

IMPACT



Trying To Find Out How Many COVID Nursing Home Deaths There Are in Michigan

It shouldn't take a lawsuit to get the numbers

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JOHN LAPLANTE Editor
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LETTER FROM THE PRESIDENT



Good News You May Have Missed

"A good team has more than one way to win."

That thought launched the Mackinac Center Legal Foundation in 2009. Control of Michigan's executive branch, House and Senate had been split between the two major parties for six years after runs of Republican dominance since the early '90s. Mackinac Center research, backed by all the persuasive power we could muster, just wasn't going to produce much free-market policy if our ideas had to gain the approval of a divided Legislature and the governor.

After considering the political realities, we saw that we could stick with our main strategy of publishing research papers alone, or we could add new capacities.

So, we beefed up our nascent news division, Michigan Capitol Confidential (CapCon), and gave then-Senior Legal Analyst Patrick Wright a new charge: Don't stop at analysis, but actively litigate on behalf of people harmed by bad policy and government-backed compulsion.

In other words, we told Wright to make sure our ideas get their day in court even when they get cold-shouldered in the Capitol. (See his profile on page 18.)

That strategy produced an impressive string of wins we probably would not have gained by working with lawmakers who were hostile or indifferent to free markets. It also gives us reasons for optimism when elected officials disappoint and legacy media outlets constantly beat the drum for expansive and intrusive government.

Every two years, election outcomes can propel, stop or reverse progress toward free markets. But philosophical change in the courts happens at a slower pace, one or two steps removed from the partisan politics that drive election results.

If you're not paying close attention, you can miss the important things going our way in the courts. The final chapter of three-term Gov.

John Engler's legacy of judicial appointments has not been written, and this column won't hold all the good news it produced.

The execrable 1981 Poletown decision (forcible transfer of private property to corporations for economic development) reversed unanimously. Stealth unionization shut down. Freedom of Information Act affirmed (I don't think we've ever lost one of those cases). And most recently, our landmark state supreme court case reviving the nondelegation doctrine and putting an upper bound on a governor's unilateral emergency powers.

The federal courts are increasingly a bulwark against attacks on First Amendment freedoms of speech and religion. The U.S. Supreme Court's 2018 Janus decision (ending compulsory support of government unions) is just one example among dozens. Ironically, nearly every legal attack on free speech strengthens the legal framework for exercising free speech when the assailants lose in court.

That didn't happen by accident. The Federalist Society and others worked over decades to enrich the pool of potential judicial appointments with jurists who interpret constitutions through the plain meaning of their texts. Even left-leaning justices increasingly tip their hats to this approach.

All is not roses. (It never was.) There are no permanent victories. (There never have been.) We will have to work hard to protect what we have and gain what is just. (Did you ever really doubt it?) But we have more than one way to win, and good reasons for optimism. ■

By Joseph G. Lehman

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

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Our Virtual Policy Forums have continued to be an informative and accessible way for friends and supporters to keep up with our policy initiatives. You can find the latest information about our upcoming events at mackinac.org/events.



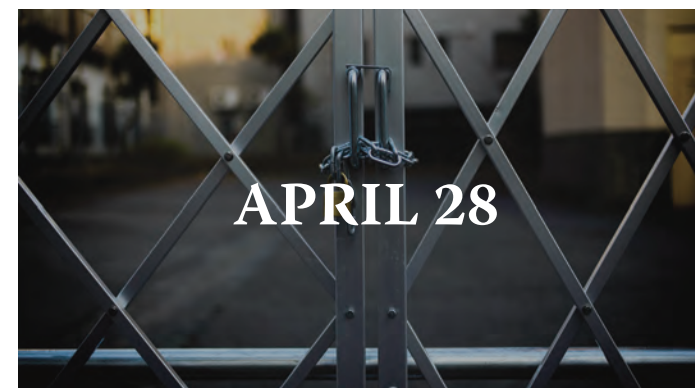
The Captured Economy: How Government Rules Slow Economic Mobility

Socialists on the left and populists on the right increasingly blame the free market for a host of concerns: poverty, middle-class stagnation, income inequality and more. But often, the root of the problem is not market failure, but government rules and restrictions that make it harder for people to get ahead.



Texas Energy Crisis a Wake-Up Call for Michigan

For more than a decade, Texas regulators have set about to design an electrical system that favors renewable energy over managing, maintaining and constructing infrastructure for more reliable energy sources. In the wake of massive blackouts that crippled Texas in February, even renewable energy's defenders had to admit that renewables are, at best, "reliably unreliable." Michigan is rapidly moving toward the targets for renewable energy use that Texas and California have adopted.



