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INTRODUCED BY

*House* BILL NO. *451*  
*Simpkins*

A BILL FOR AN ACT ENTITLED: "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 THE CREDIT IS NOT REFUNDABLE FOR ANY TAX YEAR; PROVIDING THAT THE CREDIT MAY BE CLAIMED BY THE TAXPAYER'S ESTATE OR TRUST; REQUIRING APPLICATION FOR THE CREDIT; AMENDING SECTION 15-30-147, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION.** **Section 1. Credit for taxes paid on federal pension income.** (1) For the tax year beginning after December 31, 1996, and for the succeeding 3 tax years, a taxpayer who was required to pay a tax on federal pension income for any of the tax years 1983, 1984, 1985, 1986, and 1987 and who failed to timely file a claim for a refund for any of the tax years 1983, 1984, 1985, 1986, and 1987 is allowed a tax credit against the taxes imposed by 15-30-103 for the amount certified pursuant to 15-30-147(2)(f). The credit may be claimed on returns filed after December 31, 1997.

(2) The maximum credit that a taxpayer may claim on any year's tax liability is 25% of the original amount certified pursuant to 15-30-147(2)(f), not to exceed the total amount of the taxpayer's tax liability for the year in which the credit is claimed. The credit may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has no tax liability.

(3) A credit may not be claimed for tax years beginning after December 31, 2000.

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

**"15-30-147. Application for revision -- appeal -- application for tax credit for federal pension income.** (1) An application for revision may be filed with the department by a taxpayer within 5 years from the last day prescribed for filing the return as provided in 15-30-145(3), regardless of whether the return was filed on or after the last day prescribed for filing. If the department has revised a return pursuant to

1 15-30-145(3), the taxpayer may revise the same return until the liability for that tax year is finally  
2 determined. If the taxpayer is not satisfied with the action taken by the department, the taxpayer may  
3 appeal to the state tax appeal board.

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

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

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

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

18 (d) The application for credit must be made between [the effective date of this act] and September  
19 30, 1997. The application may be made only for tax years 1983, 1984, 1985, 1986, and 1987.

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

23 (ii) For a deceased taxpayer, a claim for the credit may be filed by either the fiduciary or the  
24 beneficiary of the deceased taxpayer's estate or trust for the full amount of the credit. The amount of the  
25 credit may not exceed the tax liability of the estate or trust.

26 (f) Upon receipt of the application, the department shall review the application for completeness  
27 and accuracy. After review, the department shall certify to the taxpayer the amount of the taxpayer's credit  
28 for taxes paid on federal pension income. The credit does not include accumulated interest on taxes paid  
29 for the tax years 1983, 1984, 1985, 1986, and 1987."

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0451, 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 the credit is not refundable for any tax year; providing that the credit may be claimed by the taxpayer's estate or trust; requiring application for the credit; and providing an immediate effective date.

ASSUMPTIONS:

1. The tax credit provided for in this bill may be claimed for tax years 1997 through 2000 only.
2. The maximum credit that may be claimed in any given year is the smaller of 25% of the original amount certified pursuant to 15-30-147(2) (f), or the taxpayer's actual net tax liability; i.e., the credit is not of the refundable type.
3. The tax credit may not be carried forward or backward.
4. Potential refunds total \$9,800,000; of this amount, 70 percent, or \$6,860,000 would be claimed, with this amount distributed equally for tax years 1997 through 2000 (fiscal years 1998 through 2001).

FISCAL IMPACT:

Expenditures: (General Fund)

There will be additional administrative costs in FY97 of \$10,000 in overtime used to certify the amount of credit claimed on amended returns; and \$5,000 for outreach education.

FY98 costs include \$33,000 in overtime to certify amended returns; \$10,000 in outreach program costs; and \$18,807 for additional operating expenses associated with programming costs, postage, and keypunching data. Ongoing operating expenses are \$354 in FY99.

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Personal Services	\$33,100	\$100
<u>Operating Expense</u>	<u>28,707</u>	<u>254</u>
Total	\$61,807	\$354

Revenues: (General Fund)


	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Individual Income Tax	\$(1,715,000)	\$(1,715,000)

Net Impact: (General Fund)

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Administrative Expense	\$(61,807)	\$(354)
<u>Individual Income Tax</u>	<u>(1,715,000)</u>	<u>(1,715,000)</u>
Total	\$(1,776,807)	\$(1,715,354)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Revenues will be reduced an estimated \$1,715,000 in fiscal years 2000 and 2001 under the proposal.

  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

  
 DICK SIMPKINS, PRIMARY SPONSOR      DATE