

1-9-95 Ways & Means
1-31-95 Amend/Do Pass W 15-3024
FILED JAN 9 1995
H-2/21/95 Ways & Means
H-4/27/95 Do Pass (p. 2031)

SENATE FILE 2
BY VILSACK and SORENSEN

Passed Senate, ^(p. 396) Date 2/20/95 Passed House, Date _____
Vote: Ayes 48 Nays 1 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the filing of claims for credit or refund by
2 retired federal employees as a result of the unconstitutional
3 taxation of federal pensions under the state individual income
4 tax.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2

S-3024

- 1 Amend Senate File 2 as follows:
- 2 1. Page 1, by striking lines 13 and 14 and
- 3 inserting the following: "percent of the credit or
- 4 refund of tax paid without any interest being awarded.
- 5 The claim for credit or".

By COMMITTEE ON WAYS AND MEANS
WILLIAM D. PALMER, Chairperson

(p. 396) Lost 2-20-95

S-3024 FILED JANUARY 31, 1995

SF 2

1 Section 1. Section 422.73, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3. Notwithstanding subsection 2, a claim
4 for credit or refund of individual income tax paid for any tax
5 year beginning on or after January 1, 1985, and before January
6 1, 1989, is considered timely if filed with the department on
7 or before April 30, 1996, if the taxpayer's claim is the
8 result of the unconstitutional taxation of federal pension
9 benefits based upon the decision in Davis v. Michigan
10 Department of Treasury, 489 U.S. 803, 109 S. Ct. 1500 (1989).

11 A taxpayer entitled to a credit or refund of tax paid under
12 this subsection shall receive an amount equal to ninety-five
13 percent of the credit or refund plus interest with interest
14 not accruing after January 12, 1994. The claim for credit or
15 refund shall be made on the income tax return for the tax year
16 beginning in the 1995 calendar year. If the taxpayer does not
17 owe tax or the credit is in excess of the tax computed, the
18 taxpayer may claim a refund of the excess or carry forward the
19 excess credit to the following tax year. A credit carried
20 forward shall be used or a refund of the remaining credit
21 given for the tax year beginning in the 1996 calendar year.

22 The department shall notify or make a reasonable attempt to
23 notify by October 1, 1995, all individuals who are entitled to
24 a credit or refund under this subsection.

25 EXPLANATION

26 A recent Iowa supreme court decision held that retired
27 federal employees could retroactively claim a refund on state
28 individual income taxes unlawfully imposed on their pensions
29 if the claim was timely filed. This bill provides that a
30 claim filed by April 30, 1996, is timely filed for taxes
31 imposed for the 1985, 1986, 1987, and 1988 tax years. The
32 taxpayer is entitled to 95 percent of the credit or refund
33 plus interest with no interest accruing after January 12,
34 1994. The credit and refund must be used or refunded to the
35 taxpayer for the tax years prior to the 1997 tax year. The

1 department of revenue and finance must attempt to notify the
2 individuals entitled to this credit or refund.

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

**SENATE FILE 2
FISCAL NOTE**

A fiscal note for Senate File 2 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2 addresses a ruling by the Iowa Supreme Court in *Hagge v. Iowa Department of Revenue and Finance (DRF)*. In *Hagge*, the Court ruled that refunds had to be paid to individuals who filed claims due to income taxes paid on federal pensions from 1985 to 1988. The ruling required the State to pay approximately \$33.7 million in refunded tax and interest. Under current law, those individuals who paid tax on federal pensions between 1985 and 1988, and have not filed claims, are no longer eligible for refunds. Senate File 2 would extend the time these individuals may file through April 30, 1996. Taxpayers would be eligible for 95.0% of the refund plus interest through January 12, 1994.

ASSUMPTIONS:

1. Approximately 13,000 federal retirees filed timely refund claims. Not all of these individuals filed claims for all 4 years. There were an average of 8,625 individuals who filed claims each of the 4 years.
2. The average claim for each individual in each year was approximately \$600. Due to the fact that those individuals with the most to gain filed early, and those with the least to gain filed late, this estimate assumes that average claims due to this bill will be approximately \$450 for each affected year.
3. Approximately 5,800 additional claims will be received. This is based on the original percentage of 35.0% participation each year. Although additional individuals may file due to added publicity, there will also be individuals who don't file due to the fact that a number of affected retirees are deceased. Currently, there are no reliable estimates of either of these 2 effects.
4. Interest is assumed to be 77.0% of tax liability. This is the same ratio used by the DRF in computation of the effects of this bill.
5. This estimate assumes that all refunds will be paid prior to June 30, 1996.

FISCAL IMPACT:

Senate File 2 is expected to result in a decrease to the General Fund of approximately \$17.4 million in FY 1996 (95.0% of \$18.3 million). Approximately \$9.8 million is due to refunded taxes, and \$7.6 million is due to interest.

SOURCES: DRF

-2-

..... END REPORT

(LSB 1049SS, JAM)

FILED JANUARY 18, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR