

**CENTER TURNS CAMERA
ON MICHAEL MOORE AND
FILM SUBSIDIES!**
See article on Page 7

Union Day Care Story Goes National

When Michigan home-based day care providers were roped into a government-sector union last year, those behind the scheme must have felt they had pulled off a silent coup. A new union had been created, 40,000 members were dragooned into its ranks, and millions of dollars in “dues” were siphoned from their paychecks with almost no one in the media, public or Legislature taking notice.

It was not until the Mackinac Center Legal Foundation took the case on behalf of some day care owners that this stealth enterprise came to public light — and in a big way. Today, national media outlets are covering the story, the public is demanding answers, and legislators are finally taking action.



Mackinac Center Legal Foundation Director Patrick Wright discusses the union day care case with Fox News reporter John Stossel.

It began in September 2009, when the Mackinac Center Legal Foundation announced its lawsuit to prevent the Michigan Department of Human Services from withholding dues from subsidy

see “Union Day Care” Page 4

‘Restructuring’ the Tax Debate

An orchestrated campaign for “tax restructuring” — a euphemism for a tax increase — advanced by the governor, legislators, editorial writers, union officials, academics and others has been hampered by a reality-based, multiple-front assault led by Michael LaFaive and James Hohman of the Mackinac Center’s Morey Fiscal Policy Initiative.

Knowing that a tax increase in the middle of a recession would be extremely unpopular given politicians’ assurances that the last tax increase would resolve state budget problems, tax hike supporters sought a new approach to maintain state spending levels. They found it in a spurious claim that Michigan’s tax structure is outdated and fails to capture adequate revenue. By “restructuring,” supporters claimed, the state could better capture taxes while remaining revenue neutral.

Hohman, the Center’s fiscal policy analyst, put the lie to this argument in a Detroit Free Press Op-Ed, numerous posts on the Mackinac Center blog and published Viewpoints. Using statistics, graphs

and analysis, Hohman pointed out that Michigan is capturing tax revenue at a more effective rate than 34 other states, even with our bottom-dwelling economy.

Fiscal Policy Director LaFaive also undermined arguments for a tax hike through his annual analysis of the governor’s State of the State address, numerous interviews and at least a dozen speeches throughout the state.

LaFaive, Hohman and Senior Director of Communications Michael Jahr analyzed the governor’s annual address on Feb. 4 and produced the Center’s annual count of the proposed expansions or limitations of state government. Mackinac Center staff has tallied such proposals in each governor’s annual address going back to 1969. This year’s count included eight expansions and three limitations. While the number of expansions was lower than usual, it was not enough to offset Gov. Jennifer Granholm’s eight-year record for total proposed expansions of state government.

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“I’m not going to get into a battle with you about what think tank to use or what economist, but I think David Littmann’s a fine economist. I think the Mackinac Center for Public Policy is a fine think tank. I can tell by your reaction you disagree ...”

WJR talk host Paul W. Smith to Gov. Jennifer Granholm, Feb. 12, 2010 (see related story, above).

PRESIDENT'S MESSAGE

Cash, Corporations, Unions and Free Speech



Joseph G. Lehman
President

You may not have heard that you got some of your freedom back. In a landmark decision in January, the U.S. Supreme Court determined that government may not prevent corporations or unions from spending money to engage in independent political speech. Because of the way most news outlets covered the decision, it was not obvious that it had anything to do with individual liberty.

The case, *Citizens United v. Federal Election Commission*, involved the government preventing a nonprofit group from advertising a film depicting Hillary Clinton in an unappealing light right before an election. The Supreme Court found the government had improperly restricted political speech, reversing key parts of two previous decisions and overruling some of the McCain-Feingold campaign finance regulations of 2002.

In plain English, the decision means the First Amendment protects the right of people acting through corporations (of which unions and other nonprofits are often a type) to spend their money to say pretty much what they want, when they want, about political candidates. It did not change restrictions on contributions to candidates' campaigns.

Nothing may seem more American than speaking one's mind about politicians without being fined or jailed, but the negative reaction was immediate and nearly hysterical. Even President Obama took a swipe at the Supreme Court decision in his State of the Union speech.

The two groups that complained most bitterly were the ones who love campaign finance regulation the most: news corporations and incumbent politicians. Newspapers and other media want to remain the only kind of corporation completely free to criticize or praise any politician at any time in their pages and broadcasts. And every elected official benefits from laws that restrict the ability of others to criticize.

Breathless commentators predicted that tsunamis of corporate cash will sweep elected officials into big business's back pocket. Others pointed out that the decision treats unions and other corporations equally. Hardly anyone mentioned how the ruling helps level the playing field for the little guy, but that's the most important point.

Citizens United does away with a raft of mind-numbing restrictions on who can spend how much to say what about whom and when. The decision won't change things all that much for big companies and unions whose attorneys had figured out how to legally get their money into politics anyway.

But it's an enormous help for small companies or groups of average citizens who want to make their political beliefs known but can't afford a team of attorneys or big fines for messing up paperwork. In other words, the Supreme Court sent a signal that political speech is not just for professionals.

Mackinac Center supporters can be especially proud of two special connections to the case. Founding Director Richard McLellan argued before the Supreme Court 19 years ago for freedom in political speech. *Citizens United* specifically overturns the 1990 ruling that went against McLellan's client (see related story, Page 9). Also vindicated by the decision is Board of Scholars member Bradley A. Smith, who as a member of the Federal Election Commission stood nearly alone as a high-profile critic of McCain-Feingold. Congratulations, gentlemen. I

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FOIA Request Triggers Record Bill

If there were an Olympic competition for Freedom of Information Act requests, Mackinac Center Communications Specialist Kathy Hoekstra would be the runaway gold medalist. In fact, the Michigan Department of State Police's record-setting \$6.8 million request fee turned out to be a high-visibility event. The only thing missing was the Olympic torch.

