

FILED FEB 17 1982

SENATE FILE 2180

BY COMMITTEE ON EDUCATION

(FORMERLY SSB 2179)

*approved 2/17 (p. 419)  
bill. for H. F. 2408*

Passed Senate, Date 3-2-82 (p. 555) Passed House, Date 3-9-82 (p. 128)

Vote: Ayes 42 Nays 5 Vote: Ayes 96 Nays 1

Approved March 29, 1982 (p. 957)

*Proposed Senate for House Amendment  
3-16-82 (p. 168)  
41-7*

# A BILL FOR

- 1 An Act to provide a setoff against income tax refunds and
- 2 rebates for defaults on guaranteed student loans.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4

SENATE FILE 2180  
FISCAL NOTE

REQUESTED BY SENATOR GRATIAS

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 2180 pursuant to Joint Rule 16.

S.F. 2180 allows the recovery of losses due to defaults on student loans by withholding state individual income tax refunds or rebates. The College Aid Commission will provide the Department of Revenue a list of persons who have defaulted on guaranteed student loans or on parental loans for students. The Revenue Department will notify individuals whose refunds or rebates are withheld. The recovered money is to be transferred to the College Aid Commission recovery fund. The state is allowed by federal law to keep 30 percent of the recoveries for costs incurred, while 70% is returned to the federal government.

A pilot match showed 21 out of 131 defaulters had tax refunds or rebates totaling \$1,600 that could be withheld. As of December 31, 1981, the College Aid Commission had paid default claims totaling \$368,912, which is 2.03% of the total loans in repayment status. The administrative costs associated with the procedure is not known, however it is not expected to require any additional staff.

SOURCE: COLLEGE AID COMMISSION, DEPARTMENT OF REVENUE  
RECEIVED BY THE SECRETARY OF THE SENATE, FEBRUARY 22, 1982

FILED:  
FEBRUARY 23, 1982

BY GERRY RANKIN, DIRECTOR  
LEGISLATIVE FISCAL BUREAU

23  
24  
25

1 Section 1. Section 261.37, subsection 7, Code 1981, is  
2 amended to read as follows:

3 7. To establish an effective system for the collection  
4 of delinquent loans, including the adoption of an agreement  
5 with the Iowa department of revenue to set off against a  
6 defaulter's income tax refund or rebate the amount that is  
7 due because of a default on a guaranteed student or parental  
8 loan made under this division. The commission shall adopt  
9 rules under chapter 17A necessary to assist the department  
10 of revenue in the implementation of the student loan setoff  
11 program as established under section 421.17 in section 2 of  
12 this Act.

13 Sec. 2. Section 421.17, Code 1981, is amended by adding  
14 the following new subsection:

15 NEW SUBSECTION. To establish and maintain a procedure  
16 to set off against a defaulter's income tax refund or rebate  
17 the amount that is due because of a default on a guaranteed  
18 student or parental loan under chapter 261. The procedure  
19 shall meet the following conditions:

20 a. Before setoff all outstanding tax liabilities  
21 collectible by the department of revenue shall be satisfied  
22 except that a refund or rebate shall not be credited against  
23 tax liabilities which are not yet due.

24 b. Before setoff the college aid commission shall obtain  
25 and forward to the department of revenue the full name and  
26 social security number of the defaulter. The department of  
27 revenue shall cooperate in the exchange of relevant information  
28 with the college aid commission.

29 c. The college aid commission shall, at least annually,  
30 submit to the department of revenue for setoff the guaranteed  
31 student loan defaults, which are at least fifty dollars, on  
32 a date or dates to be specified by the college aid commission  
33 by rule.

34 d. Upon submission of a claim, the department of revenue  
35 shall notify the college aid commission whether the defaulter

1 is entitled to a refund or rebate of at least fifty dollars  
2 and if so entitled shall notify the commission of the amount  
3 of the refund or rebate and of the defaulter's address on  
4 the income tax return. Section 422.72, subsection 1, does  
5 not apply to this paragraph.

6 e. Upon notice of entitlement to a refund or rebate, the  
7 college aid commission shall send written notification to  
8 the defaulter, and a copy of the notice to the department  
9 of revenue, of the commission's assertion of its rights to  
10 all or a portion of the defaulter's refund or rebate and the  
11 entitlement to recover the amount of the default through the  
12 setoff procedure, the basis of the assertion, the defaulter's  
13 opportunity to request that a joint income tax refund or  
14 rebate be divided between spouses, the defaulter's opportunity  
15 to give written notice of intent to contest the claim, and  
16 the fact that failure to contest the claim by written  
17 application for a hearing before a specified date will result  
18 in a waiver of the opportunity to contest the claim, causing  
19 final setoff by default. Upon application, the commission  
20 shall grant a hearing pursuant to chapter 17A. An appeal  
21 taken from the decision of a hearing officer and any subsequent  
22 appeals shall be taken pursuant to chapter 17A.

