

# Legislative Analysis



## DISABLED VETERANS PROPERTY TAX CREDIT

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<http://www.house.mi.gov/hfa>

**House Bill 4894 as introduced**  
**Sponsor: Rep. Nate Shannon**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4895 as introduced**  
**Sponsor: Rep. John R. Roth**

**Committee: Local Government and Municipal Finance**  
**Complete to 9-13-23**

### SUMMARY:

House Bills 4894 and 4895 would respectively amend the Income Tax Act and the General Property Tax Act to provide a mechanism for the state to reimburse local units of government for the property tax exemption available to veterans classified as 100% disabled and their surviving spouses.

**House Bill 4894** would amend the Income Tax Act to create, for tax years beginning on and after January 1, 2024, an individual tax credit for a *disabled veteran* or their widow or widower for property taxes levied on their homestead that are deductible for income tax purposes or would have been deductible if the claimant had been subject to federal income tax. The federally deductible portion of property taxes would be calculated as if section 164(b)(6)(B) were not in effect.<sup>1</sup>

*Disabled veteran* would mean a *veteran* who meets one of the following criteria:

- Has been determined by the U.S. Department of Veterans Affairs (VA) to be permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.
- Has a certificate from VA certifying that the veteran is receiving or has received pecuniary assistance due to disability for specially adapted housing.
- Has been rated by the VA as individually unemployable.

*Veteran* would mean an individual who served in the United States Armed Forces and who was discharged or released from service with an honorable or general discharge.

*Widow or widower of a disabled veteran* would mean the unmarried surviving spouse of a disabled veteran who was eligible for one of the following when they died:

- If the death occurred before December 31, 2023, the exemption provided under the General Property Tax Act before December 31, 2023 (described below), regardless of whether the exemption had previously been granted to the decedent.
- If the death occurred on or after December 31, 2023, the homestead credit provided under the bill on and after December 31, 2023, regardless of whether the exemption had previously been granted to the decedent.

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<sup>1</sup> This section imposes a \$10,000 cap on the deduction of state and local taxes paid for tax year through 2025.

The credit would be equal to 100% of the applicable property taxes. A credit for a return of less than 12 months would be reduced proportionately.

A claimant could either claim the credit on their annual return on a form prescribed by the Department of Treasury or by filing an affidavit (described below) with the local tax collecting unit authorizing the unit to claim the credit on their behalf. If after review by the Department of Treasury, it is determined that the taxpayer is not eligible for the credit, the department would have to provide written notice to the local unit and the claimant stating the reason for the denial, the amount denied, and the amount due and payable to the local tax collecting unit within 90 days of the date of the denial notice.

A taxpayer that claimed the credit under the bill would not be eligible to claim the homestead property tax credit for the same tax year. The Department of Treasury would have to deny a claim if the claimant is not a disabled veteran or widow or widower of a disabled veteran or the claimant has filed a claim for the homestead property tax credit for that same tax year.

The portion of a claimed credit amount that exceeds the claimant's tax liability would be approved for payment to the claimant, without interest, after examination and review. In determining the amount to be paid to the claimant, withholdings and other credits would have to be used first to offset any tax liabilities. However, the amount of the credit claimed by a local tax collecting unit could not be used to offset the claimant's tax liability but would be provided directly to the local tax collecting unit.

Notwithstanding section 30a of 1941 PA 122, the credit would be exempt from interception, execution, levy, attachment, garnishment, or other legal process to collect a debt, and no portion of the credit could be used to offset a liability under section 30a of 1941 PA 122 or any arrearage or other debt of the claimant.<sup>2</sup>

The bill would take effect January 1, 2024.

MCL 206.520 et seq. and proposed MCL 206.521

**House Bill 4895** would amend the General Property Tax Act to eliminate the disabled veteran's property tax exemption and make other changes that complement HB 4894.

The act currently provides that real property owned and used as a homestead by a qualified disabled veteran is exempt from the collection of taxes under the act. If a qualified disabled veteran dies, the veteran's spouse can continue to claim the exemption unless they remarry.

To qualify for the exemption, the disabled veteran must have been discharged under honorable conditions and must meet one of the following criteria:

- Have been determined by the VA to be permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.
- Have a certificate from the VA certifying that the veteran is receiving or has received monetary assistance due to disability for specially adapted housing.
- Have been rated by the VA as individually unemployable.