Are Lockdowns Effective?: How to Measure the Impact of COVID-19 Policies

Like all scientists, economists love taking advantage of natural experiments to test a hypothesis. The varying governmental responses to the COVID-19 pandemic offer many such natural experiments to assess the impact of various policies on public health, economies and education. As often happens in the study of public policy issues, the task of figuring out the effects of governments' actions is more complicated than it may first appear.

BLOG

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

DATABASES

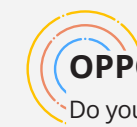
Labor contracts, superintendent salaries, school grading and more. Our online databases provide easy access to important information.
Mackinac.org/databases

CAPCON

Michigan Capitol Confidential is the news site of the Mackinac Center that provides unique news coverage.
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Airline Case Could Free Millions of Workers from Union Agency Fees

The Third Circuit said “not yet.” Will the United States Supreme Court say “maybe”? That is what the plaintiffs in *Rizzo-Rupon v. International Association of Machinists* want to hear. If they do, the Mackinac Center Legal Foundation will argue a case that could fundamentally change labor law for the better.

In the 2018 case *Janus v. AFSCME*, the Supreme Court held that public sector employees could not be compelled to support a union — not in any amount. This was a reversal from its 1997 ruling in *Abood v. Detroit Board of Education*, which allowed unions to charge nonmembers a fee. That case, in turn, was based on previous rulings that examined whether employees unionized under the Railway Labor Act could be forced to pay agency fees. Specifically, in a 1956 case, *Railway Employees v. Hanson*, the Supreme Court held that private sector employees could challenge agency fees under the First Amendment. But it also let unions charge the fees.

As part of stating that an employee could bring a First Amendment claim, the court said there was state action involved. This was important because federal constitutional protections restrict governments, not private organizations such as unions. If a court is to find that a private organization violated someone’s constitutional rights, it must first find that there is sufficient government involvement to trigger a constitutional review.

Janus was important in that it held that an agency fee requirement violates the First Amendment. This was contrary to the holding in both *Hanson* and *Abood*. The latest Mackinac Center case involves three employees — Linda Rizzo-Rupon, Susan Marshall, and Noemio Oliveira — of United Airlines, a private sector company. The plaintiffs want to stop being forced to pay agency fees. The theory: The Supreme Court had already found that there is state action under the Railway Labor Act (which also governs the airline industry), and *Janus* now makes it clear that agency fees are unconstitutional.

But, in *Janus*, the Supreme Court questioned the validity of a previously established finding. Was there, in fact, state action under the Railway Labor Act? In their petition to the court, the airline employees argued that there was. To support that claim, they said the federal government is the entity which forced them into a mandatory bargaining union in the first place: Hence, a state action occurred. If the Supreme Court were to accept this argument, it would likely mean that agency fees are banned under the Railway Labor Act, but also under the National Labor Relations Act.

Nationally, there are around 800,000 employees covered by the Railway Labor Act, and most of them are in the airline industry. The National Labor Relations Act, meanwhile, covers millions of employees.

The 3rd U.S. Circuit Court of Appeals refused to rule in the plaintiffs’ favor. In federal courts, it is generally held that only the Supreme Court can overturn a Supreme Court ruling, even if the logic of one of its recent rulings seems to require that an earlier ruling be overturned. Thus, the circuit court said it was “not yet” the case that agency fees must be banned under the Railway Labor Act. If the Supreme Court eventually decides that such fees should be banned, millions of people will no longer be forced to financially support unions.

We expect to find out in the fall if the Supreme Court will hear the case. ■

[By Patrick J. Wright](#)

Patrick J. Wright is the vice president for legal affairs at the Mackinac Center.



FREEDOM EMBASSY OPENS FOR BUSINESS

Mackinac Center expands Lansing footprint

The Mackinac Center has moved its Lansing satellite office from leased space on Washington Square to the new Freedom Embassy, located across from the state Capitol. The newly renovated Embassy, located in “The Louie” building, is a multistory, multipurpose facility that provides individual office space, collaboration areas, meeting rooms, event and catering space and a private cafe.

Allied organizations also will have offices and share facilities at the Embassy, making collaboration to advance sound public policy more effective, timely and powerful. Allies having space at the Embassy include the Michigan Freedom Fund, Americans

for Prosperity-Michigan, Michigan Rising Action, Great Lakes Education Project and the Michigan Association of Public School Academies.

The Center, founded in 1987, remains based in Midland.

