The Magazine of the Mackinac Center for Public Policy JULY/AUGUST 2018

IMPACT

★ VICTORY FOR MARK JANUS ★

FREEDOM FOR ALL PUBLIC WORKERS PAGE 12

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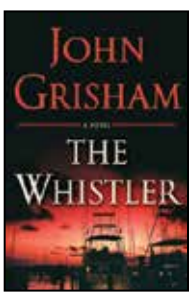
JARRETT SKORUP RECOMMENDS

The Whistler
by John Grisham



Public policy is my job, and I enjoy reading books on economics and political philosophy. But I'm also a big fan of novels, so I especially enjoyed John Grisham's recent book, "The Whistler," which combines fiction and policy. It's a thriller involving a casino in Florida, a local judge and a whistleblower working to expose their corruption. As in much of his other work, Grisham does a good job of providing a backstory. Here it focuses on the positives and negatives of the gaming money flowing from the casino to the local Native American tribe and the bad incentives it creates. This is a good one to add to your summer reading collection.

Explore this issue

"Michigan's most prominent conservative think tank and most litigious progressive organization working together? Yes they are, and their alliance has attracted the notice of others far more important than your humble columnist. What brought them together was the Michigan civil asset forfeiture statute."

— Lawrence Glazer

Retired Ingham County judge and former legal advisor to Gov. Jim Blanchard, writing in Dome Magazine on the Mackinac Center working with allies across the spectrum for good policy reform.

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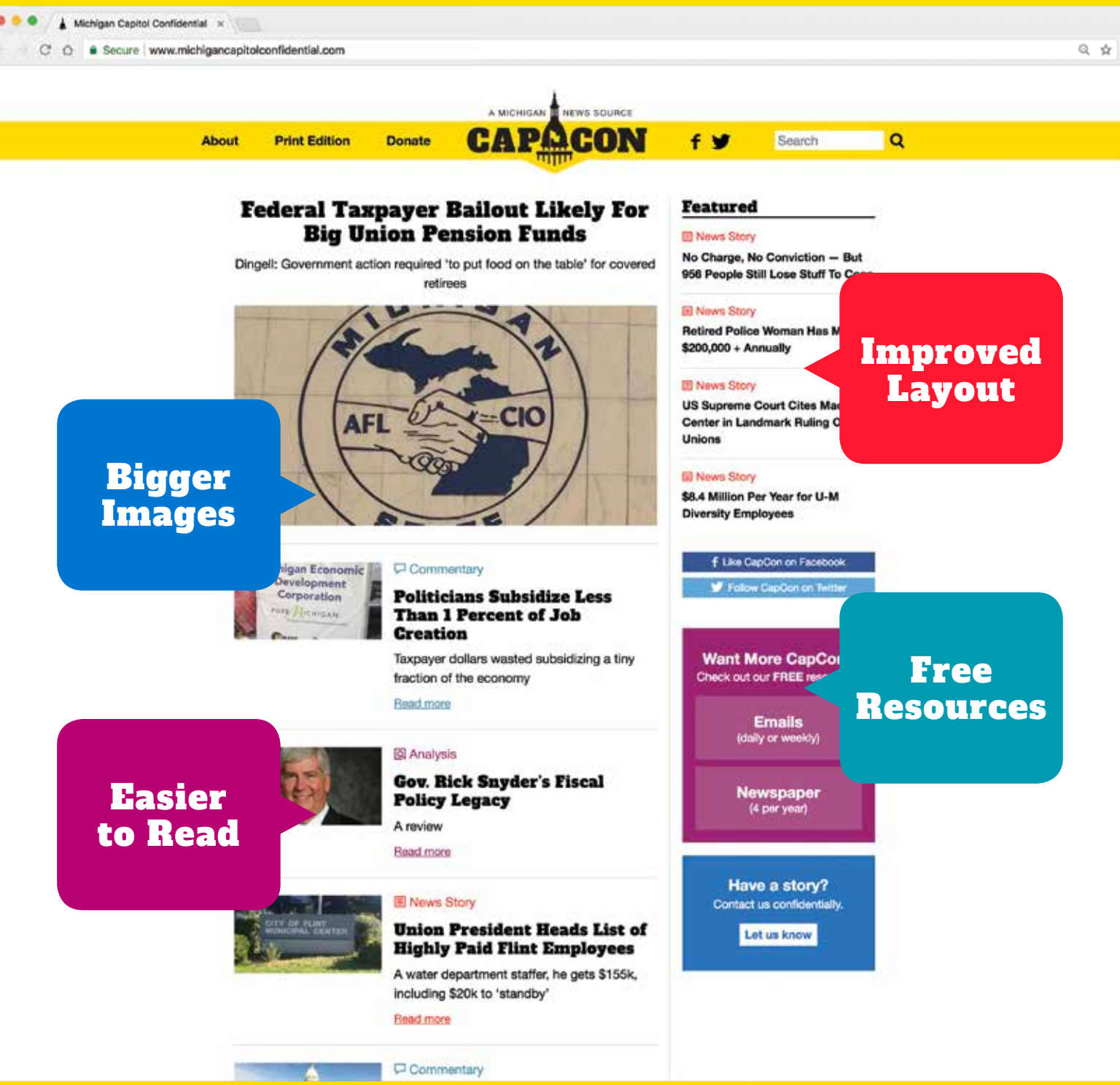

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Michigan's Labor Revolution

MICHAEL J. REITZ

Michigan has experienced a quiet revolution, resulting in a noticeable economic turnaround. The grim news is well-known: The state underwent a one-state recession during the first decade of the century — which included Gov. Jennifer Granholm's two terms in office — with 805,000 jobs lost. The drop in per capita personal income was among the worst experienced by any state at any time since the 1930s. In January 2011, statewide unemployment was at 11 percent — and 22.2 percent in Detroit.

By all these measures, the state is in a stronger position now.

But why?

Perhaps it was the repeal of economically harmful corporate and personal property taxes, some say. And eliminating regulations and balancing the budget certainly helped. Some might point to Detroit's comeback, or even the perception of a comeback.

While applauding those changes, I offer a different theory. A critical factor was the state's effort to re-evaluate the influence of unions in the public arena. Government unions inevitably negotiate in one direction — in favor of larger and more costly public programs. Consequently, personal and corporate resources that could generate capital and prosperity are instead redistributed through the apparatus of the state. But Michigan's leaders have, thankfully, systematically addressed some of the drivers of bloated, inefficient government.

