

## Court nixes Flint hospital's COVID shield claim in patient death

*Hurley Medical Center claimed immunity after death of 91-year-old attacked with IV pole*



Photo by Shutterstock

BY SCOTT MCCLALLEN

Michigan's Court of Appeals has shot down a Flint hospital's claim of legal immunity through a COVID-era executive order in the case of a 91-year-old patient who died after a violent attack in his hospital room.

Henry Henderson was recovering from minor gallbladder surgery at Hurley Medical Center in April 2020 when he was attacked with an IV pole by his roommate, a patient who was known to be violently unstable and had been assigned

a hospital staffer as a "sitter." The attack left Henderson nonresponsive, and he continued to decline despite interventions by trauma surgeons.

The listed cause of death was "COVID-19 associated pneumonia and complications thereof complicated by hypertensive and atherosclerotic cardiovascular disease," according to a lawsuit filed by the Henderson estate. Henderson had contracted COVID sometime after admission to Hurley, according to the court.

Kimberly Skipper-Baines, the estate representative, sued the hospital, which claimed immunity granted to hospitals during the COVID pandemic. Executive Order No. 2020-30 waived liability for hospitals that provide "medical services in support of this state's response to the COVID-19 pandemic." The trial court found that this immunity protected Hurley Medical Center from liability in the case.

Three Court of Appeals judges — Allie Greenleaf Maldonado, Michael J. Kelly, and Michelle M. Rick — disagreed in an Aug. 22 ruling.

"If this interpretation were adopted, it is difficult to imagine any scenario in which a medical malpractice suit arising from acts and omissions occurring during the COVID-19 emergency could proceed," the court wrote, noting that the alleged negligent act was to place the decedent with an unsafe roommate and not protect him.

"It is clear to us that neither of those were done in support of the pandemic response," the court wrote. "There certainly will be gray area with respect to whether medical services were offered in support of the state's pandemic response, but this particular case is black and white."

The alleged acts, omissions, and injuries,

according to the court, were "wholly unrelated" to the pandemic.

"The fact that the decedent apparently contracted COVID-19 at some point following his admission does not change the fact that he was not being treated at the hospital for COVID-19 or that the incident giving rise to this litigation was completely separate," the court wrote.

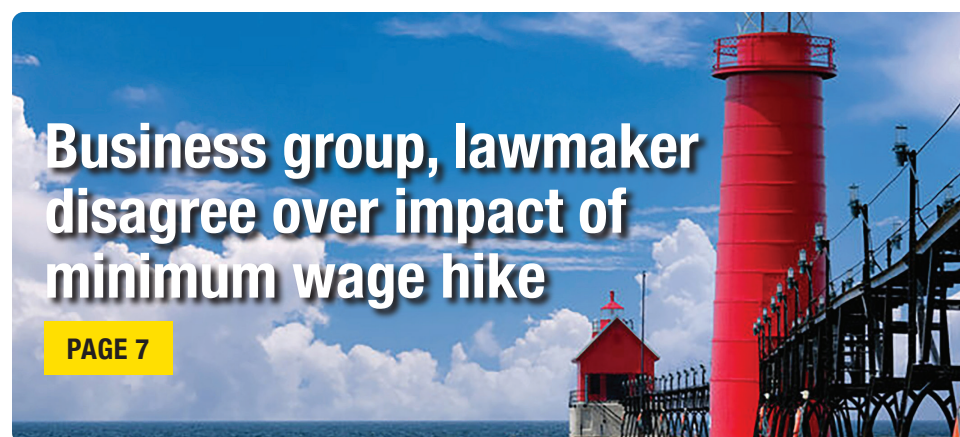
Carlene Reynolds Weber, a lawyer who filed the appeal but has since left the law office of Cy Weiner, said she was thrilled with the ruling. Under the Coronavirus Aid, Relief, and Economic Security Act, hospitals were paid extra to care for patients, extra to care for COVID patients, and extra to care for each COVID patient placed on a ventilator.

"The way this case was handled was definitely an example of how businesses [and] government were abusing COVID privileges," Weber told Michigan Capitol Confidential in a phone interview.

Hurley Medical Center has not responded to a request for comment.

It's unclear how many other deaths in 2020 were blamed on COVID but were actually unrelated. ■

*The original version of this story was posted online on August 27, 2024 and is available at [MichCapCon.com/32274](https://www.MichCapCon.com/32274).*



**Business group, lawmaker  
disagree over impact of  
minimum wage hike**

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## MEET THE STAFF



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## Michigan's spending bonanza must end, economic expert says

*State will have \$350 million left in fiscal year 2024-25*

BY SCOTT MCCLALLEN

Gov. Gretchen Whitmer's \$82.5 billion 2025 budget will leave the state of Michigan with a projected \$350 million fund balance, a massive decline from the \$9 billion the state had on hand a few years ago.

"We're delivering for our communities, our schools, public safety, housing, healthcare, infrastructure, and more," Whitmer tweeted after signing the budget. "And the best part? This balanced, bipartisan (and fiscally responsible) budget doesn't raise taxes by a dime."

The governor did not mention the 96% reduction of the state's fund balance, which leaves the state with a narrow fiscal margin just as an influx of federal dollars is ending.

Federal funds flooded Michigan during the pandemic but were mostly depleted as of 2023 after a spending bonanza, Patrick Anderson, the principal and CEO of Anderson Economic Group, told Michigan Capitol Confidential.

A slowing economy and inflation will force Michigan to spend more frugally, Anderson said.

"I and many others warned about relying upon federal money as a panacea for current problems or a subsidy for the future," Anderson wrote. "With the economy slowing and inflation taking a bite out of household incomes, Michigan will need to be much more disciplined about its spending than it had to be the last few years."

How did Michigan spend that money? A June 27 memo from the nonpartisan Senate Fiscal Agency says a three-year earmark for the Strategic Outreach and Attraction and Reserve will cost taxpayers \$1 billion in the 2024-25 fiscal year.

A Revitalization and Placemaking grant will account

for another \$100 million.

"In particular, we won't be able to support over a billion dollars in one-time appropriations from the general fund in fiscal year 2024, let alone the \$2.4 billion in fiscal year 2023," Anderson wrote. That one-time spending includes \$1 billion for pork projects.

The memo shows a \$21.5 billion School Aid Fund in fiscal year 2023-24, although ongoing state and federal government revenue is only \$20.5 billion and "growing slowly," Anderson said.

The state does have a \$2 billion rainy day fund, according to the House Fiscal Agency.