After reading an Inspector General's report that showed Michigan's handling of federal Homeland Security grant money was marred by inadequate recordkeeping and difficulty in locating equipment, Hoekstra sent a FOIA request to the State Police for more records related to its administration of the program.

State Police responded to Hoekstra's September 2009 query nearly two months later with a bill for a jaw-dropping \$6.8 million, a national record for FOIA fees, according to the transparency-tracking Web site Sunshinereview.com.

The department claimed there were

more than 2 million pages related to homeland security grants, which may explain why there are problems with recordkeeping and keeping tabs on equipment. The Center was asked to make a down-payment of \$3,438,151.95 for the requested materials (we declined). The ludicrous fee provided great fodder for talk radio, and Hoekstra did interviews with Frank Beckmann on Detroit's WJR AM760 and Greg Marshall on Petoskey's WMKT 1270. The story was also an internet and blogosphere sensation across the country, including a mention on the widely read Politico news and politics Web site. The Society of Professional Journalists even called, looking to include the fee in its own list of outrageous FOIA requests.

Undaunted, Hoekstra charged forward

with more FOIA requests to discover how the Michigan State Police reached its staggering figure and to learn more about the department's administration of the program. The follow-up responses, which include several charges of more \$14,000, continue to generate more questions than answers about the system by which the department keeps its homeland security records and how the FOIA office calculates its fees.

Whether this is an effort to obstruct public knowledge about the facts surrounding the homeland security grant program remains to be seen. But given that the department wants \$22.45 for what should be an easily retrievable, one-page document, this is clearly not the time to stand down in the fight for government accountability. **I**



MichiganVotes.org Goes Viral With Transparency 2.0

As Center Senior Legislative Analyst Jack McHugh frequently observes, lawmakers are rewarded in many ways for "serving the system" rather than serving the people. So McHugh is enthusiastic about the launch of "Transparency 2.0," which will change those incentives and give new muscle to MichiganVotes.org and the Center's policy initiatives.

Launched in 2001, MichiganVotes.org was the Mackinac Center's first venture in "Transparency 1.0," the posting of large amounts of searchable, sortable information about government operations on a free Web site. This pioneer effort actually went beyond subsequent transparency projects (like posting government "check registers" online) by also "translating" complex legislation into objective (but often brutally honest) plain-English terms.

The site quickly became an institution among political activists, insiders and journalists. For example,

its descriptions of votes and bills often appear in press reports as if they are the bill text itself. Annual reports using the site's database to expose the "missed votes" of local lawmakers have become a staple of newspapers and broadcast news departments across the state. The latest such report, at the end of 2009, was highlighted by The Detroit News, The Grand Rapids Press, The Flint Journal, The Saginaw News, Ludington Daily News, AnnArbor.com, The Muskegon Chronicle, the Observer & Eccentric newspaper chain in metro Detroit and WILX in Lansing, among others.

AnnArbor.com said of MichiganVotes.org: "It's a remarkably detailed collection of information, and it's all searchable."

On occasion, the site has exposed information about bills that the Legislature's own analysts missed or obscured, such as exposing the tax-hike potential of a school "sinking fund" bill in 2001, and a recent Senate-

passed amendment expanding a pernicious "binding arbitration" law to multigovernment public safety authorities.

Working with the Mackinac Center Blog, Michigan Capitol Confidential, Facebook, Twitter and Tea Party and blogger outreach efforts, MichiganVotes.org will raise the salience of key information from the site by "pushing" it out to "where people live."

An example was our exposure last fall of Senate Bill 731, which would give statutory cover to a "stealth unionization" scheme like the subject of the Center's recent lawsuit (see related story, Page One.) We created a buzz by publishing the plain-English MichiganVotes description in Capitol Confidential and on The MC, and helped it go viral on Facebook networks and in the blogosphere. This helped change the atmosphere so that legislators are now rushing to introduce bills banning stealth unionization. **I**

UNION DAY CARE from Page One

payments made to providers on behalf of low-income families. The announcement received statewide and some national media coverage, but the sordid tale began to reach an audience of millions on Dec. 26, when The Wall Street Journal ran a 1,000-word Op-Ed titled “Michigan Forces Business Owners Into Public Sector Unions” by MCLF Director Patrick Wright and Mackinac Center Senior Director of Communications Michael Jahr.

On that same day, Family News in Focus aired an interview with Mackinac Center President Joseph Lehman discussing the case. Broadcast news reporter John Stossel wrote about the plight of MCLF client Michelle Berry on the Fox Business Web site the following day. The Weekly Standard, in its Dec. 28, 2009, issue, ran a lengthy article by Wright and Jahr on the “Stealth Unionization” effort.

2010 began with disappointing news when Wright received notice from the Michigan Court of Appeals that the lawsuit against the DHS was denied — without a single word of explanation. But the Center decided to turn a temporary setback in the courts into a victory in the court of public opinion. In a news release, Wright questioned the court’s unwillingness to provide a rationale for rejecting a case involving thousands of Michiganders, millions of dollars and allegations of state wrongdoing. “The court’s decision is unfortunate,” Wright said. “It means the people of Michigan are unsure about the state of the law and their rights.”

