the Department of Technology, Management and Budget has the power to set the terms of contracts with the state. These two points mean, in the governor's view, that prevailing wage could return, absent a clear legislative ban.

Subsequent FOIA requests did not reveal any official order or action that led the budget department to revive prevailing wage. Those

requests revealed something else, though, in heavily redacted form. The governor's office, budget officials, and the attorney general's office had been discussing the return of prevailing wage behind the scenes, apparently without communicating with the Legislature or other key stakeholders. By March 1, 2022, the budget department had resurrected prevailing wage for state projects over \$50,000. To date, neither

**Jimmy Greene**, President of ABC Michigan





ABC Michigan nor the Mackinac Center have been able to find any official act that requires this policy change.

Advocates of prevailing wage say it is needed to ensure high-quality workmanship on state projects and to ensure that workers on these projects are paid fair wages. But these arguments overlook an important point: Prevailing wage prevents roughly 80% of Michigan's contractors from being able to compete for taxpayer-funded projects. By creating an artificial price floor, prevailing wage causes the state to spend more than the market requires. Homeowners looking to replace their roof wouldn't pick the highest bidder without a compelling reason. Neither should the state.

Jimmy Greene, president of ABC Michigan, recognizes the harms cause by prevailing wage, stating:

*Prevailing wage is anti-competition. When you have a non-competitive environment, especially in regards to construction, the people who bear the brunt of that are taxpayers. Prevailing wage isn't just a contractor issue. It has always been a taxpayer issue that affects every citizen in every community in the state of Michigan and throughout the country. That people who pay taxes into a community are unable to earn money in that same community should be offensive to us all.*

Leaving aside the pitfalls of prevailing wage, the process used to reinstate it is another problem. Throughout the COVID-19 pandemic, much of Michigan's policy was set by Gov. Whitmer's executive orders, until the state Supreme Court determined she had acted unconstitutionally. Despite losing in court and being forced to pay \$200,000 of the Mackinac Center's attorney's

fees, the Whitmer administration has once again made a major change in public policy without the Legislature's involvement, let alone authorization. The question of whether Michigan should have a prevailing wage program affects tens of thousands of Michigan workers, as well as taxpayers at large. It should be decided by the people's elected representatives working together, not by a bureaucratic agency or a single official.

Sadly, that is not what occurred here. There appears to be no official action requiring this change, which favors unions over open and fair competition. Instead, it was instituted by what appears to be little more than a press conference and news release. This is neither transparent nor proper under a constitution that protects the separation of powers and promotes checks and balances within state government.

Neither ABC Michigan, nor the Mackinac Center, will allow the Whitmer administration to ignore the constitution or unilaterally increase taxpayer spending unchallenged. Together, we hope to restore the constitutional framework that ensures laws are made by the Legislature and enforced by the executive. This framework is, and continues to be, necessary to the concept of ordered liberty, and it is essential to protecting Michiganders' rights. ■



**By Steve Delie**  
Director of Labor Policy

## ONLINE RESOURCES



### **Mackinac.org/blog**

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



### **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.



### **MiPace.org**

Parent Advocates for Choice in Education.



### **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.



### **Frank Beckmann Center for Journalism**

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

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# Oklahoma Governor Latest Public Official to Call for Protecting Public Employees' Rights



On Aug. 19, 2022, Oklahoma Gov. Kevin Stitt became the first governor in the nation to issue an executive order urging his state's Board of Education to strengthen and protect the choices teachers have about whether to pay a union.

This action is a breakthrough for teachers and taxpayers in Oklahoma, who have watched state officials consider and fail to act on a key 2018 Supreme Court decision. In the case *Janus v. AFSCME*, the court was clear that teachers and other public employees in all 50 states have a First Amendment right to make informed decisions for themselves about union membership. A public employer may not withdraw payments to a union from any employee's paycheck, it said, without that person's explicit approval. States, however, have been slow to change the way they collect dues. This is true even in a state like Oklahoma, which enshrined right-to-work protections into its state constitution a little more two decades ago. It is time for the Oklahoma Board of Education to act on the governor's executive order, which is a logical extension of the protections *Janus* offers.

Gov. Stitt's action, which our organizations support and have recommended, is the first of what we hope will be many victories for Oklahoma teachers and taxpayers. It sets a high standard for other governors and public officials who claim to advocate teacher empowerment and employee freedom.

Gov. Stitt has urged the board to notify teachers:

- They have a First Amendment constitutional right to join, refrain from joining, or withdraw from a labor union

- Union membership is voluntary, and dues payment is subject to a teacher's consent
- A teacher cannot be discriminated against for joining or refusing to join a union.

The executive order also urges the board to give new employees a notice of these rights when they are hired.

Governor Stitt is the latest official to expand, protect and defend the First Amendment rights of public employees. Officials in the U.S. have filed legislation (ten states), issued executive orders (two states) or issued attorney general opinions (three states). State comptrollers have issued recommendations, and commissions have changed rules affecting public employees. Commissioners and secretaries of education have had a high level of engagement on this topic.

In the last two years, the Michigan Civil Service Commission and the Indiana Legislature changed public policies. They acted to ensure that teachers and other public employees are properly educated about their union rights. They also have ensured that these workers have complete control over union membership and dues payments. Indiana's law just went into effect. A rule change enacted by the Michigan Civil Service Commission has been in effect for over a year, with a measurable and meaningful impact on employees' exercise of their union opt-out rights.