Here are just some of the reforms the Mackinac Center supported and the state government enacted in the last seven years:

- Reducing the scope of school/union negotiations; the issues no longer bargained over include teacher evaluations, layoff decisions, employee discipline and merit pay.
- Ending project labor agreements, which award government construction projects to unionized firms and increase construction costs.
- Requiring public employees to pay 20 percent of health insurance costs, a share previously often set at zero.
- Prohibiting the use of taxpayer resources to collect union dues.
- Enacting a right-to-work law for both private sector and most public sector employees, which means a union can no longer get an employee fired for declining to financially support it. (In its June 2018 decision, the U.S. Supreme Court extended right-to-work to public safety employees, who had not been covered by Michigan's law.)
- Extending, via the Michigan Supreme Court, the right-to-work law to state employees.
- Requiring government unions to report to their members details about their spending for collective bargaining, contract administration and grievances.
- Prohibiting school board members from voting on a union contract if they have a family member employed by the district.
- Moving school board elections to November in even-numbered years, thereby avoiding low-turnout stealth elections.
- Shutting down three illegal unionization schemes, liberating 85,000 people from forced unionism: day care providers, home help providers and graduate student research assistants.
- Enacting historic pension reform for public school employees.
- Repealing the state's archaic prevailing wage law, which mandated union wages for public construction projects. The repeal is projected to save state and local governments hundreds of millions of dollars annually.
- Helping, through the Mackinac Center's educational campaign, 30,000 school employees exercise their new right-to-work options.

These reforms have inherent value but also serve as a signal that Michigan is serious about its comeback. No state (with the possible exception of Wisconsin) has accomplished more in the same period of time.

Compare Michigan to Illinois — a state with little prospect of sweeping labor reforms as long as Democrats hold the legislature there. Since 2010, job growth in Michigan has been 60 percent stronger than in Illinois. And Michigan has gone from losing 1,900 people to Illinois in 2010 to gaining 2,600 people from there in 2016. ■

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GENEVA RUPPERT WISE Editor

ILIA ANDERSON Designer

Mackinac Center Helps Current and Retired Teachers Defend Against Union Claims

With the incredible relief provided by the victory won by Mark Janus at the U.S. Supreme Court, public employees will no longer pay either dues or fees to a union unless they choose to. Compulsory payments are a thing of the past, which is a huge victory for employees.

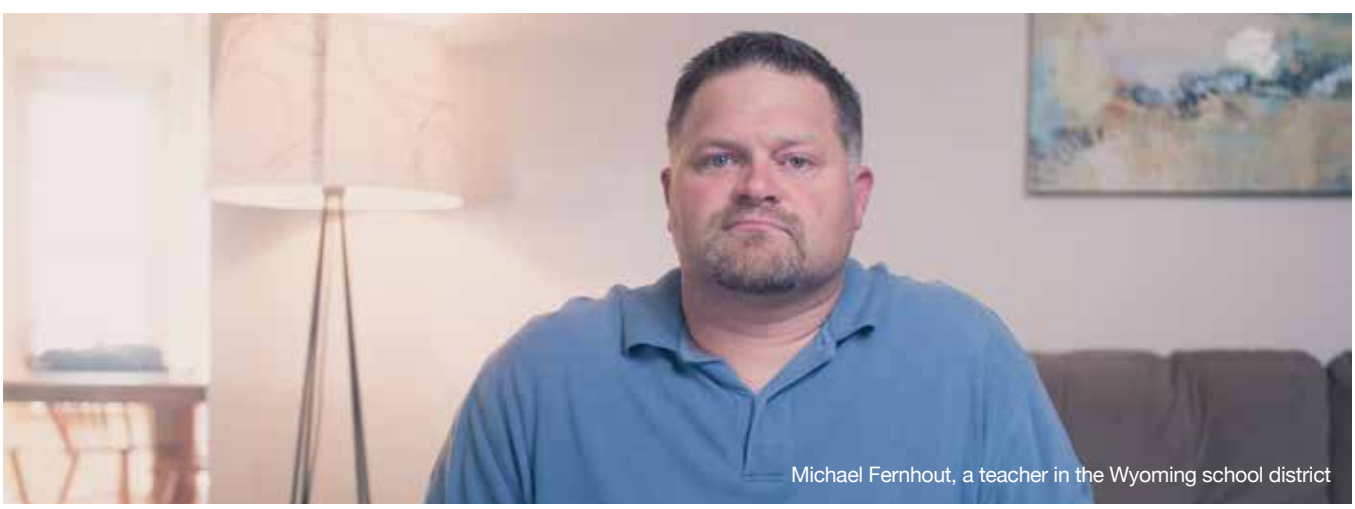
But what about those who are being prosecuted for not paying unions in the past? In the Roman pantheon, the god Janus had two faces because he was the god of transitions, and could, therefore, look forward and backward at the same time. But in Michigan, so far, Janus only looks forward; its implications for past actions are not yet clear. Many teachers who left their union because of the state's 2012 right-to-work law are being pursued by the Michigan Education Association for past dues — often dues that they do not even owe. The MEA has been pushing forward with lawsuits and collection agency actions against some of the teachers who left the union, seeking dues and fees. The Mackinac Center is representing two of them.

Michael Fernhout left the union in September 2015. So it came as a bit of a surprise when the MEA sued him for not paying any agency fees for the 2015-16 school year. Still, it wasn't a total shock when the process server tracked him down to hand him the papers saying that he'd been sued, since he had heard similar stories about other teachers. But the sting of being sued by someone who erroneously claimed that he hadn't paid his bills still hurt.

When Fernhout left the union, his Wyoming school district had in place a new contract with the MEA affiliate, which should have made him free to leave the union with no financial obligation. Nevertheless, the lawsuit alleges that he still must pay. During a preliminary hearing, the presiding judge said that the MEA had surpassed a well-known credit card company in bringing debt-collection lawsuits to his courtroom. "What's in your wallet?" seems to be the MEA's new slogan.

Judy Digneit also was surprised when the MEA took legal action against her. After all, she had retired. But one day, she came to the door in her nightgown while watching the British royal wedding, only to be informed that she was being sued. The union alleged that she owed dues for the 2015-16 school year, even though she opted out of the union in 2015 — twice. Before the MCLF won a victory allowing MEA members to withdraw at any time of the year, they were only allowed to leave the union during the month of August. And Judy did leave in August, sending a letter to the union as required. But the MEA claimed it didn't receive her letter the first time, so she sent it again in September, keeping copies of both to prove she sent them.

