

1 SENATE BILL NO. 39

2 INTRODUCED BY HALLIGAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT TO FEDERAL RETIREES WHO FAILED
5 TO TIMELY FILE FOR REFUNDS FOR TAXES PAID ON FEDERAL PENSION INCOME FOR TAX YEARS 1983
6 THROUGH 1987; PROVIDING THAT THE CREDIT DOES NOT INCLUDE ACCUMULATED INTEREST ON
7 TAXES PAID; PROVIDING THAT ANY REMAINING CREDIT AND ANY CARRYOVER IS REFUNDABLE FOR
8 TAX YEAR 1998; PROVIDING THAT THE CREDIT AND ANY CARRYOVER IS REFUNDABLE TO THE
9 TAXPAYER'S ESTATE OR TRUST; REQUIRING APPLICATION FOR THE CREDIT; AMENDING SECTION
10 15-30-147, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. **Section 1. Credit for taxes paid on federal pension income.** (1) For the tax year
15 beginning after December 31, 1994, and for the succeeding 3 tax years, a taxpayer who was required to
16 pay a tax on federal pension income for any of the tax years 1983, 1984, 1985, 1986, and 1987 and who
17 failed to timely file a claim for a refund for any of the tax years 1983, 1984, 1985, 1986, and 1987 is
18 allowed a tax credit against the taxes imposed by 15-30-103 for the amount certified pursuant to
19 15-30-147(2)(f). The credit may be claimed on returns filed after December 31, 1995.

20 (2) Except as provided in subsection (3), the maximum credit that a taxpayer may claim on any
21 year's tax liability is 25% of the original amount certified pursuant to 15-30-147(2)(f), not to exceed the
22 total amount of the taxpayer's tax liability for the year in which the credit is claimed. That portion of the
23 credit that exceeds the taxpayer's liability in any year may be carried over to be applied to the succeeding
24 year's tax liability in addition to the percentage amount that the taxpayer is eligible to claim.

25 (3) For tax year 1998 only, if the credit and any carryover amount exceeds the taxpayer's liability
26 under this chapter, the amount of the excess must be refunded to the taxpayer. A credit, including any
27 carryover amount, may not be claimed for tax years beginning after December 31, 1998.

28
29 **Section 2.** Section 15-30-147, MCA, is amended to read:

30 "**15-30-147. Application for revision -- appeal -- application for tax credit for federal pension**

1 income. (1) An application for revision may be filed with the department by a taxpayer within 5 years from
2 the last day prescribed for filing the return as provided in 15-30-145(3), regardless of whether the return
3 was filed on or after the last day prescribed for filing. If the department has revised a return pursuant to
4 15-30-145(3), the taxpayer may revise the same return until the liability for that tax year is finally
5 determined. If the taxpayer is not satisfied with the action taken by the department, the taxpayer may
6 appeal to the state tax appeal board.

7 (2) (a) (i) Notwithstanding the provisions of subsection (1), a taxpayer who included federal pension
8 income in Montana adjusted gross income that resulted in the payment of a tax and who did not timely file
9 a claim for a refund of taxes paid on federal pension income for any of the tax years 1983, 1984, 1985,
10 1986, and 1987 may file an application for a tax credit to be used for the payment of future tax liabilities
11 as provided in [section 1].

12 (ii) For purposes of this section, "federal pension income" means pension income received from the
13 United States government or an agency of the United States government.

14 (b) A taxpayer who filed an income tax return using the status of married filing jointly and who did
15 not receive federal pension income as the result of personal services performed by the taxpayer for any of
16 the tax years 1983, 1984, 1985, 1986, and 1987 may not file a claim for a credit.

17 (c) A taxpayer who filed an income tax return using the status of married filing jointly for any of
18 the tax years 1983, 1984, 1985, 1986, and 1987, who along with the taxpayer's spouse received federal
19 pension income, and whose spouse is now deceased may file a claim for a credit for the amount of federal
20 pension income received by the taxpayer and for the amount received by the deceased spouse.

21 (d) The application for credit must be made between [the effective date of this act] and September
22 30, 1995. The application may be made only for tax years 1983, 1984, 1985, 1986, and 1987.

23 (e) (i) For a taxpayer who is physically or mentally incapacitated, a claim for the credit may be filed
24 on the taxpayer's behalf by a person authorized by law to handle the taxpayer's affairs or to act for the
25 taxpayer.

26 (ii) For a deceased taxpayer, a claim for the credit may be filed by either the fiduciary or the
27 beneficiary of the deceased taxpayer's estate or trust for the full amount of the credit and for any carryover
28 amounts. If the amount of the credit exceeds the tax liability of the estate or trust, the amount of the
29 excess must be refunded to the estate or trust.

