

# Lame Duck

OVERVIEW



Dykema



# One Week Into Michigan's Lame Duck... Tension, Disagreement, and the Art of What Is Possible

The first week of the lame duck legislative session saw long caucus meetings, leadership for the 2025-26 session selected, and even some tensions boiling over among members... but in terms of actual issues, only one major lame duck issue was addressed in those first three days (Data Center tax incentives).

With three weeks of lame duck remaining, it begs the question, what really is possible before the end of 2024?



# House Republicans Have the Majority for 2025/26. Here Is Who Is Going To Lead Them

The Republicans took control of the State House. Matt Hall will be the next Speaker of the House and will have a 58-seat majority (a recount is possible in the 44th district-Haadsma/Frisbee, but as it stands, it appears Frisbee will hold on for a narrow victory).

**In addition to Hall being chosen as the next Speaker, other Republicans elected to leadership include:**



**Representative Matt Hall**  
(R-Richland Township)  
for speaker of the House



**Representative Rachelle Smit**  
(R-Shelbyville)  
for speaker pro tempore



**Representative Jay DeBoyer**  
(R-Clay)  
for associate speaker pro tempore



**Representative Brian BeGole**  
(R-Perry)  
for assistant majority floor leader



**Representative Mike Harris**  
(R-Clarkston)  
for majority whip



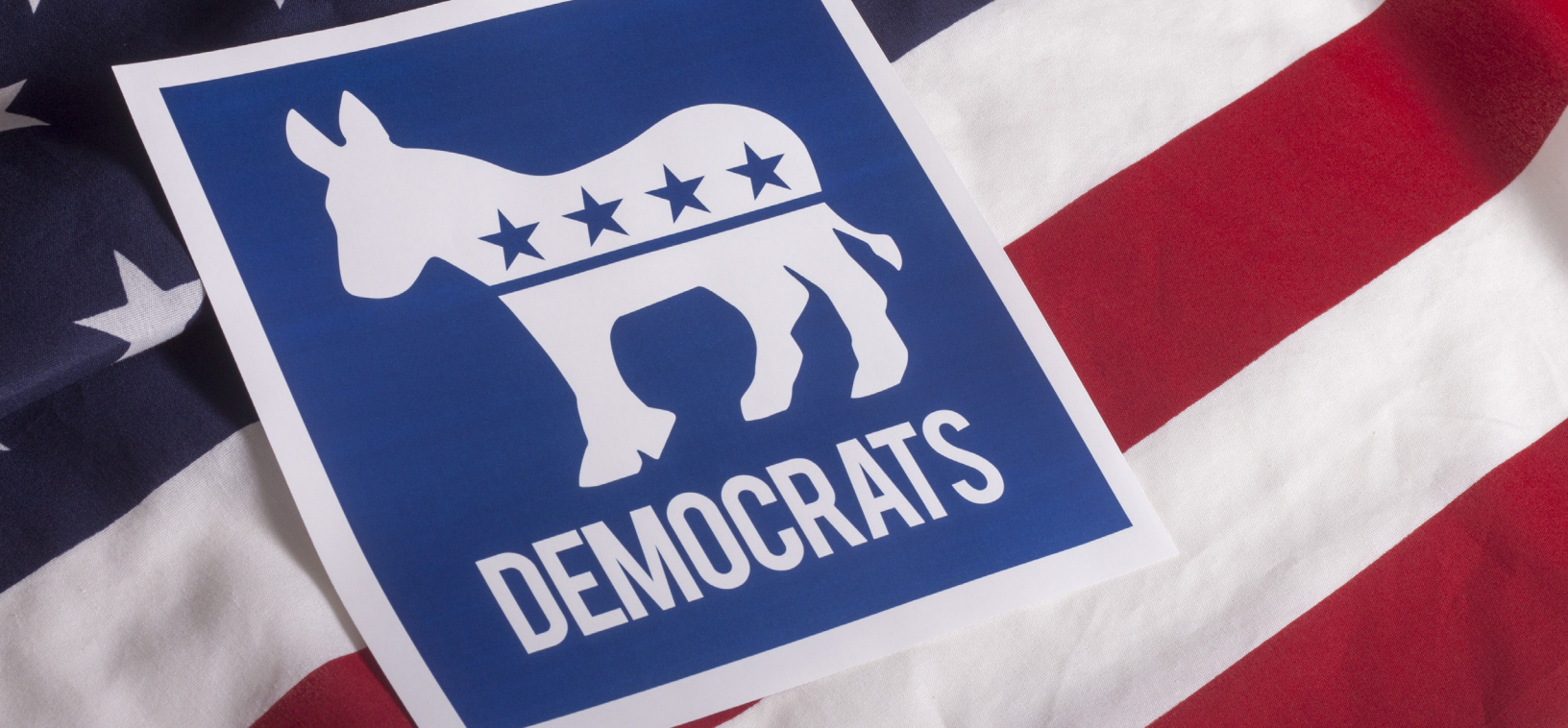
**Representative Joseph Aragona** (R-Clinton Township)  
for chief deputy whip