Our expanding government affairs team is now better positioned to provide research and information to lawmakers and policymakers. Spacious rooms for educational events and meetings have a direct, floor-to-ceiling view of the Capitol and its grounds.

“Nearly every major interest group dedicated to ever-larger state government has its own outpost or headquarters in Lansing. We

thought it was time the taxpayers and free-market supporters have their own embassy right across the street from where lawmakers cast their votes,” said Joseph Lehman, president of the Mackinac Center. “We are grateful to committed Mackinac Center donors for their vision and generosity for the Freedom Embassy.”

A Freedom Embassy open house will be scheduled later this year. ■





Trying To Find Out How Many COVID Nursing Home Deaths There Are in Michigan

It shouldn't take a lawsuit to find out the numbers

In February, media reports revealed that New York Gov. Andrew Cuomo, fearing a political backlash from his handling of the pandemic, lied to the public about the number of COVID-related deaths in his state's nursing homes. When the truth came out, the number of patients forced into nursing homes by Gov. Cuomo's policies was over 40% higher than initially reported, and the number of resulting deaths was more than 70% higher. Gov. Cuomo, unfortunately, is not the only governor to have required nursing homes to accept COVID patients.

Michigan Gov. Gretchen Whitmer, despite protestations that she never forced nursing homes to accept COVID-19 patients, had a similar policy. Namely, in executive order 2020-50 (which was later overturned as unconstitutional due to a case filed by the Mackinac Center Legal Foundation), the governor required all nursing homes under 80% capacity to create a dedicated COVID unit. This order also forbade nursing homes from refusing to readmit residents who had been hospitalized for COVID-19 but were "medically stable." In other words, residents of long-term care facilities who did not need further hospitalization were sent back to a facility housing the people with the highest risk of dying from COVID.

In January, Pulitzer Prize-winning journalist Charlie LeDuff noticed that a large increase in Michigan's COVID death total came from recent official reviews of death certificates. Curious, LeDuff wanted to know why these deaths had not been previously reported and whether they included deaths in long-term care facilities. So, he sent a

Freedom of Information Act request to the Michigan Department of Health and Human Services. After some back-and-forth with the department, LeDuff clarified that he sought only four pieces of data for each recorded death:

1. Age of the deceased
2. Date of death
3. Date(s) it was added to the state tally
4. Whether any of those deaths were the result of contracting COVID at a long-term care facility.

Perhaps unsurprisingly, the department denied his request, saying it needed to protect the deceaseds' privacy and comply with federal privacy law. In addition, it said, vital records and the information they contain are exempt from disclosure. LeDuff then contacted the Mackinac Center Legal Foundation, and we agreed to represent him in an attempt to obtain the information.

Michigan's FOIA law is filled with exemptions and loopholes, and obtaining records is far more difficult than it would appear. Nevertheless, we contend that the state has misapplied the cited exemptions, which, if used as the department suggests, would keep the public from receiving even the sparse information the state is already publishing.

Our suit isn't over, and its importance cannot be overstated. Based on the state's own limited reporting, one in three COVID deaths in Michigan can be linked to a long-term care facility. If our lawsuit reveals that Gov. Whitmer's policies had the same consequences as Gov. Cuomo's, then as many as 56% of Michigan's COVID deaths occurred

in nursing homes. Were this to be true, any practice that even encouraged nursing homes to accept COVID patients would be an unconscionable act of policy malpractice.

We do not yet have the information LeDuff is seeking, so we do not know with certainty what effect Gov. Whitmer's policy had on nursing homes. For the sake of our fellow citizens, we at the Mackinac Center hope that her policies protected our most vulnerable population. But, if we learn that they had the opposite effect, we will share that information with the public to ensure that state and local officials are held accountable for the consequences of poor public policy.

We appreciate your continued support, and if you are interested in learning more about our lawsuit or want to be up to date on the latest developments, please visit our website at <https://www.mackinac.org/LeDuff>. ■

By Steve Delie

Steve Delie is an attorney, the director of labor policy and a FOIA expert at the Mackinac Center



Our Year With COVID: What Have We Learned?

Once sold as the reason for temporary measures to “flatten the curve,” the COVID-19 crisis has now dominated our lives for more than a year. The deadliest global pandemic in a century was sure to arrest our attention. But who would have thought last spring that when 2021 was well underway, public officials would still be dictating who we can gather with, keeping schools closed, subjecting healthy teenagers to weekly testing and making toddlers mask up?

