



1995 SENATE BILL 148

April 19, 1995 - Introduced by Senator LEEAN, cosponsored by Representative BRANCEL. Referred to Committee on Finance.

1 **AN ACT relating to:** the expenditure of \$24,795.42 from the general fund for
2 payment of a claim against the state made by Mary Johnson.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$24,795.42 from the general fund in payment of a claim made by Mary Johnson against the department of revenue (DOR). The claimant's husband, Floyd Johnson, failed to file income tax returns for taxable years 1985 to 1988. Pursuant to s. 71.74 (3), stats., DOR then served notices of estimated tax liability for those years upon Mr. Johnson and assessed him for that liability. Mr. Johnson paid some of the amounts assessed, but failed to pay other amounts, and did not file returns stating the actual amounts of his income and taxes owed for those years. DOR issued a warrant to levy upon and sell Mr. Johnson's residence to satisfy the unpaid assessments, together with interest and costs assessed under s. 71.91 (5) (d), stats. Based upon a reconstruction of Mr. Johnson's income for those years performed by the internal revenue service, the claimant estimated that Mr. Johnson overpaid his state income taxes for those years by \$47,090.80. In addition, the claimant alleges that Mr. Johnson was improperly charged \$2,457 in interest on taxes that were not due, and \$43 in costs. Under s. 71.75 (5), stats., a taxpayer may claim a refund for all or part of a credit issued to the taxpayer as a result of an excessive assessment, together with interest and penalties, within 2 years of the date of the assessment. Under s. 71.80 (3), stats., within 2 years after an overpayment of taxes is credited to a taxpayer, a nonobligated spouse of the taxpayer may submit to DOR evidence that all or part of the credit was derived from nonmarital property of the nonobligated spouse, and DOR may thereupon pay the amount claimed to the nonobligated spouse. Neither Mr. Johnson nor the claimant submitted claims to DOR. The claims board recommended payment of 50% of the amount claimed to the claimant (\$24,795.42) based on equitable principles. See 1993 *Senate Journal*, p. 514.