In 2023, Michigan lawmakers spent double that amount, or \$4.4 billion, on select corporate subsidies.

The state spent down savings as its revenues declined, said James Hohman, director of fiscal policy at the Mackinac Center for Public Policy.

"Lawmakers spent fund balances because it was the only way to keep up spending," Hohman said. "Revenue growth slowed, which left lawmakers digging into savings."

Michigan's high spending isn't sustainable, Rep. Bob Bezotte, R-Howell, told CapCon.

"For the past several years our budget has been artificially propped up with federal COVID dollars," Bezotte wrote in an email. "At one point we even had a \$9 billion surplus, which got squandered. Now the surplus is gone, but our spending levels haven't gone down accordingly. It's totally unsustainable." ■

*The original version of this story was posted online on August 2, 2024 and is available at [MichCapCon.com/32157](https://michcapcon.com/32157).*



# Troy school district paid literacy consultants \$173,000

*District didn't apply for state literacy grant*



Photo by Shutterstock

BY JAMIE A. HOPE

The Troy School District spent \$173,000 on literacy consulting for the 2023-24 school year while failing to apply for a literacy grant the state of Michigan offered to districts, according to information obtained through a public records request.

Michigan Capitol Confidential previously reported that Troy schools hired the for-profit consulting group Mossflower Reading and Writing Project, beginning in 2014. The consultancy uses the balanced literacy or “whole language” curriculum for literacy training, which was developed by Lucy Calkins and based at Columbia University in New York. Both Calkins and her curriculum had come under intense media and academic scrutiny by the time the district hired Mossflower. Columbia University shut down the program for inadequate performance.

At that time, Michigan’s 2024 State School Aid Act was offering \$140 million in literacy grants to districts. Michele Maleszyk, a parent in the Troy district, submitted a Freedom of Information Act request to district

officials, asking for any records they had about the Michigan grant program. Officials responded that they had no documents about the program. The district confirmed to Michigan Capitol Confidential via email that it had not applied for the grant.

“It’s unclear to me why the Troy School District continues to rely on Calkins’ methods, especially when the Michigan Department of Education supports structured literacy,” Maleszyk told CapCon in an email. “It’s also unclear why the Troy School District is not leveraging potential grants and taking advantage of these opportunities, especially given the potential budget deficit in the 2025-26 school year.”

In the 2014-15 school year, 84.6% of Troy third graders scored proficient in reading on the M-STEP, Michigan’s official standardized test. That number had dropped to 65.9% in the 2022-23 school year, according to official data.

District employees regularly review training materials, including those used by districts across the state and nation, Kendra Montante, Troy’s director of communications, told

CapCon in an email.

“The decision to work with the Mossflower Reading and Writing Project is part of this ongoing process,” Montante wrote. “As for the state literacy grants, while we regularly apply for numerous grants to support our educational initiatives, we did not apply for the particular grant in question.”

The literacy consulting training from Mossflower costs between \$2,400 and \$2,600 per day for a consultant to visit, not including expenses. The contract provided an additional \$33,000 of estimated expenses for travel, hotel, transportation and food.

There is a \$600 per-day estimated expense noted in the contract. Alicia Luick, a consultant who visited Troy schools for two days of training, had expenses totaling \$1,447.64. This came on top of a daily rate of \$2,600. Luick’s two-day Hertz car rental came to \$607.68. Her other expenses included:

Marriott \$341.64  
Lyft \$164.60  
Airfare \$273.80  
Meals: \$60.15

Consultant Sara Mann’s expenses per day:

## Day 1

Meals: \$54.59  
Hotel: \$292.10  
Airfare: \$370.50  
Uber \$163.59

## Day 2

Meals \$40.44  
Airfare \$370.50  
Hotel \$292.10  
Uber \$190.00

The largest expense was \$1,075.54 for one day of consulting, aside from the \$2,600 fee for the in-school training.

*The original version of this story was posted online on August 26, 2024 and is available at [MichCapCon.com/32270](https://michcapcon.com/32270).*



## Do 8 of 10 Americans want an electric vehicle?

*Several surveys go against state agency claim that desire for EVs is widespread*



Photo by Unsplash

BY JOSHUA ANTONINI

The Michigan Economic Development Corporation claimed in a June 18 social media post that eight out of 10 Americans want an electric vehicle.

“Who wants an EV? Actually 81% of Americans,” reads a post from the state agency in charge of handing out corporate subsidies. It continues, “81% of Americans say they would consider buying one, with benefits like cleaner air, lower carbon footprints, and quieter roads.”

Survey respondents were asked: “What would make you consider buying an electric vehicle?” They could pick from a list: “Lower prices,” “More access to charging stations,” “Improvements to their range,” “Improvements in maintenance costs,” “Tax rebates when buying or leasing,” “Other,” or “I would never consider buying an electric vehicle.”

Michigan Capitol Confidential obtained the survey, conducted by Wakefield Research, from the state through an open records request.

About 19% of respondents picked the last option: “I would never consider buying an electric vehicle.”

Wakefield Research subtracted those 19% from 100%, concluding that 81% “WOULD CONSIDER BUYING AN ELECTRIC VEHICLE (NET).”

In other words, if EVs were cheaper, if their driving range increased, if there were more charging stations, and if maintenance were cheaper, then 81% of Americans would consider buying an EV.

Danielle Emerson, the state agency’s public relations manager, told CapCon the survey included 1,000 nationally representative U.S. adults ages 18 and older,

with an oversample of 250 Michigan respondents.

“One of the survey questions asked respondents ‘What would make you consider buying an electric vehicle?’ 81% of respondents listed factors that would allow them to consider buying an EV, while 19% said they would never consider buying an EV,” Emerson wrote in an email. “The MEDC is committed to working with our partners in state and local government to secure investments from businesses up and down the supply chain such that more people can consider EV ownership in the future.”

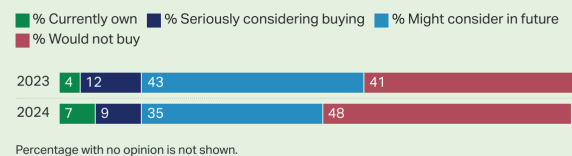
Other recent polls have found different results.

A 2023 Pew Research poll found that 38% of respondents “are very/somewhat likely to seriously consider an electric vehicle the next time they purchase a vehicle.”

A March Gallup poll found that of Americans surveyed, “9% are seriously considering buying,” 35% “might consider [a purchase] in [the] future,” and 48% “would not” buy an EV.