**Representative Ken Borton**  
(R-Gaylord)  
for caucus chair



**Representative-elect Nancy JENKINS-ARNO**  
for caucus vice chair



## Election Fallout Leads to Immediate Leadership Changes for House Democrats

Meanwhile, having lost the majority after just two years, House Democrats decided to take their caucus in a different direction. Current Speaker Joe Tate (D-Detroit) stepped aside along with most of his leadership team. In the end, after what has been described as a tense caucus, Representative Rajeev Puri (D-Canton) was chosen as House Minority leader and Representative John Fitzgerald (D-Wyoming) as minority floor leader. Democrats will choose the rest of their leadership positions at a later date.

## How Will Matt Hall and the House Majority for 2025 Impact Lame Duck Now?

Speaker-elect Hall made a major policy announcement with his call for \$2.7 billion in road funding, which he hopes to accomplish during lame duck. However, his other goals for the remaining weeks of lame duck are less clear. For much of 2023 and 2024, Hall has kept the Republican caucus united against almost anything the Democratic majority and Governor Whitmer wanted to accomplish. This Republican unity meant all 56 Democratic votes were needed to pass anything, and that appears unlikely to change for lame duck on most, if not all, issues that are at all controversial. According to Hall, if House Democrats work with Republicans on agreeable agenda items, lame duck could be productive. “Gridlock happens if they start popping bills on us. If they do that, we’ll vote no. The good bills I can do next year when I’m the speaker. Why do I have to do it on their timetable?”, Hall asked. “Let’s talk. We can have some give and take, and lame duck will be productive.” This leads to the question... What are Republicans and Democrats willing to give in order to get and vice versa?

# The Governor Wants SOAR. What Could It Look Like? When Will It Get Done, and Is Anything Else Really on Her List in Lamé Duck?

For the governor, it's seemingly all about Economic Development! The governor's number-one priority is to find a permanent revenue stream for large-scale economic development projects. The Strategic Outreach and Attraction Fund (SOAR) has been viewed by the Whitmer administration as a way to attract large-scale projects, but SOAR's annual funding is based on annual legislative negotiations. Earlier this year, a plan was introduced in the House to set aside \$600 million annually into the SOAR Fund over the next 10 years, with \$200 million of that going to "significant transit projects" and \$100 million to affordable and workforce housing. It's unclear if the House plan still has enough (if any) support. For their part, Republicans have said they would like to see more SOAR and other economic development initiatives to go to road funding. They have also said any deal on SOAR would include a deal to restore the tipped credit for restaurant staff restored and some alterations to the paid sick leave policy put in place earlier this year by the state Supreme Court.

