

# Senate Amendment 5107

## Amendment Text

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1 1 Amend the Senate amendment, [H-5079](#), to House File  
1 2 2114, as amended, passed, and reprinted by the House,  
1 3 as follows:  
1 4 #1. Page 1, by striking lines 3 through 21.  
1 5 #2. Page 1, by striking line 42 and inserting the  
1 6 following:  
1 7 "..... \$ 1,050,000".  
1 8 #3. By striking page 1, line 45, through page 2,  
1 9 line 13.  
1 10 #4. Page 2, by striking lines 14 through 36.  
1 11 #5. By striking page 2, line 37 through page 3,  
1 12 line 13.  
1 13 #6. Page 3, by striking lines 16 through 48.  
1 14 #7. Page 4, by striking lines 1 through 47 and  
1 15 inserting the following:  
1 16 "Sec. \_\_\_\_ . DEPARTMENT OF REVENUE AND FINANCE -  
1 17 REFUND CLAIMS. There is appropriated from the general  
1 18 fund of the state to the department of revenue and  
1 19 finance for the fiscal year beginning July 1, 1995,  
1 20 and ending June 30, 1996, an amount estimated by the  
1 21 department to be sufficient to pay all refund claims  
1 22 timely filed pursuant to section 422.73, subsection 3,  
1 23 as enacted by this Act, and to pay up to \$75,000 for  
1 24 processing such claims.  
1 25 Notwithstanding section 8.33, moneys appropriated  
1 26 in this section which remain unexpended or unobligated  
1 27 at the close of the fiscal year shall not revert to  
1 28 the general fund of the state but shall remain  
1 29 available for expenditure in the succeeding fiscal  
1 30 year for the purposes of paying refund claims and  
1 31 processing costs as provided and the moneys are not  
1 32 subject to transfer under section 8.39.  
1 33 Sec. \_\_\_\_ . Section [422.73](#), Code 1995, is amended by  
1 34 adding the following new subsection:  
1 35 NEW SUBSECTION. 3. Notwithstanding subsection 2,  
1 36 a claim for refund of individual income tax paid for  
1 37 any tax year beginning on or after January 1, 1985,  
1 38 and before January 1, 1989, is considered timely if  
1 39 filed with the department on or before October 31,  
1 40 1996, if the taxpayer's claim is the result of the  
1 41 unconstitutional taxation of federal pension benefits  
1 42 based upon the decision in Davis v. Michigan  
1 43 Department of Treasury, 489 [US. 803](#), 109 S. Ct. 1500  
1 44 (1989).  
1 45 A taxpayer entitled to a refund of tax paid under  
1 46 this subsection shall receive an amount equal to one  
1 47 hundred percent of the refund without interest. The  
1 48 claim for refund shall be filed separate from any  
1 49 income tax return and shall not be allowed as a credit  
1 50 for income taxes owed. A claim shall be filed between  
2 1 the effective date of this subsection and October 31,  
2 2 1996. An extension for filing shall not be allowed  
2 3 and claims disallowed on the basis of timeliness shall  
2 4 not be allowed upon appeal to any other state agency  
2 5 notwithstanding any other provision of law.  
2 6 The claim for refund shall be made on claim forms  
2 7 to be made available by the department. In order for

2 8 a taxpayer to have a valid refund claim, the taxpayer  
2 9 must supply legible copies of documents the director  
2 10 deems necessary to show entitlement to the refund,  
2 11 including but not limited to income tax forms and W-2P  
2 12 forms, which will establish the state income tax that  
2 13 was paid on the federal pension benefits for the tax  
2 14 years in question. The burden of proof is on the  
2 15 taxpayer to show that the claim for refund is valid.  
2 16 Estates are not entitled to file a claim for refund  
2 17 under this subsection. However, if a taxpayer has  
2 18 filed a claim under this subsection and subsequently  
2 19 dies before receipt of the refund, the taxpayer's  
2 20 estate is entitled to receipt of any valid refund  
2 21 claim.

2 22 The department shall make a reasonable attempt to  
2 23 notify individuals who are entitled to a refund under  
2 24 this subsection." "

2 25 [HF 2114H](#)

2 26 jp/pk/25