### Americans' Electric Vehicle Ownership and Potential Ownership

Thinking now about electric vehicles, which of the following applies to you -- you currently own an electric vehicle, you are seriously considering buying an electric vehicle, you might consider buying an electric vehicle in the future, or you would not buy an electric vehicle?



GALLUP

The MEDC and Gallup surveys were taken in March 2024, and both polled around 1,000 people. The MEDC survey asked 250 Michiganders and 750 Americans from other states. While the MEDC survey found that 19% of Americans would never consider buying an EV, Gallup found that almost half of people polled — 48% — would not buy an electric vehicle in the future. The latter number was up from 41%, recorded in 2023.

A July McKinsey report found that 46% of EV-owning respondents said they were likely to select a gas-powered vehicle for their next purchase. ■

*The original version of this story was posted online on July 25, 2024 and is available at [MichCapCon.com/32137](https://michcapcon.com/32137).*

## Michigan mom seeks just compensation in home foreclosure

*Manistee County seized and sold home, then kept \$102,636 more than owed*

BY SCOTT MCCLALLEN

Four years after the Michigan Supreme Court unanimously ruled that counties can’t keep excess profits from tax foreclosures, one Michigan mom is fighting for \$102,636 in home equity seized by Manistee County.

Chelsea Koetter, a single mother of two boys, fell behind on her property taxes in 2018 and underpaid what she owed in 2021. The tax bill grew to \$3,863 with interest, penalties, and fees. Koetter later attempted to pay the overdue bill but missed the deadline by eight days. Manistee County foreclosed on the home. The county auctioned Koetter’s home for \$106,500 in August 2021, keeping all the profit — \$102,636 more than Koetter owed in taxes, penalties, interest and fees.

Koetter argues that this violates a 2020 Michigan Supreme Court decision that it is unconstitutional for counties to keep excess equity after foreclosing on a tax-delinquent home.

That ruling followed Oakland County’s seizure of Uri Rafaeli’s property in 2014 over an initial tax debt of \$8.41, which rose to \$285.81 after interest, penalties and fees. In another decision from late July, the state Supreme Court ruled that counties must return excess profits seized from foreclosed homeowners, going back to 2020.

Nevertheless, a circuit court judge rejected Koetter’s motion to recover the surplus proceeds. The Michigan Court of Appeals also ruled against her.

“The government can sell property to collect unpaid taxes, but it has a duty to pay just compensation when it takes more than what is owed,” Christina Martin, senior attorney at Pacific Legal Foundation, said in a statement. “But Michigan uses an unusual and complicated process that is designed to fail. It is a calculated attempt by the government to avoid Supreme Court precedent so that it can unconstitutionally take property without compensation.”

Rachel Nelson, the Manistee County treasurer, did not respond to a request for comment.

“It seems like the counties really just don’t want to pay,” Martin told CapCon in a phone interview. “But the Michigan Supreme Court has now twice unanimously said they have to. On top of that, the U.S. Supreme Court has unanimously said this is unconstitutional. So the counties need to stop fighting people and just start paying what they are owed.” ■

*The original version of this story was posted online on August 15, 2024 and is available at [MichCapCon.com/32173](https://michcapcon.com/32173).*

# Michigan judge buries local cemetery ban

*Green-graveyard entrepreneurs win as circuit court rules Brooks Township violated constitution*



Photo by Institute of Justice

BY SCOTT MCCLALLEN

A township ordinance that banned all new cemeteries is unconstitutional, a Michigan judge ruled in August.

Brooks Township banned new cemeteries in June 2023, two years after Peter and Annica Quakenbush had bought land to start a green cemetery business. The couple sued the township of 3,500 residents, with legal help from the Institute for Justice, a nonprofit public interest law firm.

Next, the court will enter a written order formalizing the ruling, which the township can appeal.

“We’re excited and feel vindicated by this ruling,” the Quakenbushes said in a statement. “We are delighted that the judge understood that Brooks Township’s ordinance violated our right to use our property and operate our cemetery.”

The 20-acre property houses a white oak and white pine

The Newaygo County Circuit Court heard oral arguments on Aug. 15 on a motion for summary disposition brought by Brooks Township, which sought to dismiss a lawsuit.

The court denied the motion and ruled that the township’s ban on new cemeteries was unconstitutional.

forest over 100 years old. The couple plans to offer more burial choices in the green cemetery, in which bodies are buried in the earth in a wooden or wicker casket or no container.

Green burials do not use vaults, which are stone or concrete containers that surround a casket in traditional burials. As of Dec. 13, 2023, there were about 445 green burial cemeteries and burial grounds in the United States and Canada, according to NHfuneral.org, a resource for those interested in green burials.

Institute for Justice attorney Katrin Marquez welcomed the ruling.

“This victory recognizes Peter and Annica’s constitutional right to start a business,” Marquez said in a statement. “The township can’t just ban a necessity of life like a cemetery. People won’t stop dying just because the township doesn’t want them buried there.”

Brooks Township did not respond to a request for comment. The township is about 48 miles north of Grand Rapids. ■

*The original version of this story was posted online on August 19, 2024 and is available at [MichCapCon.com/32266](https://michcapcon.com/32266).*

# Michigan hasn’t defunded education

*Lawmaker’s claim is false: Per-pupil funding from state sources increased more than \$5,000 from 2012 to 2023*

BY JAMIE A. HOPE

A Michigan lawmaker claims the state is defunding education, but a review of recent budget history shows otherwise.

“For far too long the legislature has slowly defunded education,” Rep. Jaime Churches, D-Wyandotte, wrote on her campaign website. “If we do not make necessary changes, we will not be able to retain highly effective educators to teach our students.”

Per-pupil school revenue from state sources was \$7,440 in 2011-12, according to official data assembled by the Mackinac Center for Public Policy. That amount reached \$12,653 in the 2022-23 year.

Total education expenditures were \$18.5 billion in the 2010-11 school year, and the comparable figure for 2022-23 was \$27.3 billion.