So for public employees who wish to leave their union, the fight is far from over. Unions will put up every roadblock they can against employees who exercise their rights. And the fight for those who left a long time ago still goes on, as the union comes after them with debt collectors. Even retirees are not free from the union's grasp. And the Mackinac Center Legal Foundation has heard from teachers who are willing to pay dues they don't believe they owe, just to avoid the stress of a lawsuit. At least for a while, the fight goes on. ■



Michael Fernhout, a teacher in the Wyoming school district

AN INTERVIEW WITH A SUPPORTER

This issue: Todd and Stacey Taylor

HOPPING for LIBERTY

Family dinner conversations have become increasingly rare and often-dreaded social occasions in our modern world. This has not been the case for Mackinac Center supporters Todd and Stacey Taylor. Their adult children share their views on free-market issues of the day, something the Taylors attribute to encouraging the exchange of ideas and opinions at the dinner table as they raised their family.

Todd knew by his high school graduation that he wanted to be in business. His grandfather owned a business and his mother had a keen business mind. A free-market perspective was molded during his college years at Northwood University, where Larry Reed, who later served as the Mackinac Center's president for 20 years, was one of his first professors. The Taylors acted on that perspective by giving to the Mackinac Center after they saw a different college they had enjoyed a connection with start to drift on matters of principle.

Before the Taylors began splitting their time between Naples, Florida, and Greenville, Michigan, Todd owned and operated a manufacturing company he started in his hometown. Upon retirement, he was looking for a passion that would keep him busy for 20 hours a week. He found that — and more hours than he bargained for — at the site of a defunct country club in Greenville. The Taylors purchased the property in 2008 and were free to develop the land in 2011.

Montcalm County's sandy, loamy soil and proximity to the 45th parallel make it a good place for hops farms. The growing season coincides nicely with the Taylor's schedule, including the time they wish to spend in Florida. After others attempted to revive the old golf course, to no avail, the Taylors were excited to "go back to nature" with the farm.

There are approximately 16 acres of hops on the property, with the first parcels of land, known in the industry as "yards," being planted 19 months ago. As perennials, hops live for up to 15 years but take three years to achieve a 100 percent yield. They will be ready for harvest by the end of August.

While the Taylors have only been actively engaged in this new endeavor for 18 months, they have already navigated what they view as overregulation. While they had long supported Mackinac Center ideas on the grounds of principle, they now have professional reasons as well. They have followed ideas such as regulatory capture and events like the Issues and Ideas "Beer Glut" panel (see page 18). Todd is quick to remind friends and partners that deregulation made the current industry they are a part of possible. The Taylors and the Mackinac Center would both like to see the state lower excise taxes and licensing fees for farmers and craft brewers in Michigan.

While many attributes make the Taylors unique supporters, their zest for life and eagerness to try new things at any stage in life are shared by many friends of the Mackinac Center. To learn more about how you can make an impact for liberty by joining the Mackinac Center in a philanthropic way, or request a dinner conversation of your own, you can reach us at **(989)-631-0900**.

Lawmakers Looking to Close the Session Strong, Move Major Reforms

In just the past few weeks, the Michigan Legislature has passed bills repealing union-mandated wages on government construction jobs and establishing work requirements for able-bodied residents receiving government-paid health care.

Lawmakers in the state House have also passed bills requiring a criminal conviction prior to civil asset forfeiture and preventing cities from adding new occupational licensing laws or adding regulations above and beyond what the state mandates.

Here is a summary of the bills:

Prevailing Wage

The law mandating union wages on public projects has been around for more than 50 years, leading to higher costs for taxpayers, city councils, county commissioners, universities and every other government body. Repealing the law is a giant step toward more efficient building projects for roads, bridges and other public assets.

Medicaid Work Requirements

A new bill ushered through by Sen. Mike Shirkey requires able-bodied adults on Medicaid to work. This helps ensure the program works for those it is meant to help — namely poor children and the disabled — while encouraging work, which is a good thing.

Other important bills are moving or have moved through the state House but still need to be passed by the Senate and signed by the governor.

Licensing

The Michigan House passed House bills 5955-5965. Rep. Jim Lower, who sponsored two of the bills, led the effort to limit the licensing currently done by cities and prevent new laws going forward. Also recently introduced is House Bill 6114 from Rep. Lana Theis, which sets up a review system for occupational licenses already on the books. House bills 6110-6113 from Rep. Brandt Iden, meanwhile, allow people with a criminal background to more easily get back into the labor force.

Civil Forfeiture

The Michigan House passed HB 4158, sponsored by Rep. Peter Lucido, which requires a criminal conviction for most cases before the government takes ownership of a person's property. While forfeiture is a necessary tool, protections need to be in place, especially considering the nearly 1,000 people who lost their assets to the practice last year despite criminal charges being dismissed or never filed.

These are all huge steps when it comes to reforming government — and they are all major Mackinac Center priorities. Legislators should be applauded for their work.

"We must outlaw for-profit charter schools in Michigan."

— Shri Thanedar

November Elections Could Bring January Troubles for Public Charter Schools

BEN DEGROW

As the fall elections approach, a dangerous storm may be looming on the horizon for educational choice in Michigan. Parents whose children have benefited from charter schools or other options soon may be pressed to take a stand to secure their rights.

The struggle over school choice in Michigan has more deeply partisan roots than in most places. Though public charter schools haven't been universally favored anywhere, in most states they were launched with key support from Democratic leaders.

It wasn't that long ago an African-American Democratic president touted charter schools as "incubators of innovation" and declared they "play an important role in our country's education system." Sure, there was tension and disagreement within his party over the issue, and he never embraced a broader vision for parental choice. But today, President Barack Obama's support of charters seems like a distant dream. What once was a respectable nonpartisan position has fallen out of favor with a harsh backlash against President Donald Trump and his education secretary, Betsy DeVos.

"We cannot continue to let Michigan's charter schools fail our kids."

— Gretchen Whitmer

The stakes for Michigan's children and indeed the whole state are very real. Benign neglect is no longer an option for aspiring Democratic leaders. Opposition to charters has become a litmus test for major candidates, including those who want to be Michigan's next governor.