Perhaps the most important lesson we’ve learned is that pandemic policies are not immune to politics. The initial unifying moment — “we’re all in this together” — did not last long. With politicians at the helm, the scientific understanding of the coronavirus and decisions about how best to mitigate its harms became political questions, and partisans ran to their familiar corners. Too many people, in service to their party, overestimated or underestimated the risk presented by COVID-19.

More specific to Michigan, we learned the ramifications of keeping outdated and poorly written laws on the books. Only a handful of legal experts were familiar with the 75-year-old law that Gov. Gretchen Whitmer used

to maintain unilateral control over nearly all aspects of Michigan society for nearly seven months. The law hadn’t been used in 50 years, but its broad language could be read to grant governors virtually unlimited powers, a significant challenge to the separation-of-powers doctrine inherent in American governance.

Related, but not unique to Michigan, we also learned that in the face of an emergency, politicians found no use for a preplanned pandemic plans out the window and simply made up new policies on the fly. We were told these actions were based on “the science.” But it was a different science, because official pandemic plans had not included things like lockdowns and prolonged school closings.

Speaking of school closings, the COVID-19 pandemic provided a rude awakening to anyone who thought teachers unions were primarily interested in what was best for children. It became quite clear after a few months that children faced little risk of sickness or death from COVID-19 and that schools were not drivers of transmission. But teachers unions led the charge to keep

schools closed for the last several months of one school year and the better part of a second. The closings have harmed the lives of countless children, especially those from low-income households. The full damage won’t be known for years, but it could prove irreparable.

To avoid ending on a sour note, let’s not forget the miracle of developing effective vaccines in record time: It may go down as one of the most important feats in the history of biomedicine. It could pave the path to even faster responses to future pandemics and potentially contribute to our ability to minimize the harms of other illnesses, too. With these technological advancements, we may be able to yet again hope for a healthier future. ■

By Michael Van Beek

Michael Van Beek is the director of research at the Mackinac Center.



Indiana Statehouse photo by Daniel Schwen, retouched by Massimo Catarinella - Wikimedia Commons

Workers for Opportunity Initiative Scores Win in Indiana

On April 22, Indiana Gov. Eric Holcomb signed Senate Bill 251 into law. The bill, strongly endorsed by the Mackinac Center’s Worker for Opportunity initiative, requires government unions to obtain direct consent from Indiana school employees before dues can be deducted from their paychecks. This move by Indiana is a huge step in the right direction for state-driven worker freedom.

While several states have taken steps to protect the freedoms described in the 2018 Supreme Court decision *Janus v. AFSCME*, Indiana was the first to do so through legislation. In 2019 Alaska made similar changes through an executive order. Texas issued an attorney general opinion advocating for similar protections for its workers, while Michigan made a move in the right direction last year through an administrative rule change that affects state employees. All of these actions were endorsed by Workers for Opportunity. Hopefully, other states across the country will take note of these examples, and work to quickly implement similar protections.

These reforms and affirmation of rights are particularly important because they uphold workers’ constitutional right to free

speech. No one can be forced to associate or fund the political spending of a group, business or individual. Thanks to the *Janus* decision, public workers across the country no longer have to, but there is still work to be done. Private workers deserve the same protections, freedoms and rights, and many public workers are still forced to pay unions that support policies contrary to their members’ personal beliefs.

Workers for Opportunity supports the cause of freeing workers from being forced to support a union and in protecting the rights of all employees. By ensuring workers are informed of their rights, our efforts empower workers to make their own decisions about how to spend their money, rather than having those decisions made for them by union officials. This transfer of power back to employees also requires unions to be responsive to their members’ needs, rather than their own political self-interest.

Our work is far from over, and while Indiana should be commended for its willingness to take a stand to protect workers, there are several states that still need to act. Workers for Opportunity will continue to fight in these

states until no worker in America is forced to pay money to a union. ■

By Taylor Piotrowski and Steve Delie

Taylor Piotrowski is the projects and external affairs coordinator at the Mackinac Center, where Steve Delie is an attorney, the director of labor policy and a FOIA expert.



Michigan Schools to Receive Windfall in COVID Funds

Many Michigan school districts are getting the large funding increases they have long sought. Much more money means much more responsibility to be successful.

A new Mackinac Center report estimates Michigan public schools will receive over \$6 billion in COVID relief funds. This comes on top of the per-pupil revenue they received last year in non-pandemic dollars from all sources which, in inflation-adjusted terms, set a record.

Our analysis covers three rounds of federal stimulus bills and one temporary rewrite of the state funding formula. A credible case can be made for the first installment of federal relief. The March 2020 CARES Act, which helped Michigan lawmakers backfill losses in income and sales taxes, was intended to fund schools through the last academic year. It also provided an extra \$721 million to Michigan schools. If shared evenly, that amount would cover the Centers for Disease Control's estimate of \$442 per pupil needed to mitigate the coronavirus' spread.