The story received coverage in newspapers and on broadcast outlets throughout the state, including the Lansing State Journal, The Flint Journal, the Petoskey News-Review, WILX News 10 in Lansing, WEYI NBC25 in Flint, WNEM TV5 in Saginaw, WJR 760 AM in Detroit, WHMI 93.5 FM in Howell, WCMU in Mt. Pleasant, WTCM Talk Radio in



Talk show powerhouse Rush Limbaugh discusses the Mackinac Center lawsuit on his “Morning Update.”

Traverse City, WSGW Newsradio 790 in Saginaw, MIRS capitol wire service and numerous online sites from blogs to sites like BigGovernment.com and the National Association of Child Care Resource & Referral Agencies.

The Weekly Standard responded to the court decision by encouraging Michigan’s gubernatorial candidates to make the case a campaign issue: “Whether or not the Mackinac Center decides to appeal, it’s an issue that just might resonate in a year replete with indications that voters are sick and tired of government highhandedness.”

On Feb. 11, the Fox News Channel aired a four-minute John Stossel segment on the Mackinac Center Legal Foundation’s lawsuit, at times using footage taken by Mackinac Center Communications Specialist Kathy Hoekstra. Aired on “Studio B with Shepard Smith,” the piece highlighted MCLF clients Sherry Loar, Dawn Ives and Michelle Berry, as well as Wright’s legal analysis.

An even larger national audience was introduced to our efforts when syndicated talk giant Rush Limbaugh discussed it on Feb. 12. “Now this next story, this is shocking,” Limbaugh told his listeners. “Even for unions, and even for Michigan. ... Now a union can take over your home-based business, thanks to government, and there’s nothing you can do about it.” Limbaugh also featured the story in his video “Morning Update.”

Other syndicated talk show hosts, including Phil Valentine and Mike

McConnell, shared the story with their listeners. Author and nationally syndicated columnist Marybeth Hicks on March 3 cited Wright and the MCLF case, describing Child Care Providers Together Michigan as a “fake union that takes money from honest business owners.”

The Mackinac Center’s Hoekstra was also reporting on the case, producing investigative videos that revealed: inconsistencies in how day care owners and their employees were treated in the union scheme; the fact that officials from the Michigan Home Based Child Care Council, created for the union to organize against, had not shown up when asked to by a legislative oversight committee; and how day care providers were designated as government employees even though every agency involved denied being their employer.

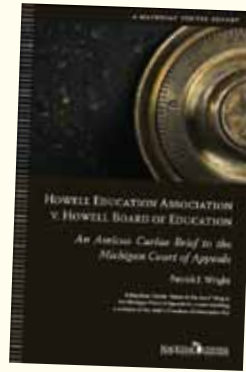
Michigan Capitol Confidential reporter Tom Gantert, working with Hoekstra, wrote about how the MHBCCC continued to operate despite having its funding eliminated by the Legislature. Legislators from both sides of the aisle and in both chambers told Gantert and Hoekstra they were angry that the DHS continued to fund an agency they thought they had eliminated.

As is often the case, the media coverage and resulting public outrage generated activity in Lansing. House appropriators from both parties asked DHS officials to explain how and why they were funding an agency that the Legislature eliminated from the fiscal 2010 budget. Legislators asked union officials tough questions during committee hearings. And at least five separate bills were introduced to prevent future stealth unionization efforts.

On March 24, Wright applied for leave to appeal the case to the Michigan Supreme Court. Regardless of that decision, the unobserved plight of 40,000 Michigan business owners is now getting the attention it deserves. **I**

Court Undermines Freedom of Information Act

Are documents created by a public official on a public computer system considered “public records” under Michigan’s Freedom of Information Act? In a “friend of the court” brief filed in 2009, Mackinac Senior Legal Analyst Patrick J. Wright argued the answer is “yes” and warned that a failure to readily disclose such documents would seriously undermine the value of Michigan’s Freedom of Information Act.



Unfortunately, the Michigan Court of Appeals in January held that e-mails generated on a government server are generally not subject to FOIA. If this ruling stands, Wright points out, it will severely limit the public’s ability to monitor the activity of their government.

The Center submitted its brief in a case filed by an independent journalist requesting e-mails generated over a three-month period by three Howell Public Schools teachers who were union officials. Using school computers, the officials exchanged tens of thousands of e-mails, many of them in the context of negotiations for a new collective bargaining agreement.

Michigan’s FOIA — as well as its Open Meetings Act — was passed in the aftermath of Watergate to provide the public with “full and complete information regarding the affairs of government and the official

acts of those who represent them as public officials.” State courts have long recognized that FOIA is meant “to deter efforts of agency officials to prevent disclosure of mistakes and irregularities committed by them.”

But in its latest ruling, the Court of Appeals held that an e-mail is not a “public record” when it “falls expressly outside the performance of an official function, i.e. the furtherance of the instructional goals of the district.” The holding means that the public could use FOIA to request checks related to the purchase of school supplies, but would not be able to access checks that school officials were using to embezzle funds, because embezzlement is not an official function.

Further, by rejecting a categorical approach, the Court of Appeals is setting up a situation where each e-mail must be individually litigated. The case at issue involved 20,000 e-mails; even if every single one of these e-mails was “personal,” that much tax-funded work time being expended on personal matters is a concern.

