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WAYS AND MEANS

HOUSE FILE 70

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WINCKLER, LENSING, SMITH, and
RICHARDSON

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the time and the criteria for filing of claims
2 for refund under the state individual income tax by retired
3 federal employees as a result of the unconstitutional taxation
4 of federal pensions and including an effective date.

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

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1 Section 1. Section 422.73, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4. Notwithstanding subsection 2, a claim
4 for refund of individual income tax paid for any tax year
5 beginning on or after January 1, 1985, and before January 1,
6 1989, is considered timely if filed with the department on or
7 before October 31, 2001, if the taxpayer's claim is the result
8 of the unconstitutional taxation of federal pension benefits
9 based upon the decision in Davis v. Michigan Department of
10 Treasury, 489 U.S. 803, 109 S. Ct. 1500 (1989).

11 A taxpayer entitled to a refund of tax paid under this
12 subsection shall receive an amount equal to one hundred
13 percent of the refund without interest. The claim for refund
14 must be filed separately from any income tax return and a
15 refund shall not be allowed as a credit for income taxes owed.
16 A claim must be filed between the effective date of this Act
17 and October 31, 2001. An extension for filing shall not be
18 allowed and claims disallowed on the basis of timeliness shall
19 not be allowed upon appeal to any other state agency
20 notwithstanding any other provision of law.

21 The claim for refund must be made on claim forms to be made
22 available by the department. In order for a taxpayer to have
23 a valid refund claim, the taxpayer must supply legible copies
24 of documents the director deems necessary to show entitlement
25 to the refund, including but not limited to income tax forms
26 and W-2P forms, which will establish the state income tax that
27 was paid on the federal pension benefits for the tax years in
28 question. The burden of proof is on the taxpayer to show that
29 the claim for refund is valid. Estates are not entitled to
30 file a claim for refund under this subsection, except a spouse
31 of a deceased taxpayer who was the spouse of the taxpayer when
32 the unconstitutional tax was imposed may file a claim for
33 refund without reopening the deceased taxpayer's estate. If a
34 taxpayer has filed a claim under this subsection and
35 subsequently dies before receipt of the refund, the taxpayer's

1 estate is entitled to receipt of any valid refund claim.

2 The department shall make a reasonable attempt to notify
3 individuals who are entitled to a refund under this
4 subsection.

5 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
6 immediate importance, takes effect upon enactment.

7 EXPLANATION

8 A 1993 Iowa supreme court decision held that retired
9 federal employees could retroactively receive a refund of
10 state individual income taxes unlawfully imposed on their
11 pensions if the refund claim was timely filed. This bill
12 provides that a claim filed by October 31, 2001, is timely
13 filed for taxes imposed for the 1985, 1986, 1987, and 1988 tax
14 years. The taxpayer is entitled to 100 percent of the refund
15 without interest. To claim a refund, the taxpayer must submit
16 adequate evidence, as designated by the director of revenue
17 and finance, showing the taxpayer's entitlement to the refund.
18 The claim is to be filed separately from any state income tax
19 return and no credit for income taxes owed is allowed. The
20 department shall attempt to notify individuals who are
21 entitled to a refund.

22 The bill takes effect upon enactment.

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