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<sup>2</sup> See <http://legislature.mi.gov/doc.aspx?mcl-205-30a>

Under the bill, beginning on and after January 1, 2024, a taxpayer who is a *disabled veteran* or the *widow or widower of a disabled veteran*<sup>3</sup> could defer collection of property taxes and authorize the local tax collecting unit to claim the homestead credit provided for in section 521 of the Income Tax Act (proposed by House Bill 4894) on the veteran's or surviving spouse's behalf. To do so, the taxpayer would have to file an affidavit under the bill (in a form prescribed by the Department of Treasury) with the local tax collecting unit where the homestead is located. The taxpayer could file the affidavit at any time in the calendar year during which the applicable property taxes are levied. The affidavit would have to include all of the following:

- A description of the property for which the credit is claimed.
- A statement that the property is owned and used by the taxpayer as their homestead.
- A statement that the taxpayer is a disabled veteran or the widow or widower of a disabled veteran.
- A statement authorizing the local tax collecting unit to claim the income tax credit section 521 of the Income Tax Act on behalf of the applicant.
- A statement authorizing the Department of Treasury to remit direct payment of the credit claimed on the applicant's behalf directly to the local tax collecting unit.
- Supporting documentation for the information described above as required by the local tax collecting unit under guidelines provided by the Department of Treasury. If the disability status of a veteran is established by a disability rating provided by the VA before the year in which the affidavit is filed, the affidavit must include a statement that the veteran's most recent disability rating is unchanged from that one.

The Department of Treasury would be required to provide local tax collecting units with informational materials that the local tax collecting unit would have to distribute to taxpayers filing an affidavit as described above. The materials would have to explain how the affidavit will be processed and how the taxpayer's tax liability will be handled under the bill.

A local tax collecting unit that receives an affidavit described above would have to do both of the following:

- Defer collecting any property taxes levied on the homestead during the calendar year in which the affidavit was filed until the state either state pays those property taxes under section 521 of the Income Tax Act or rejects the claim for the credit under that section.
- Before February 1 of the year immediately following the calendar year in which the affidavit was filed, do the following in a form and manner as prescribed by the Department of Treasury (which could accept electronic submissions):
  - Provide the Department of Treasury with a copy of the affidavit and any information necessary to determine the amount of property taxes deferred on the applicant's homestead for the relevant calendar year.
  - File a claim for the homestead credit under section 521 of the Income Tax Act on the taxpayer's behalf and request payment of that credit.

Property taxes deferred as described above would not be subject to penalties or interest for the period of deferment. However, if the state rejects the claim, any unpaid balance would become due and payable on that date, and any remaining unpaid balance would be subject to interest and penalties under the act beginning 90 days after the rejection.

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<sup>3</sup> These terms would be defined the same as they are in HB 4894 (above).

Upon the state's payment of property taxes or rejection of a claim, the local tax collecting unit would have to notify the taxpayer in writing of the payment or rejection and, if applicable, the amount of any unpaid balance due and payable and the date by which it must be paid to avoid penalties and interest.

Payments made by the state under section 521 of the Income Tax Act would be considered taxes paid by the applicable individual.

The bill would take effect December 31, 2023.

MCL 211.7b

The bills are tie-barred, which means that neither can take effect unless both are enacted.

## **BACKGROUND:**

House Bills 4894 and 4895 are reintroductions of Senate Bills 783 and 1084, respectively, from the 2021-22 legislative session.<sup>4</sup> Senate Bills 783 and 1084 were both passed by the Senate and the House, but the bills were returned to the Senate and not enrolled.

House Bill 4895 is also generally identical to Senate Bill 784 of the 2021-22 session, which was passed by both chambers and became law as 2022 PA 103 without Governor Whitmer's signature.<sup>5</sup> However, it was tie-barred to House Bill 4568,<sup>6</sup> a bill that was vetoed by the governor,<sup>7</sup> meaning that Senate Bill 784 did not go into effect.

## **FISCAL IMPACT:**

As written, between the refundable income tax credit and the direct payments made by the Department of Treasury on behalf of claimants that file affidavits with their local tax collecting units, the bills would be expected to reduce state revenue by an estimated \$85 million to \$110 million on a full fiscal year basis. In addition to the direct loss of revenue, the bills would also increase administrative costs for both the Department of Treasury and local tax collecting units.

To the extent that the credit increased a taxpayer's refund, the impact would be borne entirely by the general fund. However, if the credit resulted in lowering or completely offsetting a taxpayer's annual payment, roughly 25% of the impact would fall on the School Aid Fund, with the remainder coming from the general fund.

For those taxpayers that file an affidavit with their local tax collecting units, there would be no direct loss of tax revenue, but it would be necessary to appropriate sufficient funds to the

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<sup>4</sup> For a summary of SBs 783 (H-2) and 1084 (H-1), see <http://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-0783-B45840D0.pdf>.

<sup>5</sup> For a summary of HB 4568 (S-1) as vetoed and SB 784 (S-2) as enacted, see <http://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-4568-C42C38F1.pdf>.

<sup>6</sup> House Bill 4568 (S-1) from the 2021-22 legislative session included similar provisions to the contents of HB 4894, in addition to other Income Tax Act amendments.

<sup>7</sup> <https://drive.google.com/file/d/14AMeWxYi2pfQaxZnb2ytsiUMP6v4vfPw/view>.

Department of Treasury to make property tax payments for claimants as prescribed in the bills, which reduces state revenues available for other purposes.

The costs would be expected to increase over time as both taxable values and the number of 100% disabled veterans increase. According to data from the Veterans Administration, between 2016 and 2021 the number of 100% disabled veterans increased at an annual average rate of 9.5%. Over that same period, the taxable value of residential property has increased at an average annual rate of 4.0%.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.