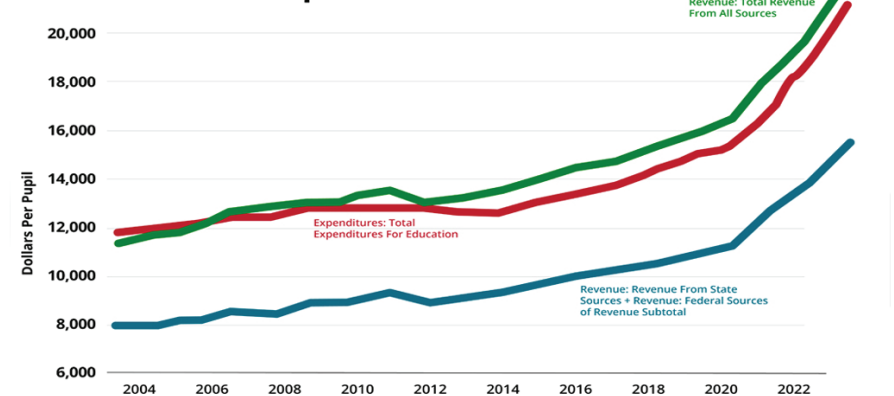
Churches also called for “the exploration of Universal Pre-K,” writing, “This would make learning to read

more equitable for all families and increase literacy exposure and development for all Michiganders.”

Former Gov. Jennifer Granholm called for increasing pre-K funding to \$300 million in 2008.

In the 2025 budget, Michigan allocates \$655.2 million to the Great Start Readiness program, a state preschool program. It also includes \$19.4 million for early childhood block grants and \$23.7 million for what the budget calls “early on” services for children from birth to three years old. Preschool programs also benefit from state funding for school lunches.

## Total Revenue and Expenditures



Source: Michigan School District Revenue and Expenditure Report

mackinac.org MACKINAC CENTER FOR PUBLIC POLICY

Churches did not respond to an email seeking comment. ■

*The original version of this story was posted online on August 22, 2024 and is available at [MichCapCon.com/32264](https://michcapcon.com/32264).*



# Michigan sports catch \$25 million in 2025 budget

*Frankenmuth facility scores \$10M subsidy*

BY SCOTT MCCLALLEN

Michigan sports organizations will receive \$25 million from taxpayers via the 2025 state budget.

Out of the \$82.5 billion budget, roughly \$1 billion will be for pork projects that were not vetted by committee hearings or other processes, but instead are selected by individual lawmakers. The projects could fund friends' private businesses, failing companies, or a sports complex.

The largest budget in state history will give \$10 million to the Frankenmuth Youth Sports Complex, \$3 million to the Berston Field House in Flint, \$3 million to the West Michigan Sports Complex and \$2 million to a boxing group in Detroit.

The budget prioritized sports complexes over essential projects, said Rep. Gina Johnsen, R-Lake Odessa.

"Rather than focusing on statewide necessities like infrastructure, safety, education, and other essential services, Democrats are continuing their politically motivated trend of funding nonessential projects like these in clearly targeted areas of the state," Johnsen told Michigan Capitol Confidential. "I'm disappointed to see the way tax dollars were prioritized for sports complexes ahead of things that really make a difference in the lives of families burdened by continued inflation."

Other allocations include \$1.5 million for Jimmy John's Field in Utica, \$1.5 million for a winter sports complex in Muskegon, \$1 million for the Lansing Lugnuts' baseball stadium, \$1 million for a ski jump in Dickinson County and \$1 million for a midnight golf program in Wayne County.

Some earmarks help the community while others subsidize stadiums, said John Mozena, president of the Center for Economic Accountability.

"There are the ones for things like the youth sports programs, like the Detroit Police Athletic League and the Downtown Boxing Gym in Detroit or the Berston Field House in Flint, where the point is to keep kids off the streets and help them learn life skills and connect them to positive role models," Mozena told CapCon in an email.

These projects aren't vetted, and they get special treatment, according to Mozena.

"You can certainly argue that it's not the state government's job to be funding things like that or that the legislative earmark process is the wrong way to decide which of those programs across the state should get that kind of special treatment, but in the broader scheme of a disastrous state budget they're fairly benign," Mozena wrote. "I'd rank them alongside things like funding parks and recreation departments."

But taxpayers shouldn't fund projects that benefit for-profit businesses, such as stadiums used by minor league baseball teams, Mozena said.

"The earmarks that really stand out for me are the stadium subsidies for minor league baseball stadiums in Lansing and Utica," Mozena said. "Those teams are for-profit businesses and they, not Michigan's taxpayers, should be paying for their stadiums." ■

*The original version of this story was posted online on July 29, 2024 and is available at [MichCapCon.com/32140](https://michcapcon.com/32140).*



# Whitmer's 'kitchen table' budget stuffed with \$1B of pork

*Money could have fixed roads and sewers, lawmaker says*

BY JAMIE A. HOPE

Gov. Gretchen Whitmer said during a 2025 budget signing ceremony in Detroit that she delivered a "kitchen table" budget.

The \$82.5 billion 1,500-page budget subsidizes the alcohol industry, sports complexes, and e-bikes.

"We have delivered a pragmatic, balanced budget that delivers on the kitchen table issues," the governor said of a budget that drained a \$9 billion surplus, leaving only \$350 million.

The budget allocated \$1 billion for pork projects hand-picked by legislators. The projects face no vetting or competitive process, and the recipient does not have to account for how the money was spent. The budget includes the following:

**Sporting events:** Stadiums and sports complexes will receive \$25 million.

**Distilled spirits:** A whiskey business in Grand Traverse County will get \$2 million to grow Rosen rye, a crop rarely found in Michigan, to serve as an ingredient in a new whiskey venture. The funding recipient aims to redevelop a former corrections site in Grand Traverse County into an agricultural tourism attraction.

**Talking to the animals:** Potter Park Zoo

in Lansing, will get \$10 million.

**Museums:** Five museums will receive a total of \$13 million.

**Arts galore:** The budget gave more than \$3 million for arts programs.

**Charge it:** Taxpayers will pick up a \$25 million tab for electric vehicle charging stations.

**The wheel goes 'round:** Legislators approved \$3 million in incentives to purchase e-bikes.

**Start a business and get cash:** The Michigan Innovation Fund will receive \$60 million to give to business startups.

The budget cut some funding areas. Deposits to the pension fund for public school teachers will drop by \$670 million. Spending on student mental health and safety was cut by \$300 million — a 92% cut from the previous figure.

Northern Michigan needs infrastructure improvements, said Rep. John Roth, R-Interlochen. He requested money for sewer system upgrades, road repairs and a fire truck, according to a press release. ■

*The original version of this story was posted online on August 13, 2024 and is available at [MichCapCon.com/32161](https://michcapcon.com/32161).*



# Business group, lawmaker disagree over impact of minimum wage hike

*South Haven Chamber of Commerce says the mandate will raise consumer prices*

BY SCOTT MCCLALLEN

Starting Feb. 21, 2025, Michigan's minimum wage will increase, after the Michigan Supreme Court turned back a challenge.