30 (f) Upon receipt of the application, the department shall review the application for completeness

1 and accuracy. After review, the department shall certify to the taxpayer the amount of the taxpayer's credit
2 for taxes paid on federal pension income. The credit does not include accumulated interest on taxes paid
3 for tax years 1983, 1984, 1985, 1986, and 1987."
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5 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
6 integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to
7 [section 1].
8

9 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.
10

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0039, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing a tax credit to federal retirees who failed to timely file for refunds for taxes paid on federal pension income for tax years 1983 through 1987; providing that the credit does not include accumulated interest on taxes paid; providing that any remaining credit and any carryover is refundable for tax year 1998; providing that the credit and any carryover is refundable to the taxpayer's estate or trust; requiring application for the credit; and providing an immediate effective date

ASSUMPTIONS:

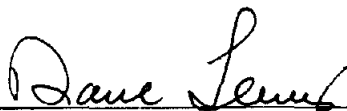
1. This proposal applies to tax years beginning after December 31, 1994 (tax year 1995).
2. The income tax credit provided for in the proposal is generally a non-refundable credit, i.e., credits generally will not be refunded to the extent that they exceed tax liability for a given year; credits due an estate or trust of a deceased taxpayer are an exception to this general rule.
3. Per this legislation, unused credits may be carried forward to tax years 1996, 1997, and 1998; for tax year 1998 only, the credit and any carryover amount is refundable.
4. No credit, including any carryover amount, may be claimed for tax years beginning after December 31, 1998 (tax year 1999 and beyond).
5. Potential refunds total \$9,765,768; of this amount, 80 percent, or \$7,812,614 will be claimed.
6. The total amount of refunds claimed will be credited in equal amounts (\$1,953,000) for tax years 1995 through 1998 (fiscal years 1996 through 1999).
7. The proposed legislation would require one-time expenditures for: \$49,855 for changes to the department's individual income tax system; \$33,030 for overtime associated with processing of applications for the tax credit; \$10,000 for an outreach program to inform potential applicants of the credit opportunity; and \$1,280 for postage.


FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Expenditures:</u>		
Department of Revenue (Income Tax Division)		
FTE	0.00	0.00
Personal Services	33,030	0
Operating Expenses	61,135	0
 Total (01)	 \$94,165	 \$0
 <u>Revenues:</u>		
Individual Income Tax (01)	(\$1,953,000)	(\$1,953,000)
 <u>Net Impact:</u>		
General Fund	(\$2,047,165)	(\$1,953,000)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Fiscal years 1998 and 1999 will also have a \$1,953,000 revenue loss as result of this legislation.

 1-7-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 1-10-95
 MIKE HALLIGAN, PRIMARY SPONSOR DATE

Fiscal Note for SB0039, as introduced

SB 39

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2 INTRODUCED BY HALLIGAN, DOHERTY, QUILICI, WILSON, SQUIRES, KLAMPE, MENAHAN, ECK,
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17 **(ii) For purposes of this section, "federal pension income" means pension income received from the**
18 **United States government or an agency of the United States government.**

19 **(b) A taxpayer who filed an income tax return using the status of married filing jointly and who did**
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24 **pension income, and whose spouse is now deceased may file a claim for a credit for the amount of federal**
25 **pension income received by the taxpayer and for the amount received by the deceased spouse.**

26 **(d) The application for credit must be made between [the effective date of this act] and September**
27 **30, 1995. The application may be made only for tax years 1983, 1984, 1985, 1986, and 1987.**

28 **(e) (i) For a taxpayer who is physically or mentally incapacitated, a claim for the credit may be filed**
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14 NEW SECTION. SECTION 4. CONTINGENT VOIDNESS. IN ORDER TO MAINTAIN A BALANCED
15 BUDGET, BECAUSE [THIS ACT] REDUCES REVENUE, IT MAY NOT BE TRANSMITTED TO THE GOVERNOR
16 UNLESS A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS CONTAINED IN HOUSE BILL NO.
17 2. IF A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS NOT CONTAINED IN HOUSE BILL NO.
18 2, [THIS ACT] IS VOID.

19
20 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

21 -END-

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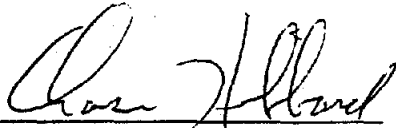
HOUSE STANDING COMMITTEE REPORT

April 6, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that Senate Bill 39 (third reading copy -- blue) be concurred in as amended.

Signed: _____


Chase Hibbard, Chair

And, that such amendments read:

Carried by: Rep. Hibbard

1. Title, lines 11 and 12.

Strike: "ANY REMAINING" on line 11

Insert: "THE"

Strike: "AND ANY CARRYOVER" on line 11

Following: "REFUNDABLE" on line 11

Strike: remainder of line 11 through "1998" on line 12

Strike: "AND ANY CARRYOVER"

2. Page 1, line 25.

Strike: "Except" through "the"

Insert: "The"

3. Page 1, lines 26 through 30.

Following: "15-30-147(2)(f)" on line 26

Strike: remainder of line 26 through "if" on line 30

Insert: ". If"

Strike: "and any carryover"

4. Page 2, lines 1 and 2.

Following: "credit" on line 1

Strike: remainder of line 1 through "amount," on line 2

Committee Vote:
Yes 20, No 0.