But most of the money was distributed under a formula that gave some districts much more, and others considerably less, than

\$442 for each student. At least \$400 million of the \$721 million had gone unspent as of November. Many districts continued to offer only remote instruction, and they received the most from the CARES Act.

But Washington couldn't stop there, even as it became apparent that the pandemic did not hurt tax revenues as much as first feared. Two increasingly bigger federal packages followed, giving Michigan schools an extra \$1.68 billion and \$3.7 billion, respectively.

While Congress gave states some minor discretion over this money, it opted to divvy up most of it by using an inequitable formula that goes beyond student numbers or characteristics. Some districts will reap a giant windfall: Flint and Benton Harbor will get \$50,000 and nearly \$30,000 per student, respectively. Meanwhile, East Grand Rapids, DeWitt and Novi are slated to receive less than \$400 per student. On the whole, districts that have offered more in-person instruction have received fewer federal COVID relief dollars.

Those figures don't include a fourth source of extra funding, which came last August when Lansing lawmakers decided to finance schools based 75% on the fall 2019 pupil count

rather than the fall's enrollment, which they expected to plummet. As a result, schools were funded for many students they no longer served — to the tune of nearly \$350 million. The state also chipped in another \$50 million to help schools that attracted more students during ongoing COVID-induced disruptions.

Combined, these four sources of COVID relief guarantee at least an additional \$5.9 billion to Michigan public schools, and likely millions more.

One wonders how some districts will use it all. With sound judgement, they could use the funds for one-time expenses that deliver long-term benefits, but much of the aid may simply create future obligations and calls for yet more funding. A well-informed public can help discourage intemperate responses to the financial windfall. ■

By Ben DeGrow

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

Mackinac Center Works With Coalition Partners to Provide Guidance to the State on How to Spend its Stimulus Check

The federal government is showering the state with money it doesn't need. Congress even encourages the state to spend it in ways that make government more expensive without improving its services. To try to get something that would better serve residents' interests, the Mackinac Center worked with a coalition of business groups and free-market advocates to propose ways to allocate the state's stimulus check.

The first thing to do is wait for administrators to clarify the rules that come with the money. Congress prohibited funds from being used for tax cuts, for instance. State law already includes an income tax reduction scheduled to start in 2023. If the federal government says that the state can't go through with a tax policy approved before the pandemic, lawmakers ought to think twice before accepting the money.

Michigan lawmakers also cannot put the money into state pension funds. The state incurred these debts because workers earned pensions but lawmakers did not set aside enough to cover them. These pensions are protected by the state constitution and because of underfunding, lawmakers accidentally made former workers the state's largest creditors.

Paying down pension debt would free up cash. It carries interest that will cost taxpayers billions under the current payment plan. Since Congress is writing big checks to the state, paying down these extra debts would be a win for employees and taxpayers alike, and put the state in a stronger long-term financial position. Lawmakers should ask federal officials whether they can use the stimulus checks to free up cash that they could then use to pay down pension debt.

The state has imposed COVID-related restrictions on economic activity, putting many people out of work and straining businesses. Lawmakers should see if they can use federal funds to give them temporary relief from state tax burdens.

We also recommend long-term improvements to the state's fiscal situation, like improvements to roads. This would help the state get closer to the point where roads are being put together faster than they fall apart. Shoring up the Rainy Day Fund and the unemployment insurance fund can protect against future tax hikes.

We warn lawmakers to be careful lest spending the funds permanently increases the costs of government. Congress explicitly

allows state and local governments to pay essential workers with the funds, and lawmakers should be careful that the temporary payments do not create permanent expectations of higher pay.

The letter was signed by a broad coalition of business groups and advocacy organizations, which we hope helps it gain serious consideration.

What lawmakers are going to do is unclear. The governor and the Legislature have butted heads on budget issues without much give on either side, and both the upcoming budget and the questions of what to do with extra federal funds provide more fodder for disagreement.