Democratic front-runner Gretchen Whitmer has staked her candidacy on reining in parents' options. According to her campaign website, "We cannot continue to let Michigan's charter schools fail our kids." Her campaign's education plan hints at a variety of new special regulations focused on charters, though she misleads voters by selling the proposals as providing fairness and balance.

Never mind that charter schools continue to exist because families have pursued them to escape other options that didn't work as well. Never mind multiple studies finding the average Michigan student learns significantly more by switching to a charter school, or that charters get significantly better bang for the buck.

The rhetoric coming from Whitmer's primary political rivals is even stronger than her own. At a debate on Mackinac Island, fellow progressive Abdul El-Sayed repeated an unfounded theory to explain Michigan's poor national showing. He employed a host of political buzzwords to scapegoat "a Betsy DeVos agenda" and "corporate-backed charter schools."

But Shri Thanedar may have taken the cake with his blunt statement: "We must outlaw for-profit charter schools in Michigan." (Whitmer has fashioned herself more moderate by only explicitly calling to stop their expansion.) Of course, technically, "for-profit charter schools" do not exist, and Michigan's conventional districts pay profit-making companies far more for various services than do the charters Thanedar wants to ban.

These candidates' statements are not just empty appeals to a hostile segment of primary election voters. Adverse action in 2019 and beyond remains a real threat, more so than when Jennifer Granholm presided over the governor's office. Obligatory attacks on choice and charter schools now line the Democrats' path to political prestige.

The party's Lansing lawmakers already see charter schools as thieves, "stealing" money (as Rep. Kristy Pagan of Canton put it) rightfully meant for the current system. Next year, anti-choice legislation could get a serious hearing, legislation a potential Gov. Whitmer or Thanedar appears more than ready to sign.

Even without a friendly Legislature, though, an anti-choice executive could make university board appointments that undermine the key authorizers who support and hold accountable most of the state's charters.

A shift in power at the State Capitol would also embolden leaders in Detroit who are threatened by their increasingly successful education rivals. Even with Republican majorities in the Legislature, they nearly secured significant restrictions to charters in 2016. The same Legislature had to pass several laws to stop the Detroit school district from blocking a successful charter from buying a new building needed for its growth. The superintendent who advocated for the restrictions also has threatened to pull the plug on charters authorized by his district.

When it comes to the state of educational freedom in Michigan, a different political environment is coming. Either the Mackinac Center will have to dig in to fight more defensive battles, or we will be able to expand our focus on helping students secure access to additional effective learning options.

The good news is that it's not too late to awaken to the threat and opportunity that lies before us. ■

Ben DeGrow is director of education policy at the Mackinac Center for Public Policy.

From left to right: Aaron Lehman, Garrick Anderson, Chase Slasinski, Abigail Hoyt, Andrew Houser, Taylor Piotrowski, Garrett Heise, Susannah Barnes, Matt Vailliencourt, Emily Kellogg

The Mackinac Center Welcomes the 2018 Summer Interns

While some college students lounge by a lake and soak in the rays, this year's group of summer interns at the Mackinac Center are hard at work assisting our policy staff. Our bright and ambitious students are willing to sacrifice some fun in the sun for the ideals of personal freedom.

Returning for his second summer, this year's fiscal policy intern is **Chase Slasinski**, an incoming junior at Michigan State University. Slasinski attends the James Madison Residential College of Public Affairs, where he studies political theory and constitutional democracy and economics.

Garrick Anderson is also returning for his second summer, as the Center's environmental policy intern. Anderson has a long background in homeschool debate as a member of the Christian Communicators of America. He also is an assistant coach of the Kairos Debate Club of the tri-city area.

The communications team is thrilled to welcome back **Taylor Piotrowski**, who returns from Valparaiso University in Indiana. Piotrowski is going into her senior year studying political science and communications. She enjoys playing the trumpet and is also a big fan of Thomas Jefferson.

This year's research intern position is filled by **Andrew Houser**, a graduate of Aquinas College in Grand Rapids, Michigan, where he studied political science, Spanish and international studies. In his free time, he enjoys sports, watching movies and spending time with friends.

Joining the communications team, **Susannah Barnes** is a rising sophomore at Grove City College in Pennsylvania, where she studies economics and communications. Barnes is a member of her school's debate team and also enjoys dancing and musical theatre.

Joining our VoteSpotter Project is **Matt Vailliencourt**, a senior at the University of Michigan, where he majors in political science. His favorite hobbies include photography, playing guitar and kayaking.

Garrett Heise, an upcoming graduate of Central Michigan University, joins the Center as this year's advancement and events intern. Heise, who studied recreation and event management as well as professional sales, is a prolific reader and enjoys exercise and lakeside relaxation.

Joining the Center all the way from California is **Abigail Hoyt**, this year's education policy intern. Hoyt received her degree in political science from Azusa Pacific University, and in her free time she enjoys reading, going to the ocean and finding quaint beach towns.

Aaron Lehman is this year's Capitol Confidential intern. Lehman hails from right here in Midland and plans to attend Grove City College to study biology this fall. He enjoys spending time outside, bird watching, reading classic literature and music.

The graphic design team is pleased to welcome **Emily Kellogg**, an incoming sophomore at Ferris State University. She studies graphic design and marketing and is a fan of anime, art, video games and reading. ■

Can a Scorecard Change an Issue?

We've had long-standing opposition to the state taking money from everyone to give to select businesses. It's unfair, inappropriate and it doesn't grow the economy. Lawmakers, on the other hand, buy the excuses that it is necessary and important to continue subsidizing select businesses. After researching and tracking these developments for decades, we can now show just how much every lawmaker who has served since 2001 has approved in business subsidies.

JAMES HOHMAN

Lawmakers have to pass public acts before the state can take money from some taxpayers and give it to others through business subsidy programs. So we assembled all the laws that did so since we began MichiganVotes.org, which provides plain language descriptions of every bill and amendment that goes through the state Legislature and shows how every legislator voted.

There were 71 laws that authorized $16 billion in subsidies since 2001, more than the value of the Lions, Tigers, Pistons and Red Wings combined. Some of those votes got to be messy, however, with authorizations for new subsidies wrapped up in bills that enacted major changes. A 2007 law, for instance, changed the structure of the state's business tax, but it also extended a number of business subsidy programs. To get a clear sense of where each lawmaker stood on subsidies, we stripped the list down to just 37 bills that approved $6 billion in subsidies.