It is expected that an appeal will be filed by the party that was denied access to the e-mails. At that time, Wright is likely to file another brief in support of government transparency. **I**

‘RESTRUCTURING’ from Page One

As part of another annual tradition, LaFaive presented a shadow “State of the State” speech at the University of Detroit Mercy in early February, laying out Michigan’s economic track record and some policy recommendations for more than 225 audience members. In late February, LaFaive delivered an economic development talk to 27 members of the House Republican Caucus. Center Policy Analyst Ken Braun on Feb. 8 discussed the State of the State address and budget issues as part of a panel on WXYZ-TV’s Spotlight in the News.

LaFaive was even cited in a column where Stephen Henderson, editorial page editor of the Detroit Free Press, argued that President Barack Obama should “put a substantial tax cut on the national agenda” during his State of the Union speech.

The Center’s unrelenting focus on the 2011 budget process, the projected \$1.7 billion overspending crisis and Gov. Granholm’s proposed \$900 million-plus tax hike proposal was not popular with everyone. During a Feb. 12 interview on WJR, Gov. Granholm was promoting her tax proposal, citing “expert” support and stating that “we have to



Policy Analyst Ken Braun (second from right) discusses the State of the State address on a WXYZ-TV panel.

modernize this darn tax structure.” When talk host Paul W. Smith began a question with “Speaking of experts, Michael D. LaFaive, the Mackinac Center’s director...,” the governor seemed to audibly scoff. “Why are you quoting those guys?” she asked with derision. “I think they make some good sense,” Smith replied.

Four years ago, the Center received a generous \$1 million gift from the Morey Foundation of Winn, Mich., for the express purpose of expanding the Center’s fiscal policy reach. **I**

Michigan Capitol Confidential Goes Daily

The media landscape in Michigan saw a significant shift on Feb. 4 with the arrival of Michigan Capitol Confidential's new daily online reporting. As newsrooms shrink and capital coverage wanes, Michigan residents now have an alternative to the "bigger government" remedies when it comes to policy debates.

MichCapCon.com reports on the public officials who seek to limit government, those who do not and those whose votes are at odds with what they tell their constituents. It is a substantial expansion of the very successful print publication of the same name, which has been published every two months since the fall of 2007. The print version will continue to be published.

Gov. Jennifer Granholm's annual "State of the State" address — more specifically the TEA Party demonstration outside — was the focus of the first day's coverage. Unlike any other news source, MichCapCon.com provided both video and extensive written reports of what the residents on the steps of the Capitol were saying, rather than what the politicians inside were applauding. Managing Editor Ken Braun compared the two gatherings to a formal wedding reception and a rowdy football tailgate.

The online team was strengthened by the addition of Tom Gantert, formerly of The Ann Arbor News, Lansing State Journal and Reporting Michigan. Gantert has more than two decades of experience covering news and politics in Michigan. Former Mackinac Center intern Jarrett Skorup also joined the team as the director of online engagement, with a dual role of marketing and managing the technical end of the Web site.

Among the original MichCapCon.com stories provided to readers in its first few weeks were:

- The city of Flint, one of the nation's most crime-ridden communities, is getting more federal stimulus money for its bus line than for its police department.
- Members of the Michigan House who first took office in 2005 are getting stopped for alcohol-related driving offenses at a rate that is twice the state average.
- A member of Michigan's congressional delegation publicly swore off earmarks because of an earlier Michigan Capitol Confidential story.
- The state Senate rejected a proposal that would have saved money for local governments but was opposed by big labor.



- Increased unemployment payments in Michigan will produce a tax on hiring workers because the state will pay back money borrowed from the federal government with a tax increase on job providers.

In addition to at least one new, original story each day, MichCapCon.com provides a constantly updated "News and Views" aggregator of stories from other sources; a new "Video of the Day" selected from the Mackinac Center and other sites; and a "Just a Bill" selection from MichiganVotes.org.

In addition to visiting the page each day, readers may keep up with MichCapCon.com through a daily e-mail, RSS feed and regular Facebook page updates. Even before the daily news site launched, the Facebook page acquired more than 1,000 "fans," most of whom were getting the print publication and were eager to check out the online version.

After less than one month, the Facebook page had more than 1,700 fans, and the daily e-mail sign ups had exceeded 500. Each continues to grow steadily.

As news coverage in our state capital dwindles, it is increasingly important to have outside scrutiny of our elected officials and government bureaucracies. The MichCapCon.com team is in place to help fill that void. Readers can expect balanced, substantive reporting, aided by insightful analysis, hard data and legal expertise. **I**



Tom Gantert



Jarrett Skorup

The Story of a Rebel and His Film Incentive

The Mackinac Center's hard-hitting examination of the Michigan film incentive subsidy program thrust the Center onto the national stage when Communications Specialist Kathy Hoekstra trained her camera on Michigan film producer Michael Moore.

The video was part of Hoekstra's dogged pursuit of a program where a government agency picks winners and losers in the marketplace, by offering millions of dollars in tax refunds for moviemakers.

When Center Fiscal Policy Director Michael LaFaive noticed that Moore's latest release, "Capitalism: A Love Story" was partially filmed in Michigan and eligible for the tax incentives, Hoekstra began to dig. She quickly discovered that someone associated with the movie had applied for the subsidy.



Communications Specialist Kathy Hoekstra questions Michael Moore in an off-camera interview.

This proved troublesome for Moore on two fronts. First, Hoekstra unearthed video from July 2008 in which Moore openly criticized the program, saying of the big moviemaking companies that can qualify for Michigan tax refunds, "Why do they need our money, from Michigan, from our taxpayers, when we're already broke here?"