We hope this guidance will at least get them to debate the most productive ways to spend the federal largesse. ■

By James M. Hohman

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

BY THE NUMBERS

9

The number of business groups and advocacy organizations that signed on to our recommendations on how to spend the stimulus check

2023

When Michigan is scheduled to cut the income tax - something which accepting the federal COVID stimulus may preclude

\$5.7 billion

The size of the state government's latest stimulus check from the federal government



A New Generation of Advocates

Students explore the importance of liberty

Mackinac in the Media



Holly Wetzel
Communications Manager

In response to one of our many transparency lawsuits, The Associated Press recently said the Mackinac Center “often takes aggressive action to get public records.” If you’ve been following our legal work recently, you know that’s the case. Lawsuits against the cities of Flint and Warren have been featured in local outlets such as MLive, The Macomb Daily News, Fox 17 and C & G News. State news outlets such as The Detroit News, Lansing State Journal and Bridge Michigan have covered our work on transparency reforms. During Sunshine Week, Steve Delie was on a virtual Bridge panel with people across the political spectrum to talk about the importance of government transparency.

In addition to earning media coverage across the state, our lawsuit against the Michigan Department of Health and Human Services is getting national attention, with articles in the Washington Examiner, Fox News, The Associated Press, The Federalist, The Epoch Times and The Daily Wire. Our client Charlie LeDuff was interviewed on “Tucker Carlson Tonight” and “The Story with Martha MacCallum.” Both LeDuff and Steve Delie appeared on “Fox and Friends,” and LeDuff and Delie co-authored an op-ed for USA Today that ran across the country.

We’re proud to be a part of diverse coalitions on a variety of issues. A coalition on bail reform has support from institutions as “ideologically diverse as the Free Press Editorial Board and the libertarian Mackinac Center,” according to a Detroit Free Press editorial. We partnered with eight other groups, including

the Michigan Chamber and ABC Michigan, on a coalition letter that advised Michigan lawmakers on how to spend the additional \$5.7 billion the state is collecting from the American Rescue Plan Act. In an op-ed in The Detroit News, James Hohman wrote that lawmakers should “look for ways to use these funds to improve the state’s long-run finances and competitiveness.” The recommendations were sent to lawmakers and were also covered by the Lansing insider publishers Gongwer and MIRS News.

Throughout the past year, we’ve seen the dangers of the growing administrative state. Unelected bureaucrats in the Michigan Occupational Safety and Health Administration released a new set of rules that would make workplace COVID-19 rules permanent. Jarrett Skorup wrote about this problem in an op-ed for Reason, while Michael Van Beek was quoted on this issue in The Detroit News. Van Beek also discussed the issue on “The Guy Gordon Show” and “Michigan’s Big Show.” ■

Liliana Lulgjuraj of Rochester, Michigan, won first place in the 2021 edition of the Bauervic Foundation High School Essay



Liliana Lulgjuraj

Competition, a new contest presented jointly by the Mackinac Center and Northwood University and sponsored by the Charles M. Bauervic Foundation.

Isaac Yokom-Mcdonald of Cheboygan took second place in the inaugural event, while Alexandria “Lexie” Gibson of Freeland won third place honors. The winners received cash prizes of \$500, \$200 and \$100, respectively, as well as a commemorative medallion and certificate. All three also will receive a scholarship to the summer LAB (Learning About Business) camp at Northwood.

The Bauervic Foundation is a longtime supporter of the Mackinac Center and Northwood, focusing its contributions on educational programs for youth and emphasizing entrepreneurship and the free enterprise system. For more than 10 years, the foundation has supported an essay competition for college students at Northwood University and in 2020-2021 made a generous grant to the Mackinac

Center to support a competition for high school students.

This year’s essay contest topic was: “During the COVID-19 pandemic the Michigan Governor made a number of emergency declarations. What were the impacts of the actions taken by the Governor on the Michigan economy?”

To help students tackle this subject, the Mackinac Center and Northwood hosted two virtual events featuring guest speakers on the state economy, the lockdown and best practices in economic research.

Lulgjuraj, a senior at Rochester High School, won first place with her essay describing the impact of the emergency declarations on small business.

“Small businesses are the backbone of the country, but they have not been treated as such during the pandemic. The cure became worse than the disease,” she wrote. Lulgjuraj saw this firsthand as her father worked to keep his restaurant open during the pandemic. He was able to do so, she said, but it has been difficult to find workers.

Yokom-Mcdonald also has felt the impact of COVID-19 in his personal life and community. A junior at Cheboygan Area High School, he lost his part-time job when the local youth center he worked at closed its doors due to the pandemic. In his essay, Yokom-Mcdonald analyzed unemployment, inflation and gross domestic product to determine if Michigan’s lockdown orders were excessive.

“I believe that in the event of another statewide emergency, pandemic or another catastrophe, it should be more up to local government to be involved in having a voice in state orders and executive actions,” he wrote.