## Speaking of SOAR, Would a Deal Come In in 2024 or 2025?

Rumors are beginning to circulate that a deal on SOAR might have to wait until 2025 and would be linked to any supplemental spending bill. Details are still uncertain, but several House Democrats have suggested that these heavy lifts might wait until 2025 and will be negotiated between the governor and incoming Speaker-elect Matt Hall. Others have suggested this is simply part of an effort from the governor to motivate her fellow Democrats to come together and get this and other items done before the year's end.

## These Are the Other Items the Governor's Team Would Like To See in Lamé Duck Include:

1. An expansion to the State's Disaster and Emergency Contingency Fund (DECF), the pot of money used to give assistance to parts of the State hit by natural disasters.
2. The creation of the Innovation Fund the governor proposed in her budget recommendation. The money would help universities and nonprofits invest in tech startups, with all returns on investment being reinvested back into the program to support additional startups.
3. A mortgage assistance program through the Michigan State Housing Development Authority (MSHDA).
4. Additional data privacy protections.



# Data Center Tax Breaks Are the Only Controversial Issue To See Movement in Week 1

The House passed **HB 4906** last Wednesday (11/13) by a 64-45 vote. It had support from a number of Republicans. The bill exempts data centers that make at least \$250 million in capital investment from sales and use taxes on equipment through at least 2050. Introduced in May, **HB 4906** initially stalled in the House because of stiff resistance from environmental groups because of the massive water withdrawals and the potential use of non-renewables to meet the generation need. Opponents argue that the bill's electricity and water ratepayer protections aren't adequate and that these data centers don't actually create the number of jobs they claim to (pointing to Switch as the prime example from the original legislation, which has created far fewer jobs than promised). House bill sponsor Rep. Joey Andrews called opponents concerns over strained generation and the potential use of fossil fuels "overblown" given the return of 800 megawatts of carbon-free nuclear energy to the grid from the Palisades nuclear plant, which is expected to restart in 2025/26. The companion bill, **SB 237**, passed 56-41 on Sept. 25 on a strictly partisan House vote. The Senate must approve changes to the House bill before they can advance to Governor Whitmer, who is expected to sign them. The Senate is expected to act in early December on final passage.

## HB 4906 by the Numbers:

- Expands the sales and use tax exemptions to large-scale or "hyperscale" data center operations (Michigan law already offers tax breaks to "colocation" data centers where businesses rent space for equipment).
- Companies would qualify for the tax exemptions if they invest at least \$250 million on the project and create and maintain at least 30 jobs in Michigan that pay 150 percent or more of the local median wage.
- The bill also extends existing tax exemptions from 2035 to 2050.
- It allows facilities located on a brownfield or a former power plant site to claim exemptions through 2065.





## R&D Tax Credit Bills Are One Step Closer To Getting Over the Finish Line

After passing and being returned by the Senate back in April, the House took a series of needed votes on a state-specific R&D tax credit package, and once passed by the Senate again, Michigan will join numerous other states that encourage businesses to expand their R&D efforts through tax incentives. [HB 5100-5101](#) were passed by a vote of 86-23.

Businesses would qualify based on their eligibility for the federal credit. Amounts are based on the size of the business and collaboration with an eligible Michigan-based research university.

- 250 or more employees: 10 percent, credit amount cannot exceed \$2 million.
- Less than 250 employees: 15 percent, credit cannot exceed \$250,000.
- Either may claim an additional 5 percent credit if partnered with a Michigan research university, but the total credit may still not work with a research university in the state, with the additional 5 percent not exceeding \$200,000.

## House Republicans Introduce \$2.7 Billion Road Funding Plan

Speaker-Elect Matt Hall wants \$2.7 billion for roads, and he wants it now—not in 2025. House Minority Leader Hall unveiled a proposal to increase road funding by \$2.7 billion by earmarking nearly all revenues generated by the Corporate Income Tax and directing all revenues generated at fuel pumps to roads. The first legislative plan on road funding to be shared publicly, it calls for immediately reallocating \$1.2 billion in revenue from the 6 percent tax on C-corporations, with another \$600 million reallocated in 2026 for a total of \$1.8 billion. The final \$900 million would come from removing the 6 percent sales tax on fuel, which currently goes to school funding, and increasing fuel tax by an equal amount. The plan is said to hold school funding harmless, but how it would be accomplished was not specified.