We found that support for subsidies was a bipartisan affair. The average Republican voted to approve $1.47 billion, while the average Democrat approved $1.62 billion. There was little opposition, as 43 percent of all lawmakers supported every subsidy that came up for a vote. Only 4 percent opposed every subsidy that was approved during their tenure.

Opposition to business handouts tends to be a recent phenomenon. That 4 percent is made of 22 lawmakers — 21 Republicans and one Democrat — and all of them were elected in 2008 or later.

Lawmakers are under immense pressure from the people who get the subsidies to pass these laws. Stories about job losses or businesses threatening to leave the state make headlines — and not favorable ones. A story about a promise of new jobs, by contrast, can be a feather in a lawmaker's cap. But real growth doesn't come from the handful of companies that are given taxpayer cash by state politicians. The bulk of job growth happens without subsidies.

The ineffectiveness of the subsidies, however, does not negate the political benefits from approving them. We hope this scorecard will help hold policymakers more accountable to their constituents when it comes to subsidizing favored businesses.

We've seen some evidence that it is having an effect. Lawmakers who have clean records on this scorecard are pointing it out, while lawmakers that don't are being defensive about it.

That's a good indicator our scorecard has some consequences, but it is not enough, by itself, to change lawmakers' incentives. There has to be something that resonates with their constituents.

And that's the point. Business subsidies have, unfortunately, been popular enough to get broad bipartisan support. But if we expose their problems, if we can change people's minds about the issue and if we show them how their own representatives vote on this issue, there's a chance that we can also change the policy. ■

James Hohman is director of fiscal policy at the Mackinac Center.

To check out the scorecard results for yourself, visit **michiganvotes.org/subsidies**

VICTORY FOR MARK JANUS

How the Mackinac Center's years advancing worker freedom in Michigan have paid off across the country

In its June 27, 2018, decision, Janus v. AFSCME, the U.S. Supreme Court ushered in a new era for public employees. In a 5-4 decision, Justice Alito — writing for the majority — asserted that public employees have First Amendment rights to freedom of speech and association that protect them from being forced to pay a union just to keep their jobs. The Court's decision in favor of Mark Janus overturned the 1977 Supreme Court decision in Abood v. Detroit Board of Education, permitting government unions to forcibly collect fees or dues from public employees. But last month, the court said its Janus decision ends the "windfall that unions have received under Abood for the past 41 years." That windfall, it continued, had led to "billions of dollars [being] taken from nonmembers and transferred to public-sector unions in violation of the First Amendment."

In many ways, the Janus holding has the practical effect of making all government workers right-to-work. The number of private and public sector workers that are unionized is almost equal (7.2 million public and 7.6 million private). Of the 7.2 million public sector workers, 2.2 million were already right-to-work, so Janus directly effects 5 million unionized government workers. Previously, those 5 million individuals had to choose between paying full union dues or, if they resigned from the union, agency fees, which are generally around 75 to 80 percent of full dues. Though Janus does not affect private sector workers, it still represents a quantum leap in freedom.

Since its inception, the Mackinac Center has championed right-to-work both in the private and public sector, in Michigan and throughout the country. This work, in concert with the efforts of other organizations committed to worker freedom across the country, helped set the stage for Janus.

The Center drew national attention to public sector unionism when we opened the Mackinac Center Legal Foundation and challenged a campaign to classify home-based day care providers as public employees and then unionize them.

As recently as 2009, the court mentioned Abood in a ruling, but not a single justice challenged its validity. In September of that year, the Center drew national attention to public sector unionism when we opened the Mackinac Center Legal Foundation and challenged a campaign to classify home-based day care providers as public employees and then unionize them. By March 2011, we freed 45,000 day care providers, many of whom were small-business owners, from the unionization scheme.

Left: Mark Janus alongside Mackinac Center heroes whose victories helped lead to the recent Supreme Court ruling.

That same month, legislators in Wisconsin and Indiana fled their states in an attempt to prevent votes on labor reforms. In Wisconsin, union supporters occupied the state Capitol. A couple of months later, the Supreme Court agreed to hear Knox v. SEIU, and the majority opinion in that case — decided in June 2012 — included a lengthy section questioning Abood and the legality of agency fees.

Also in 2012, the UAW and other unions pushed for a constitutional amendment that would prevent right-to-work in Michigan and make collective bargaining agreements trump state law. The SEIU, whose efforts to take money from home health aides in a dues-skim operation had been reversed by legislation, tried to undo the law through a second constitutional amendment. In November 2012, voters rejected both proposed amendments, and in the next month, legislators turned Michigan into a right-to-work state for both private sector employees and public sector employees not working in public safety jobs.

Almost immediately, the Michigan Education Association took up aggressive tactics to make it harder for members to leave and punish those who did. The Mackinac Center Legal Foundation has been battling the MEA ever since.

In 2014, the Supreme Court decided Harris v. Quinn, which had been filed by the National Right to Work Legal Defense Foundation, and held that home help workers could not be forced to pay agency fees. The Mackinac Center amicus briefs in that case highlighted our experience shutting down the illegal home help unionization in Michigan and argued Abood should not apply to home help workers, a position the court eventually took. Harris was a 5-4 decision; the majority heavily criticized Abood, and the minority defended it.

... the Michigan Education Association took up aggressive tactics to make it harder for members to leave and punish those who did. The Mackinac Center Legal Foundation has been battling the MEA ever since.

The future of Abood was directly at issue in Friedrichs v. California Teachers Association. The Mackinac Center wrote two amicus briefs which used deep dives into government databases to show the impact on unions when a state goes right-to-work. They showed that unions could survive in such an environment. Justice Scalia's 2016 death led to a 4-4 decision in Friedrichs, thereby giving Abood a reprieve.

The Liberty Justice Center and National Right to Work Legal Defense Foundation already had Janus v. AFSCME in the legal pipeline when the court deadlocked on Friedrichs. Their plaintiff was Mark Janus, a child-support specialist who works for the state of Illinois. Again, the Mackinac Center took a deep dive into what happens to unions in right-to-work states. In the interim between Friedrichs and Janus, the Center did a 50-state survey, and the University of Chicago Legal Forum published its results.