Like her fellow winners, Gibson said that researching the economic impact of the

emergency declarations was enlightening. A junior in the Seton Home Study program, Gibson said, “I always knew closing down businesses was not the right way to go about it; I didn’t know how badly it was affecting Michigan.”

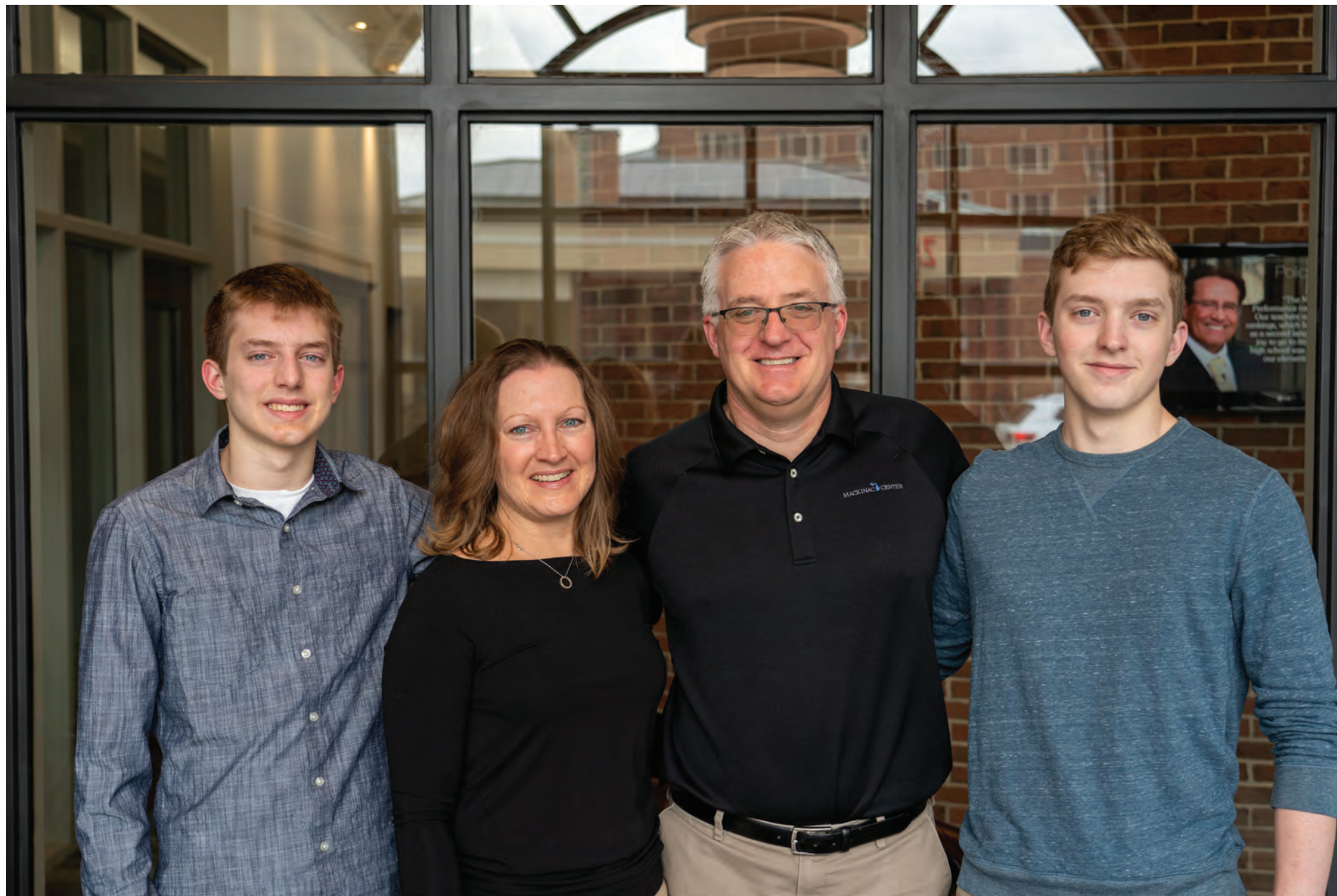
Gibson wrote, “The big red letters spelling the word ‘closed’ are far too common on the doors of businesses throughout Michigan, as this state faces an outrageous amount of businesses closing.”

The Mackinac Center congratulates these winners and all of the participants in the competition.