The court ruling of July 31 means businesses will have to pay higher minimum wages and paid sick leave, which will deal a blow to many small businesses and the economy, said Kathy Wagaman, the executive director of the South Haven Chamber of Commerce. The court ruled in response to a 2018 lawsuit brought by a coalition of groups that prompted legislators to enact new requirements.

"Higher costs to small businesses only means higher cost to the consumer," Wagaman told CapCon. "It's basic economics."

The worst part of the change is mandating paid sick leave for seasonal and part-time workers, Wagaman said.

"There are many unknowns yet, and as most generally is the case, these laws require a lot of interpretation to get all the specific details," Wagaman wrote.

South Haven, population 4,000, heavily relies on seasonal tourists who fish, kayak and visit the downtown area.

Residents of the Lake Michigan city have

a median age of 61 years old and a median household income of \$63,202, according to Census data.

The schedule for the minimum hourly wage and tip credit is as follows:

**Feb. 21, 2025:** \$10 hourly minimum wage plus the inflation adjustment. The tip credit will be 48% of the minimum wage

**Feb. 21, 2026:** \$10.65 hourly minimum wage plus inflation adjustment. The tip credit will be 60% of the minimum wage

**Feb. 21, 2027:** \$11.35 hourly minimum wage plus inflation adjustment. The tip credit will be 70% of the minimum wage

**Feb. 21, 2028:** \$12 hourly minimum wage plus inflation adjustment. The tip credit will be 80% of the minimum wage

**Feb. 21, 2029:** The state treasurer shall calculate the inflation-adjusted minimum wage. The tip credit will no longer exist.

Two-thirds of restaurant operators said they would lay off employees if the tipped wage were eliminated, 94% of operators would raise prices, and one in five full-service restaurants would close permanently, according to a recent survey undertaken by the Michigan Restaurant and Lodging Association.

Rep. Kara Hope, D-Holt, welcomed the state's top court mandating a higher minimum wage and earned paid sick leave



Photo by Shutterstock

for Michigan workers.

"The wage increase and paid leave laws will finally reflect the will of the people, and the court's decision holds employers harmless as it only applies prospectively," Hope said in a statement. "More money in workers' pockets means more income to

spend in the local economy; this benefits business, workers and the community as a whole." ■

*The original version of this story was posted online on August 8, 2024 and is available at [MichCapCon.com/32163](https://michcapcon.com/32163).*

## State health department has 23 DEI employees

*Annual income for REDI positions \$27,000 more than the average Michigander*

BY JAMIE A. HOPE

The Michigan Department of Health and Human Services has created 23 "race, equity, diversity and inclusion" positions since 2020, according to a Freedom of Information Act request.

The highest salary among them is \$145,050, within the salary range of the department's senior executive attorney.

The FOIA response provided salaries and hourly wages for all REDI employees within the state health department. By comparison, the department's senior attorney's salary ranges from a minimum of \$129,048 to a

cap of \$170,976.

The department announced the creation of REDI jobs in 2020, according to the U.S. Department of Health and Human Services. It now has 23 such jobs, with an average annual income of \$84,691. If the top salaried positions were removed, the annual income of all would be \$78,581.

The state health department did not respond to a request for comment. The department has not indicated what prompted it to create the positions or what metrics it uses to measure their impact.

The state has 15 pay grades that determine the hourly or salary range of each position.

Pay grades are determined by job description and requirements, such as education and experience.

The lowest hourly rate for all REDI positions is \$23.90, with the highest at \$44.73. Over half of the jobs, or 12 positions, pay more than \$40 per hour.

The pay scale is generous compared to other state positions. A child welfare consultant with a pay grade of 12, the highest classification provided for this position, makes between \$29.05 and \$41.76 per hour.

A veterinarian is required to be a doctor of veterinary medicine to obtain a license to practice. An A12 veterinarian, the highest

classification provided by the state for this position, makes between \$30.11 and \$43.69 per hour.

An economic community development manager with a pay grade of 12 earns between \$34.13 and \$50.00 per hour. A licensed architect manager classified as having a pay grade of 15, the highest classification offered by the state, earns between \$36.02 and \$53.06 per hour.

The average salary for a Michigan resident was \$57,038 in 2022, according to Statista. ■

*The original version of this story was posted online on August 1, 2024 and is available at [MichCapCon.com/32125](https://michcapcon.com/32125).*



# Teamsters threatened us for not authorizing paycheck deduction, nurses allege

## *Grand Blanc hospital employees file unfair labor charge with federal labor board*



Photo by Adobe Stock

BY JAMIE A. HOPE

Two nurses at Ascension Genesys Hospital in Grand Blanc filed a complaint with the National Labor Relations Board against the Teamsters union for unfair labor practices, according to Jacob Comello of the National Right to Work Legal Defense Foundation.

Madrina Wells and Lynette Doyle say Teamsters Local 332 threatened to get them fired if they did not sign forms authorizing the union to deduct dues from their paychecks.

Federal law forbids unions from extracting dues directly from workers' paychecks without worker consent.

A favorable finding for the nurses would likely result in new signs in the hospital, said Comello, media coordinator for the foundation. The signs would say that a union may not require workers to sign a

dues deduction authorization form as a condition of employment. The board may also require Teamsters officials to undergo training about labor law, Comello said to Michigan Capitol Confidential in an email.

The two nurses told the foundation that the Teamsters threatened other nurses. The union did not respond to an email from CapCon seeking comment.

"I already had issues with Teamsters bosses illegally demanding money from me when right-to-work was in force," Wells told the foundation. "Back then, I at least knew that I was defending my right to pay nothing at all to Teamsters bosses I disapprove of. It's ridiculous that they now have the power to force me to pay them, but I'll defend what rights I do have."

As of February 2024, most workers in Michigan are not covered by a right-to-work law. Public sector workers in Michigan and other states are, however,

protected from being forced to join their employer's union, thanks to the 2018 Supreme Court ruling *Janus v. AFSCME*.

Private sector employees who work in a unionized private sector organization cannot be forced to join a union. They can, however, be forced to pay an agency fee if they do not become members and are bound by a union contract with their employer.

Agency fees cover a union's expenses for collective bargaining, which it performs for all employees. Fees are based on union dues but exclude payments for a union's political expenses.