Second, seeking taxpayer subsidies also conflicted with the movie itself. In "Capitalism: A Love Story," Moore goes to Wall Street and demands that corporate officials whose companies received bailout money from the federal government return the money to the American people.

Hoekstra exposed Moore's conflicting positions in a three-and-a-half minute video that went viral almost immediately upon release. At the time of this writing, the video had been viewed more than 14,000 times. A vast array of leading national Web sites picked up the story, including

Fox News, Newsbusters, American Spectator, Big Hollywood, National Review Online, the Daily Caller, HotAir, the Baltimore Sun and the Conservative News Service. The story even landed on one of the world's most-read celebrity Web sites, Perez Hilton.com. Fox News' Glenn Beck mentioned the story on his program.

WJR talk personality Frank Beckmann interviewed Hoekstra about the story, as did Ron Jolly of WTCM in Traverse City. Newspaper coverage included The Detroit News and The Flint Journal, which editorialized "... you have to admit it's ironic that someone who made a movie criticizing the government for allowing big business to feed at its trough went so far as to apply for some slop himself."

Michigan Capitol Confidential also reported on the story. Managing Editor Ken Braun noted in a commentary that because of Moore's unwillingness to talk to the media, "the predatory interviewer is looking very much like his old prey — former General Motors Corp. CEO Roger B. Smith — in 1989's 'Roger & Me.'"

While Moore and his people have been mum on the story to this point, the intense scrutiny could prove to save Michigan taxpayers money. Hoekstra discovered that the application for the refundable tax credit on behalf of "Capitalism: A Love Story" is only halfway complete. In order to receive a refund, a round of paperwork must be filed after a film is finished. So far, the Michigan Film Office has not seen the post-film paperwork.

However Moore proceeds, Center investigators and analysts will continue to keep a close eye on the Michigan Film Office and its taxpayer handouts to filmmakers. As Moore said in his film: "We want our money back." **I**



MAKING THE NEWS Nov. 28, 2009



The New York Times

Russ Harding, director of the Mackinac Center's Property Rights Network, wrote an Op-Ed for the New York Times, arguing that ethanol subsidies and mandates only raise prices and hurt the environment.

An Entrepreneurial Spirit

You might think that growing a family business from a single product line to a global corporation with \$1 billion-plus sales wouldn't leave a lot of time for community service.

Yet Dick Haworth, chairman emeritus of Haworth Inc., has generously shared his time and expertise with the Mackinac Center as a member of our board of directors — and with other education and civic groups as well.

"Dick has a deep belief in the principles this country was founded on and in quietly sharing those principles with others," Mackinac Center President Joseph G. Lehman said. "He's been a faithful contributor to many of our projects, particularly the workshops we host for high school debate students."

Haworth Inc. (then called Modern Products Inc.) was established in 1948 by Dick's father, G.W. Haworth, in his family's garage in Holland, Mich. In its early years, the company specialized in designing and building office partition systems.

When Dick was named president and CEO in 1976, he set the firm on course to become the global operation it is today with an extensive product line of workspace furniture and

accessories, markets in 120 countries, 20 wholly owned manufacturing facilities, 7,000 members and more than 250 patents, including 14 held by Dick.

In spring of 2009, the legacy created by the Haworths passed to Dick's son, Matthew, who was named chairman of the board. Dick found it gratifying to see the family-owned, values-oriented business pass to another generation.

The Mackinac Center had a similar transition a year earlier, when President Lawrence W. Reed became president emeritus in 2008 and Lehman was named his successor.

"Having board members like Dick is one reason the Mackinac Center made the transition so smoothly," Lehman said.

"The best investments are in good ideas and the people behind them," Haworth said. "It works in business, and the Mackinac Center is showing how free-market ideas can turn Michigan around."

Some say that a key reason for Haworth Inc.'s success is that Dick creates the kind of workplace where people can be creative and entrepreneurial.

We think that's a good prescription not just for business, but for the state of Michigan. **I**



Dick Haworth

New Beginnings

In January, I was hired as the new Vice President for Advancement at the Mackinac Center. It is a pleasure to join a team of such committed professionals whose great desire is to make a positive impact on the future of Michigan.

Since 1988, I have closely followed the development of the Mackinac Center. Through the leadership and teachings of Larry Reed, Joe Lehman and Joe Overton, I have gained a richer understanding of the critical importance of creating sound public policy through free market principles. These men, along with many others at the Center, have significantly influenced my worldview, and I will always be indebted to them.

It is a privilege to continue the work of my predecessor, Justin Marshall. In December, he accepted a position at Northwood University. We are thankful that Justin continues to be a part of Midland and congratulate him on this new endeavor.

A Michigander by birth, I grew up in metro Detroit. I was fortunate to have parents who taught me the importance of hard work and

personal responsibility. These basic tenets have become key foundational principles for my life.

I have had the privilege of leading four nonprofit organizations over a 22-year period. Through the raising of funds for these organizations, I have learned how important each contributor is to helping an organization fulfill its mission.

In 2007, I founded my own consulting business. Creating a profitable company in Michigan during trying economic times has been challenging but also very rewarding. It has given me a new appreciation for entrepreneurs and their importance to our economy.

Choice — this one word has influenced my life more than any other. I am thankful for the choices I have had as a result of living in a country where I have the opportunity to live freely. I desire the same for my children.

On a personal level, I am a family man. My wife, Julie, and I are raising our two children in Midland.

I look forward to meeting many of you in the months ahead. Thank you for supporting the Mackinac Center. **I**



Darryl M. White,
Vice President for
Advancement



Your estate plans reflect the values you hold dear and hope to perpetuate.