“The winning essays embody the careful thought and rigorous research that is essential to advancing sound public policy and making life better for the people of Michigan,” said Michael J. Reitz, executive vice president of the Mackinac Center. “We are grateful to the Bauervic Foundation for making this event possible.” ■

Alexandria “Lexie” Gibson





MEET THE STAFF

A Lawyer You Can Love

Mackinac Center's vice president for legal affairs, Patrick Wright, protects freedom by suing the government

It's a cliché that people hate lawyers. But Patrick Wright, who gets paid to sue the government for a living, hopes you'll make an exception for lawyers at the Mackinac Center Legal Foundation.

"For years, the Mackinac Center operated more as a traditional think tank, but eventually we realized that even if you get the right public policy, someone has to defend it in court," said Wright.

He has been at the Mackinac Center since 2005, first as a senior attorney, and then, starting in 2009, as the founding director of the Mackinac Center Legal Foundation.

Wright was raised as a military kid, with his aviator father doing search and rescue work for the U.S. Coast Guard.

The family moved a lot: Corpus Christi, Texas. Port Angeles, Washington. New Orleans, Louisiana. Kodiak, Alaska. And elsewhere.

"We lived in seven places before I got to high school and settled in Traverse City," Wright said.

He went to the University of Michigan and then to George Washington University, where he graduated from the law school with honors. After a clerkship with a federal judge in Anchorage, Alaska, he came back to Michigan. He first worked for the Michigan Senate before moving to the attorney general's office and then the Michigan Supreme Court commissioner's office.

This gave him an eclectic mix of policy and legal experience in multiple branches of government, making him perfect for the Mackinac Center. The Center had dabbled in legal work for years and recognized a need for a lawyer.

"After a while, we decided to start being the ones in charge of bringing some cases," said Wright. "And as we were looking to start the Mackinac Center Legal Foundation in 2009, Sherry Loar walked in the door."

Loar was a Michigan day care owner with an amazing story. In a scheme set up by the Granholm administration, money was being withheld from her paycheck and given over to the United Auto Workers. She had been forced into a union against her will, along with tens of thousands of others, through a dues-skimming operation.

The Center filed suit on behalf of several small day care owners, resulting in court cases and ultimately, legislation to stop the skim. It was the first of three forced unionization cases; the others were on behalf of home caregivers and graduate students at a public university. The legal and legislative activities of the Mackinac Center stopped the forced unionization attempts and helped set the stage for a state right-to-work law.

Mackinac also filed the suit, on behalf of a patient and three medical centers, against Gov. Gretchen Whitmer's COVID-19 executive orders in 2020. The Michigan Supreme Court ruled that those orders were illegal and unconstitutional, in a major win for the separation of powers. One ongoing case is on behalf of three airline employees who are forced to pay money to a union, with a ruling by the U.S. Supreme Court a possibility. (See the article on page 7.)

When not representing clients against an intrusive state government, Wright enjoys playing sports and spending time with his family. His wife, Bobbi, is a medical doctor, and his sons are students in high school. ■

Don't Let Cancel Culture End Philanthropy

Today, there is some discussion about “canceling philanthropy.” Some people believe that the charitable tax deduction takes from government revenue funds that could be more useful if allocated by bureaucrats.

Some romanticize the consistency of government programs and criticize the variations of philanthropy. Philanthropy is individualized. If empowering people and building self-governance is a goal, then a personal approach is essential. But as Mother Theresa said, “The administrators of government programs must focus on the crowd.”

Democratic societies flourish as a three-legged stool: government, a free market and philanthropic organizations. Philanthropists measure community needs by different metrics than government and focus on different causes. Their individual decisions lead to many ways of spending money in an attempt to better the human condition. This diversity in spending would not be possible if we adopted a theory that only the state could spend for the public good.

The philanthropist often gives time, not just money. This improves accountability, which can lead to better outcomes. By contrast, when

the government allocates resources, feedback mechanisms are weak.

We vote with ballots to elect officials and with our wallets for philanthropic causes. This suits American individualism. Praise for philanthropy has been a staple of U.S. political rhetoric since the colonial days, when Ben Franklin headed up an effort to grant tax relief in exchange for charitable contributions. Centuries later, shortly after it established the modern federal income tax, Congress included a charitable tax deduction in the tax code. Ronald Reagan justified a cut in government spending by appealing to America's preference for volunteerism, and George H.W. Bush embraced America's various volunteer efforts, calling them “a thousand points of light in a broad and peaceful sky.”

Now is not the time to cancel philanthropy. Now is not the time to minimize or eliminate the federal tax deduction for charitable contributions. Now is, however, the time to remember the wise words, attributed to politicians ranging from Thomas Jefferson to Gerald Ford: “If your government is big enough to give you everything you want, it is big enough to take away everything you have.” ■