



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 144 (as introduced 3-7-23)
Sponsor: Senator Kristen McDonald Rivet
Committee: Housing and Human Services

Date Completed: 3-20-23

CONTENT

The bill would amend the Income Tax Act to specify that a taxpayer who claimed the earned income tax credit (EITC) on his or her individual income tax (IIT) return for the 2022 tax year would be entitled to a credit equal to 24% of the Federal EITC he or she could claim for the 2022 tax year.

Specifically, for the 2022 tax year only, a taxpayer who claimed the EITC on his or her IIT return for the 2022 tax year would be entitled to a credit of 24% of the Federal credit the taxpayer would be allowed to claim for that year. A taxpayer could not claim the additional credit on his or her return or on an amended return. Instead, the Department of Treasury would have to calculate the amount of the additional credit that each taxpayer would be entitled to receive. That amount would have to be refunded as soon as practical as specified in Section 30 of the Act in the form of a fully negotiable check.

The credit would be in addition to the 6% Michigan EITC for the 2022 tax year; however, if House Bill (HB) 4001 of the 102nd Legislature were enacted into law, a taxpayer who received the proposed tax credit would not be entitled to an additional credit under HB 4001. (House Bill 4001 as enacted allows a taxpayer to claim an identical credit to that provided under the bill; however, House Bill 4001 was not passed with sufficient votes for immediate effect. It will take effect on the 91st day after the Legislature adjourns sine die.)

The bill states that it "is intended to be retroactive and applies retroactively for the 2022 tax year". The bill would not take effect if HB 4001 were enacted into law and received immediate effect as described in Article IV, Section 27 of the Michigan Constitution.

MCL 206.272a

PREVIOUS LEGISLATION

(Please note: The information in this summary provides a cursory overview of previous legislation and its progress. It does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

The bill is similar to portions of HB 4001 of the 2023 Legislative Session. House Bill 4001 was enacted as Public Act (PA) 4 of 2023.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Assuming the bill received immediate effect, the bill would shift approximately \$441.6 million of revenue loss estimated for PA 4 of 2023 from fiscal year (FY) 2023-24 into FY 2022-23.

Public Act 4 increased the Michigan EITC from 6% of the Federal EITC to 30% beginning in tax year 2023. The Act also contained a provision to effectively increase the Michigan EITC from 6% to 30% for tax year 2022. However, because HB 4001 was considered after taxpayers had already begun filing tax year 2022 returns and tax forms had already been finalized for tax year 2022, PA 4 provided a mechanism for the Department of Treasury to pay the increase without requiring taxpayers to file an amended return or new tax forms for tax year 2022. Assuming the Legislature does not adjourn sine die until December 2023, PA 4 will not take effect until 2024, thus delaying the increase in the Michigan EITC for tax year 2022 until then. Because refundable credits are booked to the fiscal year in which they are paid, under PA 4, the increased Michigan EITC for tax year 2022 will be paid (and booked) in FY 2023-24. Under PA 4, the EITC provisions will reduce FY 2023-24 revenue by \$883.2 million: approximately \$441.6 million for the credit for tax year 2022 plus another \$441.6 million reduction due to the expanded credit associated with tax year 2023.

Assuming the bill received immediate effect, the bill would implement the Michigan EITC provisions contained in PA 4 for tax year 2022 such that the increased credit could be paid during FY 2022-23. As a result, the bill would move \$441.6 million of the PA 4 impact in FY 2023-24 into FY 2022-23. Across the two years, the combined impact of the Michigan EITC provisions would be the same, but it would alter the timing of how each individual fiscal year's revenue would be affected. If the bill did not receive immediate effect, it essentially would duplicate HB 4001 in both impact and timing.

Based on EITCs filed between tax year 2012 and 2019, increasing the Michigan EITC from 6% to 30% of the Federal credit would reduce General Fund revenue by approximately \$441.6 million per year. The total amount claimed under the Michigan EITC remained relatively stable between tax year 2012 and 2019, averaging \$110.4 million per year. The EITC does not affect School Aid Fund (SAF) revenue because IIT revenue to the SAF is based on gross collections, which exclude the revenue impact of tax credits.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.