Join the Mackinac Center's Legacy Society by calling Darryl White at 989-631-0900 and including the Center in your bequest today.

Founding Board Member Vindicated by Landmark First Amendment Case

Richard McLellan, a current and founding board member of the Mackinac Center, was vindicated by the U.S. Supreme Court's recent decision in *Citizens United v. Federal Election Commission*, which held that the First Amendment allows corporations and unions to engage in political speech through independent expenditures.

The First Amendment explicitly states that "Congress shall make no law ... abridging the freedom of speech," but from time to time, Congress has seen fit to enact a number of campaign finance laws that do just that.

Perhaps the most important of campaign speech cases was *Buckley v. Valeo*, decided in 1976. The Supreme Court in that case drew a distinction between direct contributions to a candidate and independent expenditures. Agreeing with Congress's concern over quid pro quo corruption (or the appearance of it), the Court upheld a limit on direct contributions to candidates and struck down a limit on the amount that could be used for independent expenditures.

Soon thereafter, in *First National Bank of Boston v. Bellotti*, the Supreme Court struck down a state law that sought to prohibit corporations from making independent expenditures related to a ballot initiative.

With these cases in mind, the Michigan Chamber of Commerce sought to challenge a state ban on independent corporate expenditures. The Chamber hired McLellan and developed a test case, which eventually became the 1990 case of *Austin v. Michigan Chamber of Commerce*. It is a testimony to the esteem in which McLellan was held that he

was entrusted with arguing *Austin* before the U.S. Supreme Court despite not having argued so much as a traffic ticket at that point in his career.

But in *Austin*, in a 6-3 decision, the Supreme Court developed a new justification for limiting free speech: an anti-distortion principle. It was claimed that corporations could flood the airwaves and alter the debate.

It took 19 years, but the U.S. Supreme Court realized its error in limiting corporate expenditures in the *Citizens United* case. Until that ruling, the law criminally banned independent corporate expenditures for certain periods before an election. The court noted that if corporate restrictions were upheld, then Congress could ban books or newspapers published by corporations during those periods as well. Recognizing the particular importance of political speech in our democracy, the Supreme Court, while upholding disclosure and disclaimer requirements, overturned *Austin* and held that corporations and unions could make independent expenditures. The result was the restoration of First Amendment protections to a large segment of Americans.

McClellan was not the Mackinac Center's only tie to the case. Brad Smith, a scholar who authored one of the Center's earliest studies, was also instrumental in this free speech fight. Smith, who was a Federal Elections Commissions chairman, opened up the nonprofit Center for Competitive Politics to promote the deregulation of campaign finance. CCP filed two amicus briefs in *Citizens United*, and Smith signed on to another amicus brief. His academic work was cited by the Supreme Court majority opinion. **I**

Patricia Benner's years of behind-the-scenes work were recognized, as she was promoted to vice president for operations.

Benner joined the Center in 2003 as an executive assistant to then-Executive Vice President Joe Lehman. "I'm eager for the opportunity to continue the fight for liberty in my expanded role," said Benner.



Patricia



Daniel

After 11 years of creating Fortune 50-quality design for Mackinac Center publications and Web site, Daniel Montgomery has been promoted to marketing and design director. Montgomery said he will use both "design and marketing strategies to spread the Center's important ideas in new ways."



Michael



Mindy

Mindy Simon joined the Mackinac Center team as member services assistant. She brings several years of experience — and a cheerful disposition — to the challenging work of processing gifts, event planning and managing the Center's donor database.

Michael Jahr was promoted to senior director of communications. "We have an outstanding communications team exploring every pipeline and innovation to spread our message," said Jahr. "Through groundbreaking studies, investigative reporting, social media and more, we're shaping the public policy dialogue in Michigan."

Employee News

Economic Opportunity Needs a Moral Dimension By Lawrence W. Reed

Every election year we're barraged with rhetoric about "getting the country moving again," "creating jobs, jobs, jobs," and "stimulating the economy."

Politicians love to promise the future and ignore their own handiwork of the past. They typically spend much more time concocting new schemes for intervention than they spend searching for old ones that need to be repealed.

What really deserves our attention are those barriers to economic opportunity erected by government — regulations, taxes, licensure laws, unfunded mandates, building and zoning codes, special privileges for organized labor, subsidies to business, eminent domain abuse, chronic budget deficits that consume needed capital, and an education monopoly that fails to teach children as it vacuums their parents' wallets, just to name a few.

Studies show that excessively restrictive zoning laws, building codes and property taxes constitute the greatest obstacles to affordable housing for the poor. Minimum wage laws, by making it illegal to employ

people whose skills are worth less than government decrees, keep hundreds of thousands from getting a start in the job market. Endless regulations designed to curtail entry into markets (often in the guise of "protecting the public") freeze out many a would-be entrepreneur from creating new businesses.

I'm talking about the primary social disease of our age — government beyond its proper bounds, playing Robin Hood, Santa Claus and Mother Hen all at the same time, inflicting real damage to real people who have harmed no one.

What is sorely needed is a recognition of the moral backwardness that so many of these barriers to economic opportunity represent. We must appeal to what most people instinctively know is right, not just what makes the cash register sing. We must learn to speak of the deleterious actions of government in terms of trampled rights, broken dreams and ruined lives.