The foundation provides free legal aid to people who believe their employment rights were violated. The organization has seen more Michigan residents ask for help since the state repealed its right-to-work law, Comello told CapCon.

Patrick Semmens, vice president of the

foundation, called the repeal "a supreme example of Michigan legislators propping up their own political agenda instead of protecting a commonsense law that simply let workers choose for themselves whether union bosses had earned a cut of their paycheck."

The health system knows about the complaint, Mac Walker, the director of media relations for Ascension, told CapCon.

"Ascension is aware of the recent unfair labor practice filing against Teamsters Local 332 by two Genesys nurses," Walker wrote in an email. "This is a matter between union members and their chosen representation. We continue to focus on providing quality care to our patients." ■

*The original version of this story was posted online on August 14, 2024 and is available at [MichCapCon.com/32164](https://michcapcon.com/32164).*



## Legal expert calls Michigan's oil and gas lawsuit 'utterly unethical'

*Attorney seeks \$475 an hour or 25% of recovered settlements*

BY SCOTT MCCLALLEN

Attorney General Dana Nessel announced in August a law firm partner to sue Michigan oil and gas companies for allegedly contributing to climate change.

Climate change decreases tourism, harms agriculture and depletes Michigan's tax base, Nessel claimed in May.

The state's hiring of an outside attorney to sue oil and gas companies using contingency fees is "utterly unethical," Michael I. Krauss, a law professor emeritus at George Mason University's Antonin Scalia Law School, told Michigan Capitol Confidential in an email.

"Contingent fees were designed, and authorized, solely to enable those who could not afford lawyers to get representation when they had been injured," Krauss wrote. "Were it not for this, contingent fees would likely be unethical, as they are in most other countries, because they give lawyers part ownership in a claim, encouraging them to do unethical things."

The state government can afford a lawyer and has "no business hiring outside lawyers at exorbitant fees," Krauss told CapCon.

"It's funny how political donations tend to accompany successful bids. In this way, the economic effects of the contingency fee are recycled to politicians," Krauss wrote.

"This response is about ethics, and it is in my opinion utterly unethical for the state of Michigan to proceed in this way."

Michigan Capitol Confidential received the nine proposals through records requests. One attorney sought \$475 an hour or between 10% and 25% of recovered amounts, documents show.

The firms pitched experience litigating "forever chemicals, unlawful marketing and auto industry cases. One firm sued social media companies on behalf of school districts alleging a role in the "youth mental health crisis."

The Louisiana-based firm Kanner and Whiteley has partnered with the Conservation Law Foundation to sue gas and oil companies, including Shell, ExxonMobil, and Gulf Oil for alleged violations of the Clean Water Act.

Nessel's press secretary, Danny Wimmer, said the office is reviewing the proposals based on qualifications, experience, capacity and cost-effectiveness.

"When a proposal is chosen, the State will enter into a contingency-based contract that provides for compensation on a contingency basis from an eventual litigation award only if the chosen team is successful," Wimmer told CapCon in an email. "A contingency arrangement avoids using taxpayer dollars and ensures litigation costs will be, rightfully, borne by defendants."

The lawsuit is a "partisan political stunt," Rep. Pauline Wendzel, R-Watervliet, told CapCon.

"This political theatre will have a detrimental impact on a safe and reliable energy grid and jeopardize the ability of families to heat their homes and fuel their cars," Wendzel wrote in an email. "Weaponizing our judicial system to advance a personal political agenda is simply wrong. It undermines the public's trust and takes time and resources away from actual issues."

State governments have filed similar lawsuits across the country. On July 10, a Maryland Circuit Court judge dismissed a lawsuit targeting oil and gas companies for contributing to climate change.

In Colorado, a judge refused to dismiss a similar case on June 21. ■

*The original version of this story was posted online on July 22, 2024 and is available at [MichCapCon.com/32134](https://michcapcon.com/32134).*

## Funding up, academic performance down in Michigan schools

*Only 5% of Detroit 8th graders proficient in math*

BY JAMIE A. HOPE

Michigan has spent heavily on early childhood education over the past 20 years, but it has not brought better academic outcomes. While spending increased, student proficiency dropped.

In fiscal year 2000-01, Michigan's education spending on the School Aid Fund reached \$10.8 billion. By fiscal year 2023-24, spending had more than doubled to \$21 billion, according to the nonpartisan Senate Fiscal Agency.

Gov. Gretchen Whitmer expanded taxpayer funding for preschool in the latest budget.

The move mirrored an earlier expansion of government involvement in early education by former Gov. Jennifer Granholm, who formed the Early Childhood Investment Corporation in 2005.

"It is critical that we provide opportunities to stimulate and feed children's minds by providing every child the opportunity for high-quality education and care," Granholm said at the time.

Fourth grade is typically when students start falling behind. In 2000, Michigan's fourth grade students performed above the national average on the National Assessment of Educational Progress, known as the nation's report card.

Nationally, the average NAEP score for fourth grade math in 2000 was 224, and Michigan scored 229. Only 11 states scored higher. The national average for reading in 1998 — there was no test in 2000 — was 213. Michigan had a higher score, 216 and ranked 18th in proficiency.

On the latest assessment, in 2023, the average national score for math was 235. Michigan trailed, with an average of 232. It now ranks 36th in math.

The results are similar for reading. Michigan's average of 212 trails the national average of 216. Now the state ranks 41st.

In Detroit, 90% of students in public elementary and middle school are either not proficient or only partially proficient

in English, according to Molly Macek, education policy director at the Mackinac Center for Public Policy. Only 5% of eighth graders are proficient in math.

Michigan's K-12 education system has struggled for 20 years, Christian Barnard, assistant director of education reform at the Reason Foundation, told Michigan Capitol Confidential.

"The state's public schools have seen some of the largest enrollment declines in the country, and student achievement on national tests has stagnated or declined despite increases in per-student funding," Barnard said. "State leaders should focus on improving core K-12 education, not funneling tens of millions in new dollars towards pre-K."

Michael F. Rice, superintendent of public instruction for the Michigan Department of Education, did not respond to an emailed request for comment.

Michigan is making progress, according to Bob Wheaton, a spokesman for the Michigan Department of Education.

"In the National Institute for Early Education Research Annual Yearbook, Michigan's pre-kindergarten program continues to be tied for first in quality but is 18th in access, with a little more than one-third of all 4-year-olds enrolled in GSRP preschool last year," Wheaton told CapCon in an email.