This hard work was rewarded when the Janus ruling cited the Mackinac Center's brief when addressing the point that unions can survive despite right-to-work. This point was so important that the court indirectly referenced back to it three times. The court also cited other data that was originally put forward by the Mackinac Center in Friedrichs. The Center's amicus brief discussed at length the MEA's activity after Michigan went to right-to-work and suggested language that might foreclose some of the union resistance. Ultimately, the court held that its decision applied immediately to any agency fee payer — whether or not there was a collective bargaining agreement to the contrary.

While we are proud of the contributions we made and pleased with the court's decision in Janus v. AFSCME, we know that unions and their legislative allies will do everything they can to blunt its effect. Once again, with your support, we will battle them, whether in the courts of law or the courts of public opinion, to help enhance freedom. ■

What's Wrong with Bail Policy in Michigan

New research kicks off coalition devoted to safe and effective practices

What will it take to upend the status quo on a long-standing legal practice in our state? We're about to find out.

For centuries, courts have had to decide whether to release or detain criminal defendants before their trial. In weighing that decision, they often require defendants to post a cash bond, which has two purposes. One is to keep potentially dangerous people from society. Another is to ensure that anyone who is a criminal defendant will show up at trial.

KAHRYN RILEY

But Michigan's method of dealing with criminal defendants awaiting trial is ill-structured to achieve those purposes. It operates on outdated and incorrect assumptions about the factors that predict when a defendant is most likely to be arrested again or fail to appear in court. Equally harmful, it is based largely on the defendant's ability to pay, which results in unfair outcomes for those charged with a crime and unsatisfactory outcomes for the public.

New research has shown us better ways to achieve the goals we have set for bail. Getting all the parties whose job involves working with bail to agree on what to do next, however, will be a challenge, particularly if we want to give a priority to both public safety and fairness.

To that end, the Mackinac Center's criminal justice initiative has produced a paper on the ins and outs of bail here in Michigan. It explains how the process works and why it should be reformed. It also shows which states offer good models for reform and recommends specific changes to help us develop a fair and efficient way of handling defendants who haven't yet been tried.

Here's just one interesting fact from the paper: Judges in Michigan don't have to hold a hearing before deciding whether to let someone post bail, or, if they allow bail, how much it will be. Instead, they can issue "interim bond schedules" — documents that list bail amounts for a variety of crimes, much like a restaurant menu. Furthermore, judges can let law enforcement officers collect this money directly from the people they arrest, rather than escort them to court for their own bail hearing. In Midland County (where the Mackinac Center is based), anyone arrested on misdemeanor charges must pay $125 to be released from police custody.

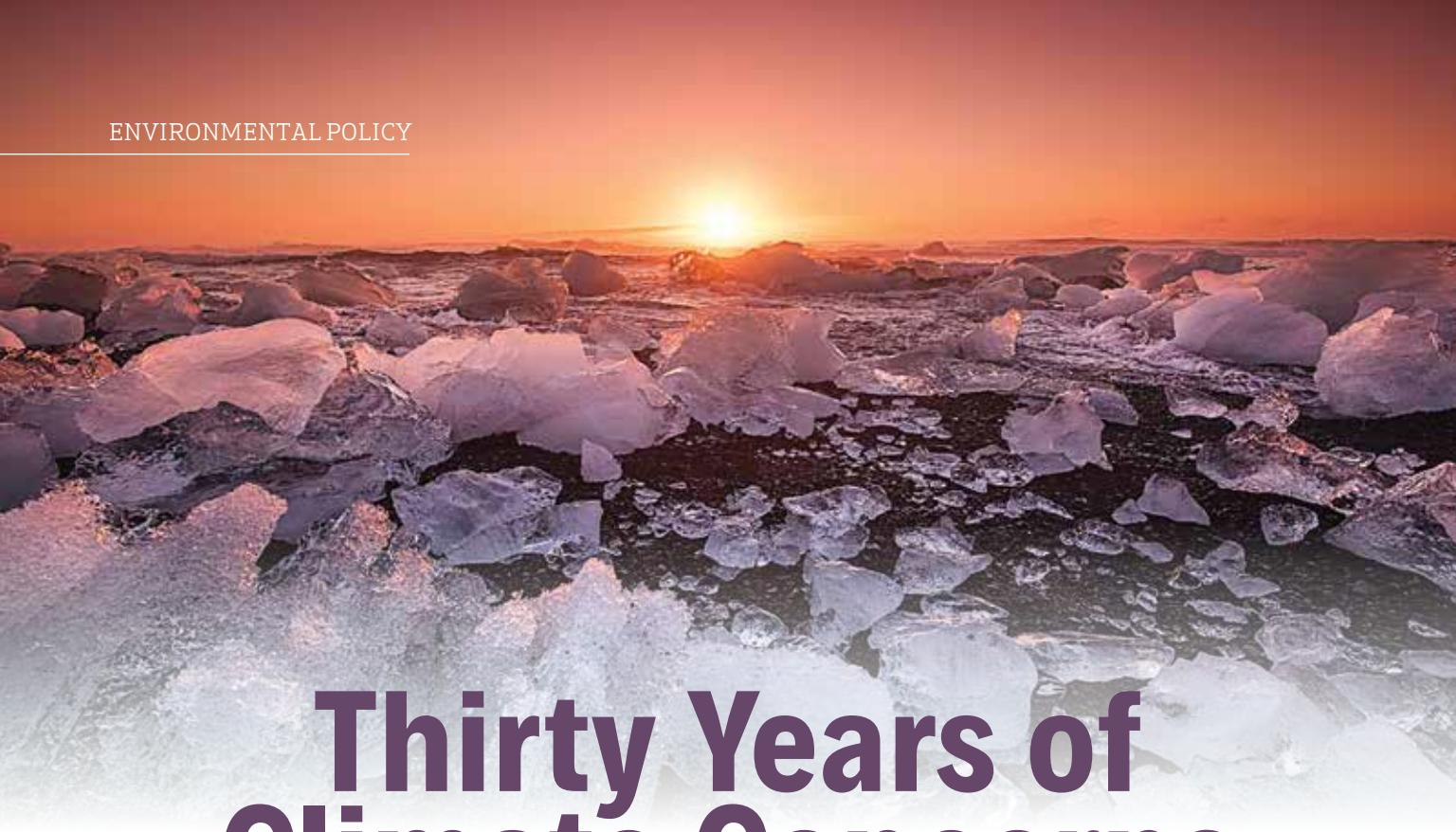
Setting a blanket bail amount creates two problems. First, it ensures regressive outcomes that have an outsized effect on people who are unable to pay. If they're too poor to come up with the money, they risk a host of collateral consequences, including loss of employment, loss of housing, loss of child custody and a greater likelihood of an unfavorable legal outcome in their case.