In unveiling his plan, Hall and his fellow Republicans said, “People are sick and tired of inaction and empty words. That’s why House Republicans are taking over in the State House. We are ready to get to work and actually get things done, starting with a real roads plan we can pass the first day we get back in December.”





# Besides the Governor's Priorities, What Do the Legislature and Outside Interests Have In Mind?

## Adopt and Amend (Paid Sick Leave and Restoring the Tipped Credit)

The business community/Chamber are looking for a fix to the Supreme Court decision in *Mothering Justice vs. Nessel*, particularly regarding the paid sick leave portion. All employers with one or more employees would be required to grant up to 72 hours of sick leave a year. It also creates regulations for employers on how that sick time is calculated and used, including a prohibition on requiring advance notice. This applies to all employees, including part-time, seasonal, and temporary employees.

The restaurant and bar community wants to see the portion of the decision dealing with tipped wages addressed as well. Estimates are as high as one in three restaurants will close their doors should the tipped minimum wage not be re-instated. A bipartisan bill package was introduced Thursday that would do just that. A first step was taken to address both as Representative Graham Filler (R-Duplain Township) and Representative Nate Shannon (D-Sterling Heights) co-sponsored [House Bill 6056](#) and [House Bill 6057](#). The bills were introduced on November 7 and could be the vehicle for the changes requested.

## Statewide Septic Code

[Senate Bill 299](#) and [Senate Bill 300](#), which would establish a statewide septic code, are expected to be part of the lame duck agenda. Senator Sam Singh introduced the bills, but they have not received a committee hearing. Michigan is the only State in the United States without a statewide septic code and has left regulation up to the counties and townships. The bills, if passed, would require routine inspections and maintenance for septic systems and create an inspector certification system.

## Stormwater Utilities

[Senate Bill 660](#), introduced by Senator Rosemary Bayer, is also expected to see movement this lame duck. The bill would enact the "Stormwater Management Utility Act" to allow a local unit of government to create a stormwater management utility by adopting a stormwater management plan and a stormwater management utility fee ordinance. The fee ordinance would create a fee for residents who received stormwater management services, and the fee would have to be proportionate to a resident's use based on methods generally accepted by stormwater management professionals. The bill was recently passed out of the Senate Local Government Committee and will be on the Senate Session agenda for final passage sometime in the next few weeks.

## Recreation Passport Opt-Out and Formula Change

[House Bill 5873](#), introduced by Representative Denise Mentzer, and [Senate Bill 718](#), introduced by Senator Singh, would change the Michigan Recreation Passport fees to an "opt-out" model vs. the current "opt-in." The bill will also raise the percentage allocated for local recreation grant funding to 20 percent (from the current 10 percent) once participation in the program reaches 55 percent. These bills are expected to move along with an exemption that would grant veterans and active-duty military free entry to our state parks.

## Unemployment Insurance Benefit Increases

[House Bill 5827](#), introduced by Representative Karen Whitsett, would increase weekly unemployment benefits from 20 to 26 weeks. The bill passed the House and is currently in the Senate Labor Committee awaiting a hearing. Other legislation is being crafted that would lessen work search requirements, increase the weekly benefit, and tie it to the Consumer Price Index, but it has not yet been introduced.