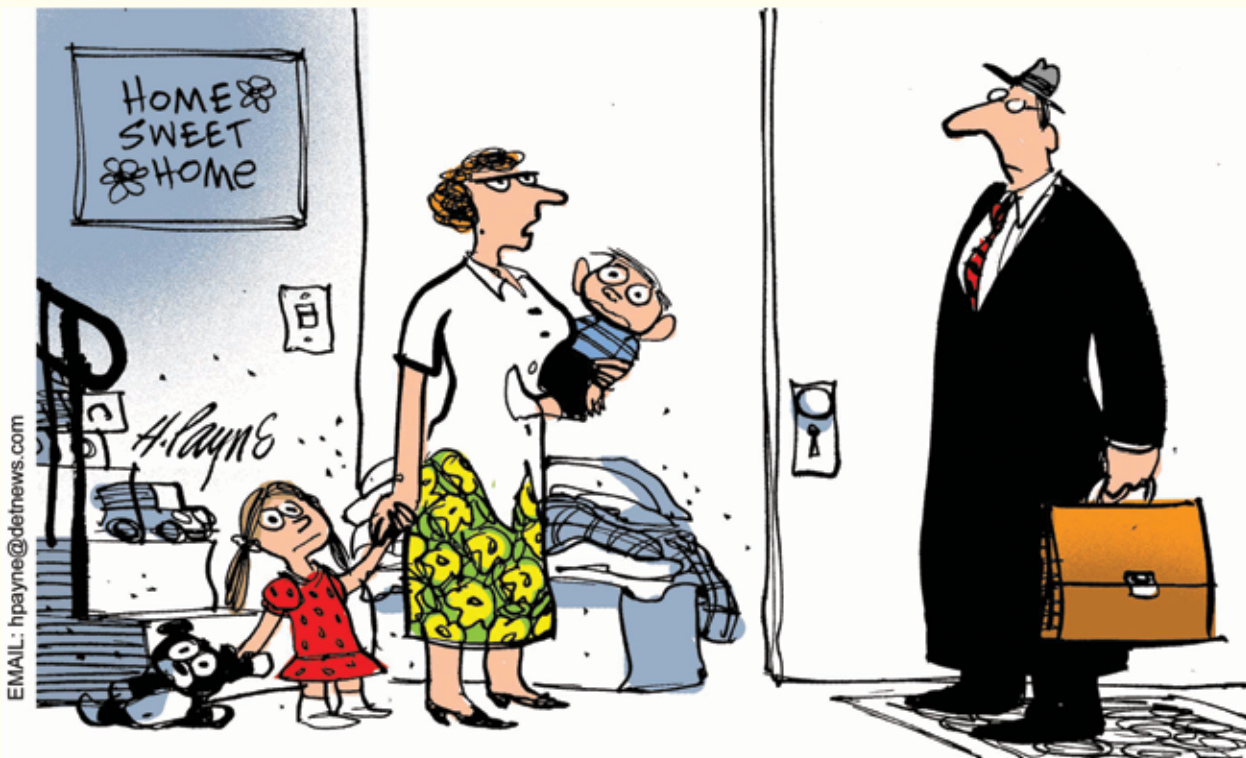
Sky-high tax burdens in the inner city should be viewed as an affront to every citizen who wants the best for his

family, who wants simply a chance to be productive. They should evoke visions of hungry children, of a boarded-up business that was once someone's dream, of homes torn apart because of the breadwinner's inability to pay the bills of irresponsible politicians.

Why are people who work for government known as "public servants" — even when highly paid? Why isn't "public servant" a term reserved for entrepreneurial heroes in the private sector who create jobs, invent machines, cure illnesses, build businesses, serve customers and pay the bills of government with their taxes?

The campaign to enhance our economic opportunities must incorporate a personal, moral dimension at its core. Laws that suffocate enterprising aspirations are more than bad economics. In a free society, they ought to be moral outrages. **I**

Lawrence W. Reed is president emeritus of the Mackinac Center for Public Policy and president of the Foundation for Economic Education (www.fee.org).



"It's been one of those days. Big Labor organized me. OSHA fined me. And EPA declared the diaper bin a HAZMAT area."

VIEWPOINTS

How to Find and Eliminate Wasted State Money

January 2010 V2010-01

The state budget process seems to lurch from one crisis to the next, but savings — and budget cuts — would be possible if the state were to objectively measure spending and target waste.

www.mackinac.org/11665

The Expensive Mystery of “Project Cherrywood”

January 2010 V2010-02

Inscrutably named “Project Cherrywood,” a \$2 million refundable tax subsidy from the Michigan Economic Development Corp. to the Service Employees International Union, should raise several red flags for Michigan residents.

www.mackinac.org/11666

Price Theory in One Lesson for Legislators

January 2010 V2010-03

The economic law of demand should be an easy concept to grasp, even for Michigan’s legislators. Let’s hope they apply it soon.

www.mackinac.org/11667

Most School Health Care Plans Are Too Expensive for Michigan



February 2010

V2010-04

Public school teachers receive health insurance

benefits that cost almost 40 percent more than the average Michigan family’s benefit package. Yet they pay significantly less — if anything — for those benefits. School districts must decide if they will continue to fund these generous benefits at the expense of educational programs and taxpayers.

www.mackinac.org/12083

Evaluations of Early Education

March 2010 V2010-08

Study results and real-world examples show that spending tax dollars on preschool produces little initial return and no long-term benefits.

www.mackinac.org/12327

Michigan Service Tax Proves (Groucho) Marx Correct

March 2010 V2010-09

Lansing policymakers want to extend the sales tax to a number of services in order to resolve their ongoing, self-created overspending crisis. Yet the state already taxes a number of services and already receives more money than would be expected given its poor economy.

www.mackinac.org/12328

Headlee’s Social Welfare Problem

February 2010 V2010-05

Tax hike proponents argue that the room between the Headlee amendment’s revenue cap and actual revenues in Michigan demonstrate that the state tax system is outmoded. Revenue is only below the cap, however, when payments from government programs are included. Including social welfare payments is hardly an indicator that Michigan’s broken economy can afford more taxes.

www.mackinac.org/12084

Pension Obligation Bonds: Borrowing Our Way To Prosperity?