Second, the use of interim bond schedules — the "bail menus" described above — does not have a positive effect on public safety, and may even have a negative one. In Midland County, someone charged with a crime involving assault might go free if he can afford to post bail. Someone charged with a nonviolent, very minor crime, meanwhile, might be stuck in jail, which is disruptive to the community and expensive for taxpayers.

The problematic practice of bond schedules is just one of several important issues that the paper addresses. We want to encourage policymakers to act on its recommendations, so we held a policy roundtable event the same week it was released. We invited circuit and district judges and magistrates, sheriffs and chiefs of police, representatives from the counties, prosecutors and defense attorneys and policy scholars and advocates. Many participants have said they look forward to the opportunity to develop a fair, modern and efficient pretrial process.

Other states that decided to pursue a broad consensus for reform took months to do so, and we're prepared to do the same. By providing a tool for understanding and a forum for coalition-building, we're ready to see this opportunity through for a safer and more prosperous Michigan. ■

Kahryn Riley is director of criminal justice reform at the Mackinac Center.



Thirty Years of Climate Concerns

And technology and efficiency are still our best bet

JASON HAYES

Soon after it passed, the summer of 1988 was described as "the hottest in more than a century." Researchers described the heat as consistent and used a (then) relatively new idea that carbon dioxide emissions from fossil fuels were building up in the atmosphere, causing the Earth to warm dangerously. Thirty years later, we are being told that the worst dreams of those early researchers have come true, causing temperatures to spiral out of control.

However tempting it may be to focus on frightful headlines, we should remember that climate is an ever-changing, dynamic, and highly complex system. We should resist efforts to reduce that system to a simplistic notion that carbon dioxide, or CO2, is the master control knob, leaving everything else, like the sun, as little more than statistical noise. Before we rush to implement potentially damaging or (at best) unsure fixes based on that notion, we should answer a few questions.

First, are increasing CO2 levels unprecedented? Second, will the measured warming be necessarily harmful? Third, how should we respond?

A telling quote from an early researcher into the nation's changing climate can help to answer our first question. This researcher noted, "A change in our climate … is taking place," causing snow to be "less

frequent and less deep," melting almost immediately after falling. He described how "rivers, which then seldom failed to freeze over in the course of the winter, scarcely ever do now," and that an "unfortunate fluctuation between heat and cold" during spring was "fatal to fruits."

These unnerving weather reports mirror anecdotal evidence we're hearing from Michigan's ski hill operators about the first snowfalls of the season coming later and melts coming earlier. But one key factor separates these disparate climate reports: time. The early researcher was Thomas Jefferson, in his 1787 book "Notes on the State of Virginia," published long before any SUVs began rolling off Michigan's assembly lines.

Atmospheric changes also occur on much longer timescales, and in a geologic sense, the level of CO2 in the atmosphere now (410 parts per million, or ppm) is certainly not unusual. In fact, Will Happer, a physicist from Princeton University, actually argued in his testimony before the U.S. Senate Subcommittee on Space, Science, and Competitiveness that the Earth is currently in a CO2 famine. Happer noted that the Earth has typically had atmospheric CO2 levels of "many thousands of parts per million." Preindustrial levels of CO2 — 280 ppm — were, he added, dangerously close to 150 ppm, the point at which plants die from CO2 starvation and all life on Earth ceases to exist.

To answer the next question — whether a warming climate will be harmful — it is worthwhile to also ask, "How much warming do we expect?" For that answer, we typically look to climate models. But, the climate models relied on by researchers and governments have historically and chronically overpredicted the warming associated with human-generated greenhouse gas emissions. For example, one recently published study in the American Meteorological Society's Journal of Climate found that climate models routinely inflate the sensitivity of Earth's atmosphere to CO2 emissions by as much as 45 percent.

That's actually an important statistic, because most climate policy is based on something called Equilibrium Climate Sensitivity. If, as this paper found, the ECS is low, then climate change may not be much of a problem. It could even prove to be beneficial. But if it is high, as the climate models predict, it could be a much larger problem for humans and our environment.

If we do not have 100 percent certainty about the actual impacts of a changing climate, the question of what to do about the reported warming becomes more difficult to answer. Judith Curry, a former tenured professor and chair of the school of Earth and atmospheric sciences at the Georgia Institute of Technology, co-authored the previously mentioned study on climate models. She suggests that the best plan is to employ a pragmatic, "no regrets" style of energy policy. This policy recognizes that immediate and drastic cuts in our most reliable and affordable energy sources — like natural gas — would have massive and immediate negative effects on human health and well-being, because they would limit access to life-preserving energy.

Some groups say that our approach to fossil fuels should be "leave it in the ground" in the name of stopping climate change. Rather than follow that prescription, though, we should continue to develop and deploy more efficient and clean technologies and energy sources — like natural gas and nuclear energy. Doing so ensures we have affordable and reliable access to essential energy, and that we can continue to lead the relatively healthy and comfortable lives we now enjoy. It also ensures we can lead our lives in an increasingly clean environment, still protected from what has always been a potentially dangerous and volatile climate. ■

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

Beer Glut: The Overregulation of Alcohol in Michigan

Event examines how and why state should reduce alcohol regulation

Almost every town in Michigan now has a craft brewery, local winery or distillery. Some have all three. The artisan alcohol industry is booming across the country, but Michigan has emerged as a top state for the business. We have some of the best craft brewers anywhere. The regulations around those brewers, however, leave a lot to be desired.

At a recent Issues and Ideas Forum, we heard from Antony Davies, an associate professor of economics at Duquesne University; Jarrett Dieterle, director of commercial freedom policy at the R Street Institute; and Jim Storey, a former member of the Michigan Liquor Control Commission. All three gave valuable insights into the state of alcohol regulation in Michigan.

People generally think that alcohol regulations improve public safety, but all three panelists gave compelling reasons to reconsider that premise.

Davies gave an overview of research that showed having a higher density of establishments selling alcohol corresponded to a decrease in fatal alcohol-related vehicle accidents — if alcohol is close enough, there is no need to drive to get it. Studies also show that the degree to which states control access to alcohol does not correlate to the amount of alcohol their residents consume.