## Polluter Pay

**Senate Bills 605, 606, 607, 608, 609, 610, and 611** and House Bills **5241, 5242, 5243, 5244, 5245, 5246, and 5247** restore the principle that polluters should pay to clean up their contamination by ensuring that both past and present owners and operators are defined as legally responsible parties. The legislation will set more stringent cleanup standards and increase transparency when it comes to polluters. The Senate bill package is currently in the Senate Energy and Environment Committee and have not yet received a hearing. Similarly, the House bill package has been referred to the House Natural Resources, Environment, Tourism and Outdoor Recreation and is awaiting a hearing. The issue of Polluter Pay has been a priority for both the House and Senate Democratic Caucus and is expected to be part of the agenda during lame duck. Opposition from the business community could cause delays if the bills come up for hearings.

## Michigan Energy Assistance Program (MEAP) Enhancements

Members of the House Energy, Communications, and Technology Committee took a crucial step towards finishing an overhaul to the MEAP program when they voted to report the bills from committee prior to going on hunting/Thanksgiving recess.

The package, which includes **SB 353, SB 880, SB 881, and HB 6075**, would change the qualifications for a family to be considered “low-income” under the law, which advocates said would help make more families eligible for the Michigan Energy Assistance Program during a time of high utilities costs, and remove a \$50 million cap on funding for the program.

The bills are supported by DTE, Consumers, and numerous civic organizations such as AARP and United Way, as well as by the Michigan Public Service Commission. According to PSC legislative liaison Reka Holley Voelker, the legislation “would take a significant step towards improving many of the challenges we discussed in the spring and puts in place the framework that will allow us to help more customers and do so in a way that is more efficient and better aligned with the goals of self-sufficiency and home energy security.” The House is expected to act on the legislation prior to the end of lame duck.





## Consumer Protection Legislation

**Senate Bills 1021** and **1022**, introduced by Senator Singh, were rolled into one bill (**SB 1022**) and passed out of the Senate Finance, Insurance and Consumer Protection committee with only democratic support and despite almost unanimous opposition from business entities, the Detroit Chamber, the Michigan Chamber, Ford, GM, and others. **SB 1022** would eliminate the exemption to the Consumer Protection Act that regulated entities enjoy as a result of the Globe Life decision and subject regulated professions and industries from frivolous lawsuits. According to Senator Singh, Michigan is currently ranked as the worst state in consumer protection, and passing these two bills will bring Michigan in line with most of the country and modernize protections for consumers. The Michigan Attorney General, Dana Nessel, has been supportive of these bills and has worked closely with the Senator from drafting to committee passage.

## Data Breach

**Senate Bills 888, 889, 890, 891,** and **892**, introduced by Senator Rosemary Bayer, would require private and State entities that have access to Michigan residents' personal information to maintain security procedures for the protection of that information. In the case of a security breach, the bills would require an entity to notify affected residents and provide specific information concerning consumer protections and actions taken to rectify the breach. If a breach affected more than 100 residents, the entity would have to notify the Attorney General. The bill package would also prescribe civil fines for failing to comply with the requirements. The bill package is currently in the Senate Finance, Insurance, and Consumer Protection Committee and received a hearing in October. Senator Rosemary Bayer is pushing to have the package voted on before the end of the legislative session.

## Freedom of Information Act

**Senate Bill 669** and **Senate Bill 670** would amend the applicability of the Freedom of Information Act (FOIA) to the Legislature and governor's office. The bills would apply FOIA to the Executive Office of the Governor or Lieutenant Governor (EOG), the Senate, and the House of Representatives, all of which are currently exempt from the Act. The EOG would retain standard FOIA exemptions and be granted additional exemptions for records related to executive privileges and communications with constituents, among others. Both chambers of the Legislature also would retain standard FOIA exemptions and be granted additional exemptions for records related to communications with constituents and internal investigations, among others.

Both **Senate Bill 669** and **Senate Bill 670** have passed the Senate and are currently awaiting a hearing in the House Government Operations Committee. Senator Ed McBroom and Senator Jeremy Moss, the bills' sponsors, have been partnering on this issue for years and have been trying to push the bills to the governor's office before the start of the next session. If they are not able to pass during the lame duck, we can expect the bills to be reintroduced sometime in 2025.



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