Since Granholm, the budget for early childhood education has gone up to at least \$780.4 million for the 2024-25 school year. That includes \$609.7 million in general funding, \$42 million for early literacy coaches, and \$25 million in start-up grants. ■

*The original version of this story was posted online on August 30, 2024 and is available at [MichCapCon.com/32261](https://michcapcon.com/32261).*



# Wealth creators stung by Michigan minimum wage ruling

*Survey says 94% of restaurant operators will raise prices as Supreme Court mandates hike*

BY SCOTT MCCLALLEN

The Michigan Supreme Court ruled on July 31 that the Republican Legislature illegally blocked two ballot proposals in 2018, paving the way for a minimum wage hike and new paid leave requirements.

The 4-3 ruling increases the minimum wage and enacts a new paid sick leave that Michigan businesses say will destroy jobs.

“In sum, by adopting the Wage Act and the Earned Sick Time Act and then later stripping those acts of their key features in the same legislative session, the Legislature unconstitutionally violated the people’s initiative rights,” Justice Elizabeth Welch wrote. “Accordingly, we hold that the Amended Wage Act and the Amended Earned Sick Time Act are unconstitutional.”

The change will take effect Feb. 21, 2025, with a revised schedule to account for inflation.

The schedule for the minimum hourly wage and tip credit is as follows:

Feb. 21, 2025: \$10 hourly minimum

wage plus the inflation adjustment. The tip credit will be 48% of the minimum wage.

Feb. 21, 2026: \$10.65 hourly minimum wage plus inflation adjustment. The tip credit will be 60% of the minimum wage.

Feb. 21, 2027: \$11.35 hourly minimum wage plus inflation adjustment. The tip credit will be 70% of the minimum wage.

Feb. 21, 2028: \$12 hourly minimum wage plus inflation adjustment. The tip credit will be 80% of the minimum wage.

Feb. 21, 2029: The state treasurer shall calculate the inflation-adjusted minimum wage. The tip credit will no longer exist.

The ruling will harm job providers and workers, said Wendy Block, senior vice president of business advocacy for the Michigan Chamber of Commerce.

“It’s difficult to imagine how our state’s restaurants and hospitality establishments will absorb this large of an increase in their labor costs or how employers will make the required sweeping and costly changes to their leave policies without drastically cutting back elsewhere,” Block said.

The Legislature should act before the

laws activate, said House Republican Leader Matt Hall, R-Richland Township.

“Restaurants and other small businesses will have to raise their prices, tipped workers will take home less pay, and some people will lose their jobs,” Hall said in a statement.

The new rule will have an “absolutely devastating effect” on small businesses, said Brian Calley, president and CEO of the Small Business Association of Michigan.

“A lack of legislative intervention would communicate a clear message to those in Michigan and those looking to come here: Michigan is not open for small business,” Calley said in a statement.

A recent Michigan Restaurant and Lodging Association survey estimated that two-thirds of restaurant operators would lay off employees if the tipped wage were eliminated, 94% of operators would raise prices, and one in five full-service restaurants would close permanently.

This ruling could eliminate up to 60,000 jobs, MRLA President and CEO Justin

Winslow said in a statement.

“As our recent industry operations survey illustrated, 40% of full-service restaurants in Michigan are already unprofitable, meaning this decision is likely to force more than one in five of them to close permanently, eliminating up to 60,000 jobs along the way,” Winslow said.

About 40% of Michigan restaurants could go bankrupt as this ruling takes effect, Rep. Noah Arbit, D-West Bloomfield, posted on social media:

“40% of restaurants across Michigan could go out of business when the tip credit skyrockets,” Arbit wrote. “Thousands of servers will be laid off. I look forward to working w/ colleagues and partners on a fix that will not leave our beloved community restaurants on a cliff-edge this winter.” ■

*The original version of this story was posted online on July 31, 2024 and is available at [MichCapCon.com/32153](https://MichCapCon.com/32153).*

# Salem Township uses public resources to push road millage renewal

*Unclear whether advocacy violates Michigan Campaign Finance Act*

BY SCOTT MCCLALLEN

A Michigan township might have violated state law by using taxpayer resources to urge residents to vote “yes” on a road millage renewal.

Salem Township in Allegan County posted a note on its website urging residents to vote for a renewal of what it called a crucial road millage, which had been in effect since the 1970s.

The post on the government website, preserved by the Internet Archive, read: “VOTE TUESDAY, AUGUST 6TH FOR ROAD MILLAGE RENEWAL.”

“Residents of Salem Township, On your August Primary ballot, you will find a crucial item: the renewal of our current road millage. This millage has been in effect since the 1970s and is set to expire

in December 2025 unless renewed. Over the next few days, we encourage you to observe the excellent condition of our Township roads. This high standard of maintenance is largely made possible by your current millage contribution. Please consider voting ‘yes’ to ensure we can continue to uphold our roads as a source of pride for our community.”

Public entities such as townships can place a tax proposal on the ballot but can’t advocate for it using public funds, space or supplies. Governments can publish factual election statements, according to a post from the Lansing, Michigan, law firm Foster Swift Collins and Smith.

“For example, even a statement such as ‘the millage will allow us to provide better health services’ is generally prohibited because it is viewed more as a promotional

message than a factual statement,” the law firm said. “Further, the public body may not post signs in its facilities or produce information with public funds that encourages citizens to ‘vote for’ or ‘vote against’ the ballot question. Typically, materials public bodies can provide are limited to the precise language of a millage, or other similar ballot initiative, and basic facts regarding that language.”

State law says: “A public body or a person acting for a public body shall not use or authorize the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure or provide volunteer personal services that are excluded from the definition of contribution under section 4(3)(a).”

Salem Township hasn’t yet responded to a request for comment.

The state can’t answer questions about whether a specific activity violates the Michigan Campaign Finance Act, said Sam May, the press secretary for Secretary of State Jocelyn Benson.

“Anyone seeking a legal determination on that activity can file an official complaint through the Bureau of Elections or a request for Department of State to issue a declaratory ruling/interpretive statement,” May wrote in an email reply to Michigan Capitol Confidential.

Voters rejected the road millage renewal in a vote of 559-538 on Aug. 6. ■

*The original version of this story was posted online on August 20, 2024 and is available at [MichCapCon.com/32171](https://MichCapCon.com/32171).*



# Auditor finds fault with state oversight of child welfare program

*State data say 437 children harmed while under its care*



BY JAMIE A. HOPE

Democrats in the Michigan Legislature have called for a homeschool registry, saying it would help ensure kids are safe. But the state is failing some children under its own supervision, its own data reveals.