Dieterle traced the origin of some of the country's more ridiculous liquor controls back to the era following Prohibition. Some examples include Indiana's Warm Beer Law, Virginia's law against advertising happy hour specials and Michigan's recently repealed rule against liquor stores setting up within half a mile of each other. He noted that the alcohol industry is second only to plastics for manufacturing job growth, but it is "operating this new-age phenomenon of the craft spirits market in the context of a 70-to-80-year-old regulatory regime."

Storey gave his insight as a former regulator of alcohol. Regulators, he said, should only be concerned with three things: not selling to minors, not overserving patrons and making sure that alcohol sellers and producers are not abusing the substance themselves or involved in criminal activity. While the current regulatory regime is meant to handle these tasks, it is often more concerned with processing licenses or determining whether advertisements on doormats violate its rules.

Michigan has more restrictive alcohol regulations than most neighboring states, but some commonsense reforms would help the industry continue to grow and improve here, without jeopardizing public safety. And that can only be a good thing. ■

A transcript and video recording of every Issues & Ideas forum can be found at **mackinac.org/events**.

Jim Storey, Antony Davies and Jarrett Dieterle talk about alcohol regulation in Michigan.

Geneva Ruppert Wise is editor of IMPACT.

A Fond Farewell

My husband and I met in Austria, got married here in Michigan, and lived in several other states in between, but I think it was still a shock to a few people when we recently announced our plans to move to New Zealand.

As we wrap up our lives in the Great Lakes State (for now, at least), I've tried my best to leave no ends untied. I have plenty to do: Sending dozens of extremely important documents to the other side of the world, spending as much time as possible with friends and family while we can, getting used to the idea of spending my January birthday on the beach. (Some burdens are easier to bear than others!)

For the last three years, I've used this column to share my thoughts on how liberty intertwines with all aspects of our personal lives — optimism, pessimism, goodwill, risk, the future, even travel. So I'm thinking about all of those topics now, as I write my final column here and look toward a future that is as exciting as it is uncertain.

Every time I travel, I learn something new about myself and gain a deeper appreciation for my own culture and history by experiencing others. But my travels thus far have always had an end date, even if they lasted for months. This time I will have to learn something completely different: How to be a member of a new society.

I'm not a stranger to life abroad, so I know I will be absolutely terrified to board that plane when the time comes. Life begins at the end of your comfort zone, but it's so much more fun to say it than to practice it, especially in the first few weeks. I also know that those feelings pass as the adventure kicks off. You have to try to be brave, while acknowledging some cowardice.

I think of liberty as an exercise in consistency, and I suspect that is why I have been willing to spend so much of my life on it. In my philosophy, there is almost always a clear right and wrong, and very few gray areas. But this move will add another personal contradiction to my already considerable collection (libertarian/Smith College alumna being my current favorite). I will soon be both a passionate American and an expatriate, a woman neither at home nor abroad.

We must frequently redefine ourselves in life. Families multiply, subtract and divide. Jobs and friends come and go. Pastimes and hobbies shift and change along with circumstances, health and interests. I will no longer spend 40 hours each week advancing liberty in Michigan, or indeed anywhere. I will no longer have a map of where I live attached to my wrist.

Fortunately, principles stay the same. I will still know that life is about the choices we make and the freedom we have to make them. I will still know that we are better off when we assume the best of intentions, swan dive into the deep end (or in my case, the South Pacific) and look toward the future with hope and optimism. That's exactly what I plan to do. ■

BY THE NUMBERS
CORPORATE WELFARE

498
—
Number of state lawmakers that have served since 2001

22
—
Number of legislators that voted against every business subsidy that was authorized during their tenure

$1.6 billion
—
Amount of business subsidies approved by the average Democrat

$1.5 billion
—
Amount of business subsidies approved by the average Republican

MACKINAC CENTER
FOR PUBLIC POLICY

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Thank You For Telling Us What Matters to You

George Gallup, the son of a Nebraska dairy farmer, once told Time magazine that he was obsessed with numbers and measurement. As a student at the University of Iowa and editor of The Daily Iowan in the 1920s, he wanted to know precisely who was reading his newspaper and which parts they liked best.

In those days, a common way to gauge reader interest was to yank the crossword puzzle out of the paper for a week and count how many people complained, according to Time. But Gallup was different. With his newspaper in hand, he confronted readers directly and asked them exactly what they liked and didn't like about it.

LORIE SHANE

Gallup's interest in data led him to a career as perhaps our country's best-known public opinion pollster. At its peak, his American Institute of Public Opinion — what we know as the Gallup Poll — operated in a dozen countries and released opinion data to newspapers four times a week.

Gallup wasn't always right, but he was right often enough that opinion polling and surveys are now part of the American mainstream, including at the Mackinac Center for Public Policy.

In June we conducted our second annual donor survey, inviting supporters to share feedback about why they support the freedom movement and the Mackinac Center.

We asked them which free-market issues are most important and why. We also invited donors to share information about themselves and give us feedback on our effectiveness, both in advancing policy and in treating our donors well.

If you are one of the supporters who took this survey, then please know how much we appreciate your feedback. When you tell us what matters to you and share your ideas, you are making an invaluable contribution that helps the Mackinac Center hone our thinking, make the most of our strengths and address our weaknesses.

This year in particular, your responses will help the freedom movement around the country. That is because, like the Mackinac Center, dozens of free-market think tanks surveyed their donors in June with the help of the consulting firm American Philanthropic. After combining and analyzing the confidential responses from all the participating groups, American Philanthropic will share its findings and give advice on how well the freedom movement is doing at spreading its message, engaging supporters and attracting new members.

We look forward to sharing the Mackinac Center's results as well as the national findings. Look for them in a future issue of IMPACT.

Gallup wasn't always right. He and other pollsters famously failed to predict President Harry S. Truman's victory over Thomas Dewey. Later, Gallup said that his firm quit polling too soon before Election Day.

Here at the Mackinac Center, we recognize that donor surveys are a guide, not a decree. Circumstances and opinion change over time. So while we continue to survey our donors, it is our hope that you feel free as Mackinac Center supporters to contact us whenever you'd like to share your opinion. You can do that by calling us at **989-631-0900** and asking to speak to a member of the Advancement department, or sending an email to me at **shane@mackinac.org**. Thank you again for your support. ■

Lorie Shane is managing director of advancement at the Mackinac Center.