February 2010 V2010-06

State legislators are contemplating bills that would let local governments sell bonds to help pay retiree health care benefits for current and future local government employees. In creating this debt, the legislation is effectively seeking to guarantee the benefits. This is reckless and unfair to future generations of taxpayers; instead, the benefits should be scaled back or eliminated.

www.mackinac.org/12085

Pledging Regulatory Reform

March 2010 V2010-07

Candidates seeking elected office in Michigan should be asked to sign a pledge to reform the state’s job-killing regulatory bureaucracy.

www.mackinac.org/12326

JOURNALS

MichiganScience

MS2010-01

Key stories: Risk assessment, Climategate, Norman Borlaug.

www.mackinac.org/12257

Michigan Capitol Confidential

MCC2010-01

Key stories: Congressional pork, public trust, property rights, global warming.

www.mackinac.org/12004

STUDIES

Howell Education Association v. Howell Board of Education

S2009-11

Just what constitutes a public record? Are documents created by a public official on a public computer system “public records” under Michigan’s Freedom of Information Act? In this “friend of the court” brief, Mackinac Senior Legal Analyst Patrick J. Wright argues the answer is “yes” and warns that a failure to readily disclose such documents would seriously undermine FOIA’s value.

www.mackinac.org/10443

School Privatization Survey 2009

S2009-10



With Michigan’s public school districts facing a decline in per-pupil funding, more districts are contracting out for at least one of the three major school support services —

food, custodial and transportation — than ever before. This year’s survey of school districts found that 44.6 percent of all Michigan school districts contract out for at least one of these services, a 5.6 percent increase over 2008. This year, new contracts alone are expected to save \$6.9 million.

www.mackinac.org/11403

VIDEO

Michael & Me

Movie producer Michael Moore, who railed against corporate bailouts in “Capitalism: A Love Story,” is put on the spot after it is discovered that his production company applied — and was approved — for subsidies under Michigan’s film incentive program. Communications Specialist Kathy Hoekstra uses footage of Moore to expose the contradictions.

www.mackinac.org/12022

Is The MHBCCC Defunded?

This video details the ongoing and curious developments surrounding the Michigan Home Based Child Care Council, which the Michigan Legislature voted to defund. The organization continues to receive funding from the Department of Human Services, a move that has legislators, home-based day care providers and taxpayers upset.

www.mackinac.org/12106



Are You My Employer?

If the 40,000 home-based day care operators in Michigan are

considered dues-paying union members, they must work for someone, right? Communications Specialist Kathy Hoekstra investigates whether the Michigan Department of Human Services, the Michigan Home Based Child Care Council, Mott Community College or the state itself claim to be the “employer” of these entrepreneurs.

www.mackinac.org/12234

Lifestyles of the Benefit Rich

It's not often that an online database generates interest and stirs passion, but the January posting of Michigan school districts' 2008-09 school employee health insurance costs did just that. When Education Policy Director Michael Van Beek announced that the health insurance plans for more than 95 percent of the state's 551 school districts had been compiled and assembled in one place, the public response was remarkable.

Recognizing the fiscal strain that rising health care costs create for school districts, Van Beek supplemented the data with some additional analysis, examining and reporting on regions, trends and private-public comparisons. Some of the findings were eye-popping. Michigan taxpayers spend \$2 billion annually to provide health insurance for school employees. The overall price for these plans rose by 86 percent after adjusting for inflation since 1995, while the total number of school employees grew by only 9 percent.

The survey, compiled through hundreds of Freedom of Information Act requests, showed that schools provide remarkably generous health insurance plans to their employees. For instance, the average cost for a family plan premium for a teacher is \$15,800, which is 29 percent higher than the state average for the same type of plan. Additionally, the average teacher contribution to the cost of those premiums is a mere 4 percent, while the statewide average is 22 percent. Teachers in 301 school districts make no contribution to the cost of their insurance premium.

It was findings like these that caught the media's interest. The database received coverage statewide, including in The Grand Rapid Press, The Kalamazoo Gazette, The Muskegon Chronicle, Midland Daily News, Livingston Daily, WOOD-TV, WZZM-TV, WJR 760AM, WMKT 1270AM, Family Life Radio, WJRW 1340AM, Gongwer News Service and AnnArbor.com. Because the database is

searchable by school district, many media outlets did stories specific to their coverage areas, comparing districts within a particular county or region.

Web traffic for the database was heavy following its debut. In its first two weeks, the site was viewed 14,000 times. Superintendents, school board members, reporters, parents, taxpayers and others continue to make the database one of the most popular destinations on the Center's Web site.

Lansing officials took notice as well. Several legislative offices contacted the Mackinac Center after hearing about the new database, including that of Sen. Majority Leader Mike Bishop, who two weeks later introduced legislation that would require government employees to pay a greater share of their own health care premiums. Legislators praised the project and reported that it would be beneficial to them since the Legislature is considering a number of different bills to curb the rising costs of school employee health insurance. I

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