The registry would apply to families who are not even suspected of child abuse or neglect. Meanwhile, 437 children were harmed while in the custody of the state during the 2023 fiscal year. The number was mentioned in a report produced by a court-appointed third party, which said it could not verify the performance of the Michigan Department of Health and Human Services.

A July report released by the Michigan Office of the Auditor General, meanwhile, concluded that some child safety workers failed to follow state law. The state must

investigate reports of abuse or neglect within 24 hours of a complaint, but this did not always happen, according to the report.

Elizabeth Hertel, the director of the human services department, wrote a letter in response, calling the auditor's report "unethical and biased." She said the report created its own standards by which to evaluate the department rather than using statutes or departmental policies. Hertel called the auditor's standards arbitrary and unpredictable.

Before the state removes a child and places him or her in a different residence for reasons of safety, it must run background checks on the adults residing in the new home. But workers sometimes did not follow this protocol. The auditor found dozens of instances where adults in the

new home had felony and misdemeanor convictions, including some for domestic violence and drugs.

The July report was a follow-up of a 2018 auditor's report that revealed 17 "material conditions" of failure in the health and human services department. A "material condition" is reserved for the most serious failures, with "reportable condition" applying to less serious ones. The department had fully complied with five findings of the 2018 report, the July audit revealed, but it did not comply with two findings from 2018. It had "substantially complied" with one other finding and "partially complied" with nine others.

Hertel wrote a letter to the auditor general July 8, criticizing the audit by saying it had created standards outside of statute and health department policies.

While Hertel also accused the auditor of bias, it is not clear why she said that. Lynn Sutfin, departmental spokesperson, didn't respond to an email asking for clarification.

State Rep. Ann Bollin, R-Brighton has called for an increase in the auditor general's budget to catch agency mistakes. Bollin, who sits on the House Appropriations Committee, did not respond to an email seeking comment.

The auditor general's office did not officially respond to the letter, Kelly Miller, state relations officer for the office, told CapCon in an email. She did, however, summarize the July audit for CapCon:

"It states that material conditions still exist, indicating room for improvement, and that (the department) complied or partially complied with 15 of the 17 prior audit's material findings, showing progress. This is a complex and sensitive topic and please know that we use our professionalism, experience, and auditing standards to produce factual and independent information for the agencies and legislators to use as they make decisions how best to provide government services to the public. We have extensive due process steps where we fact check every detail within our projects and provide multiple opportunities for the auditee to provide feedback on any verbiage they believe needs clarification." ■

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# MichiganVotes.org

## Reps publicly bash corporate handouts but vote for them

*Voting records show two politicians support taxpayer subsidies*

BY JAMIE A. HOPE

Two Michigan lawmakers claim to oppose corporate subsidies, but their voting record says otherwise.

Reps. Jaime Churches, D-Wyandotte, and Matt Koleszar, D-Plymouth, claim on campaign websites that they oppose corporate handouts. But their business subsidy scorecards show they support taxpayer handouts.

“We should focus our attention on how to grow opportunities for the middle class and small business instead of corporate interests,” said Churches on her campaign site. She has supported \$3.9 billion in corporate handouts since first entering office.

Koleszar has the headline ‘Families Over Corporations’ on his campaign website. In his 2018 Ballotpedia survey, he made a stronger stance against corporations. “I

would like to leave a legacy as someone who truly represented their district and stood up for working families, not corporations.”

Since being elected to office, Koleszar has supported \$5.8 billion in corporate subsidies.

Bashing corporate handouts publicly while voting for them seems to be a trend among elected officials. Gov. Gretchen Whitmer has a similar track record, CapCon reported on Aug.9. She bashes her

opponents on corporate handouts but has supported \$16.2 billion since 2001.

Neither Churches nor Koleszar responded to requests for comment.

In 2023, Michigan promised \$4.5 billion in subsidies to select companies. ■

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## Whitmer has supported \$16.2 billion in subsidies since 2001

*Amount enough to run government without income tax for a year*



Photo by Shutterstock

BY JAMIE A. HOPE

Gov. Gretchen Whitmer has supported more than \$16 billion in corporate welfare, a survey of her voting and governing record shows. At the same time, Whitmer has heavily criticized Republicans for their own handouts to select companies.

Whitmer voted for \$4.5 billion in selective business subsidies during her time as a legislator. As governor, she supported another \$6.6 billion in taxpayer money

to hand-picked businesses. She is also proposing, thus far this year, an additional \$5.1 billion in corporate welfare.

In all, Whitmer has supported \$16.2 billion in business subsidies since her first election in 2001 to the Michigan House of Representatives.

That is more than the entire amount raised annually by Michigan’s income tax, which brings in just \$12.3 billion per year, noted James Hohman, fiscal policy director at the Mackinac Center for Public Policy.

Whitmer attacked subsidies to select corporations when she ran for governor in 2018, as Michigan Capitol Confidential reported. Gubernatorial candidate Whitmer released a campaign commercial telling voters she fought against “corporate tax giveaways” in Gov. Rick Snyder’s administration.

“I’m tired of seeing corporations getting more tax breaks, while you get hit with a retirement tax,” Whitmer said in the commercial.

Whitmer also attacked Bill Schuette, her Republican opponent, for giving public money to private companies.

“For years, Bill Schuette’s handed tax giveaways to the super-rich, putting Michigan taxes out of whack,” she said in a 2018 campaign ad.

In fact, Schuette’s corporate welfare track record was more modest than Whitmer’s. Schuette supported \$888.8 million in handouts during his time in office. While serving in both the Michigan House and Senate, Whitmer voted for four times that amount.

As governor, Whitmer burned through a \$9 billion budget surplus while vetoing a temporary cut in the gasoline tax and a cut in income taxes. Michigan Votes described one bill the governor vetoed:

To cut the state income tax rate for individuals from 4.25% to 4.0%; authorize a \$500 nonrefundable child tax credit; increase the amount the state adds on to a refundable federal earned income tax credit for low income households that owe no taxes, from 6% to 20% of the federal amount; increase the income tax exemption for individuals age 67 and above from \$20,000 to \$21,800; authorize tax credits for disabled veterans, and more. The Senate Fiscal Agency estimates the bill would save taxpayers around \$2.5 billion annually.

Whitmer did not respond to an email seeking comment. ■

*The original version of this story was posted online on August 9, 2024 and is available at MichCapCon.com/32149.*