SB 39

HOUSE
791543SC.Hdh

April 6, 1995
Page 2 of 2

5. Page 3, lines 2 and 3.
Following: "credit" on line 2
Strike: remainder of line 2 through "amounts" on line 3

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 4 TUSS, FORRESTER, SOMERVILLE, WELLS, BARNETT, HIBBARD, ELLIOTT, SWYSGOOD, WELDON,
 5 BAER, GRADY, FOSTER, BERGMAN, JACOBSON, AHNER, L. SMITH, PIPINICH, MARSHALL,
 6 MARTINEZ, BOHLINGER, MASOLO, TASH, TREXLER, WISEMAN, KEENAN

7
 8 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT TO FEDERAL RETIREES WHO FAILED
 9 TO TIMELY FILE FOR REFUNDS FOR TAXES PAID ON FEDERAL PENSION INCOME FOR TAX YEARS 1983
 10 THROUGH 1987; PROVIDING THAT THE CREDIT DOES NOT INCLUDE ACCUMULATED INTEREST ON
 11 TAXES PAID; PROVIDING THAT ~~ANY REMAINING~~ THE CREDIT ~~AND ANY CARRYOVER~~ IS REFUNDABLE
 12 ~~FOR TAX YEAR 1998~~; PROVIDING THAT THE CREDIT ~~AND ANY CARRYOVER~~ IS REFUNDABLE TO THE
 13 TAXPAYER'S ESTATE OR TRUST; REQUIRING APPLICATION FOR THE CREDIT; AMENDING SECTION
 14 15-30-147, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A CONTINGENT VOIDNESS
 15 PROVISION."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
 19 NEW SECTION. Section 1. Credit for taxes paid on federal pension income. (1) For the tax year
 20 beginning after December 31, 1994, and for the succeeding 3 tax years, a taxpayer who was required to
 21 pay a tax on federal pension income for any of the tax years 1983, 1984, 1985, 1986, and 1987 and who
 22 failed to timely file a claim for a refund for any of the tax years 1983, 1984, 1985, 1986, and 1987 is
 23 allowed a tax credit against the taxes imposed by 15-30-103 for the amount certified pursuant to
 24 15-30-147(2)(f). The credit may be claimed on returns filed after December 31, 1995.

25 (2) ~~Except as provided in subsection (3), the~~ THE maximum credit that a taxpayer may claim on
 26 any year's tax liability is 25% of the original amount certified pursuant to 15-30-147(2)(f), ~~not to exceed~~
 27 ~~the total amount of the taxpayer's tax liability for the year in which the credit is claimed. That portion of~~
 28 ~~the credit that exceeds the taxpayer's liability in any year may be carried over to be applied to the~~
 29 ~~succeeding year's tax liability in addition to the percentage amount that the taxpayer is eligible to claim.~~

30 (3) ~~For tax year 1998 only, if.~~ IF the credit ~~and any carryover~~ amount exceeds the taxpayer's

1 liability under this chapter, the amount of the excess must be refunded to the taxpayer. A credit, ~~including~~
2 ~~any carryover amount,~~ may not be claimed for tax years beginning after December 31, 1998.

3

4 **Section 2.** Section 15-30-147, MCA, is amended to read:

5 **"15-30-147. Application for revision -- appeal -- application for tax credit for federal pension**

6 **income.** (1) An application for revision may be filed with the department by a taxpayer within 5 years from
7 the last day prescribed for filing the return as provided in 15-30-145(3), regardless of whether the return
8 was filed on or after the last day prescribed for filing. If the department has revised a return pursuant to
9 15-30-145(3), the taxpayer may revise the same return until the liability for that tax year is finally
10 determined. If the taxpayer is not satisfied with the action taken by the department, the taxpayer may
11 appeal to the state tax appeal board.

12 (2) (a) (i) Notwithstanding the provisions of subsection (1), a taxpayer who included federal pension
13 income in Montana adjusted gross income that resulted in the payment of a tax and who did not timely file
14 a claim for a refund of taxes paid on federal pension income for any of the tax years 1983, 1984, 1985,
15 1986, and 1987 may file an application for a tax credit to be used for the payment of future tax liabilities
16 as provided in [section 1].

17 (ii) For purposes of this section, "federal pension income" means pension income received from the
18 United States government or an agency of the United States government.

19 (b) A taxpayer who filed an income tax return using the status of married filing jointly and who did
20 not receive federal pension income as the result of personal services performed by the taxpayer for any of
21 the tax years 1983, 1984, 1985, 1986, and 1987 may not file a claim for a credit.

22 (c) A taxpayer who filed an income tax return using the status of married filing jointly for any of
23 the tax years 1983, 1984, 1985, 1986, and 1987, who along with the taxpayer's spouse received federal
24 pension income, and whose spouse is now deceased may file a claim for a credit for the amount of federal
25 pension income received by the taxpayer and for the amount received by the deceased spouse.

26 (d) The application for credit must be made between [the effective date of this act] and September
27 30, 1995. The application may be made only for tax years 1983, 1984, 1985, 1986, and 1987.

28 (e) (i) For a taxpayer who is physically or mentally incapacitated, a claim for the credit may be filed
29 on the taxpayer's behalf by a person authorized by law to handle the taxpayer's affairs or to act for the
30 taxpayer.