In the decade before Michigan became a right-to-work state, about 5%-7% of Michigan state employees were union fee payers. They had chosen to refrain from union membership but were still compelled to pay a union as a condition of their employment. Michigan's right-to-work law freed them from forced payments to the union, and the share of state employees opting out of union membership steadily increased — from just over 7% in 2013 to over 22% in 2020.

The Michigan Civil Service Commission went further in summer 2020 when it required all dues deductions

to proceed on an opt-in basis, replacing the former opt-out standard. In just the first year of this policy, the share of state employees who refrained from paying union dues or fees jumped from just over 22% to just over 33%. Simply changing the default made a large difference.

The opt-in policy is important, because many public employees in Michigan, Oklahoma and other states are often unaware that a portion of their dues is sent to big national unions, like the National Education Association, for spending on progressive politics that may conflict with their own values and beliefs.

The Michigan experience suggests what policy changes might mean for employees nationwide. It is also why Gov. Stitt continues to urge the Oklahoma Legislature to finish the work it began in 2022, when the Senate passed opt-in reform, only to see it stall in the House.

As our organizations remain committed to the work in Oklahoma, we're also encouraged by the progress and leadership other states are demonstrating. The momentum for greater employee freedom continues to mount. Indeed, in the four years since the *Janus* decision, leaders in other states — including Virginia, Tennessee, Alaska, Texas, Florida, Kansas, Louisiana, Pennsylvania, Kentucky and New Hampshire — have grappled with the court's ruling. Some have considered what they should do to protect the First Amendment rights of their employees, and others have taken the next step, enacting safeguards.

We expect more progress for worker freedom as Gov. Stitt and others make this a banner issue for the rest of 2022 and into the next year. ■



**Lindsay Killen**  
*Vice President for Strategy and Communications*



**Jonathan Small**  
*President of the Oklahoma Council for Public Affairs*



**John Tidwell**  
*State Director of Americans for Prosperity-Oklahoma*

# The Art of Public Records Requests

They Pave the Way to Transparency

Michigan's Department of Education charges the highest prices to make records public, and the State Police take the longest to respond to records requests, according to a Mackinac Center survey of state agencies' commitment to transparency.

The Mackinac Center embarked on a new project in June to measure how Michigan's executive agencies handle Freedom of Information Act requests. FOIA, as it is often called, is designed to provide "full and complete information regarding the affairs of government and the official acts of those who represent them." It does so by giving citizens the right to view and obtain public records.

Are state agencies fulfilling FOIA's goal? We asked all 18 state executive agencies for a log of the FOIAs they received over the past year. The results were eye-opening.

On average, state agencies took more than seven calendar days to respond to a request. This means

that, on average, they used up at least the full five business days the law permits them to provide a response.

Agencies required payments for 19% of the requests. Those who paid spent an average of \$193.63. Demands for money caused 45% of requesting parties to abandon their requests. Requests that didn't require a deposit took an average of 7.6 days to fulfill; those that did were processed in 65 days.

Some offices were outstanding. The Department of Labor and Economic Opportunity was stellar, with both the lowest average cost (\$0.00) and the fastest initial response (mere hours). By contrast, the Department of Education had the highest average cost last year, at \$10,615.95 paid per request. The Michigan State Police was the slowest department, taking an average of 17 calendar days to respond. The Department of Environment, Great Lakes, and Energy took in more FOIA payments than any other office in Michigan, at \$1,813,428.53.

## BY THE NUMBERS

# \$21,034.85

FOIA fees we've paid to receive documents since 2020.

# 11

Number of lawsuits we've filed since 2020 to get the documents due to us under FOIA.

# 2,500

Estimate of the number of FOIA requests we make each year.



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**By Steve Delie**

Director of Labor Policy

## Learning From our Supporters

More than 30 Mackinac Center supporters participated this summer in one-on-one interviews with Tori Aultman, an Advancement intern and rising senior at Saginaw Valley State University. It was all part of a project to learn more about our members' policy priorities. In this article, Aultman and Jim Walker, vice president for advancement, discuss the project and what we learned.

### Q. What was the purpose of meeting donors in person?

**Walker:** This project is a win for the Mackinac Center, our supporters and our interns. First, it gives supporters the opportunity to give feedback and help our team better understand what people view as the most pressing policy issues of the day. Additionally, many of our members greatly enjoy meeting with our interns. Our interns are intelligent, principled and enthusiastic young adults who give us hope for the future of the republic.

**Aultman:** For me, this project was an opportunity to build relationships and hear directly from our supporters. I was inspired by the faith our donors put in the Mackinac Center, based on the impactful work of my colleagues.

### Q. What did you learn about supporters' policy priorities?

**Aultman:** Education remains a top priority, and many of the people I met with also are becoming more alert to our state's problems in energy policy. Other issues that surfaced were government transparency, emergency powers and corporate welfare.

**Walker:** These insights and others that donors shared help us calibrate messages to take to lawmakers, the media and the public at large. When we learn how different public policies affect people — for better or worse — we can tell those stories and be a voice for change.

### Q. What else would you would like to share about this project?

**Aultman:** It was energizing to hear that the Mackinac Center has had a positive impact on the lives of so many, through such wins as right-to-work and ending the governor's overreach during COVID-19. This experience was a highlight of my internship this summer and has encouraged me to continue to be a voice for liberty in Michigan.

**Walker:** We're grateful for the willingness of our donors to participate in these interviews and share their candid feedback. Their insight helps us in the larger process of being effective stewards of their resources and fighting for the principles we all share — free markets, limited government and individual liberty. ■



**Tori Aultman**  
*Advancement Intern*



**Jim Walker**  
*Vice President for Advancement*