23 f. Upon the timely request of a defaulter or a defaulter's  
24 spouse to the college aid commission and upon receipt of the  
25 full name and social security number of the defaulter's spouse,  
26 the commission shall notify the department of revenue of the  
27 request to divide a joint income tax refund or rebate. The  
28 department of revenue shall upon receipt of the notice divide  
29 a joint income tax refund or rebate between the defaulter  
30 and the defaulter's spouse in proportion to each spouse's  
31 net income as determined under section 422.7.

32 g. The department of revenue shall, after notice has been  
33 sent to the defaulter by the college aid commission, set off  
34 the amount of the default against the defaulter's income tax  
35 refund or rebate if both the amount of the default and the

1 refund or rebate are at least fifty dollars. The department  
2 shall refund any balance of the income tax refund or rebate  
3 to the defaulter. The department of revenue shall periodically  
4 transfer the amount set off to the college aid commission.  
5 If the defaulter gives written notice of intent to contest  
6 the claim, the commission shall hold the refund or rebate  
7 until final disposition of the contested claim pursuant to  
8 chapter 17A or by court judgment. The commission shall notify  
9 the defaulter in writing upon completion of setoff.

10 Sec. 3. Section 421.17, Code 1981, is amended by adding  
11 the following new subsection:

12 NEW SUBSECTION. To determine priority in multiple claims  
13 to refunds or rebates filed by the child support recovery  
14 unit under subsection 21 and the college aid commission un-  
15 der section 2 of this Act in the order in time in which the  
16 claimant agency has filed a written notice for setoff with  
17 the department of revenue.

18 EXPLANATION

19 This bill provides for a state income tax setoff program  
20 to recover losses from defaulted loans under the guaranteed  
21 student loan and the parental loans for undergraduate students  
22 programs. The Iowa college aid commission will inform the  
23 Iowa department of revenue of defaulters and the department  
24 of revenue will notify individuals that their state income  
25 tax refunds or rebates are being withheld and transferred  
26 to the college aid commission in partial repayment of a  
27 defaulted loan. The program is similar to an income tax  
28 setoff program with the department of social services for  
29 recovery of child support payments. The bill provides for  
30 resolution of multiple claims for the setoff. The bill takes  
31 effect July 1 following its enactment.

32  
33  
34  
35

SENATE FILE 2180

H-5340

1 Amend Senate File 2180 as follows:  
2 1. Page 3, by striking lines 12 through 17 and  
3 inserting in lieu thereof the following:  
4 "NEW SUBSECTION. To provide that in the case of  
5 multiple claims to refunds or rebates filed by the  
6 child support recovery unit under subsection 21 and  
7 the college aid commission under section 2 of this  
8 Act, that priority shall be given to claims filed  
9 by the child support recovery unit under subsection  
10 21."

H-5340 FILED  
MARCH 8, 1982  
*Adopted 2/9 (p. 728)*

BY JOHNSON of Howard  
JAY of Appanoose

SENATE FILE 2180

H-5350

1 Amend Senate File 2180, as passed by the Senate,  
2 as follows:  
3 1. Page 3, by inserting after line 9 the following:  
4 "Sec. \_\_\_\_ Section 421.17, Code 1981, is amended  
5 by adding the following new subsection:  
6 NEW SUBSECTION. To enter into reciprocal agreements  
7 with the departments of revenue of other states that  
8 have enacted legislation, that is substantially  
9 equivalent to the setoff procedure in section 2 of  
10 this Act. A reciprocal agreement shall also be  
11 approved by the college aid commission. The agreement  
12 shall authorize the department to provide by rule  
13 for the setoff of state income tax refunds or rebates  
14 of defaulters from states with which Iowa has a  
15 reciprocal agreement and to provide for sending lists  
16 of names of Iowa defaulters to the states with which  
17 Iowa has a reciprocal agreement for setoff of that  
18 state's income tax refunds."

H-5350 FILED MARCH 8, 1982  
*Adopted 2/9 (p. 727)*

BY KREWSON of Polk

SENATE FILE 2180

H-5356

1 Amend Senate File 2180, as follows:  
2 1. Title page, by striking lines 1 and 2 and  
3 inserting in lieu thereof the following: "An Act  
4 relating to setoffs against state income tax refunds,  
5 including claims based on defaults on guaranteed  
6 student loans and child support recovery claims, and  
7 authorizing reciprocal agreements with other states  
8 dealing with the subject matter."

H-5356 FILED MARCH 9, 1982  
ADOPTED BY UNANIMOUS CONSENT *(p. 727)*

BY RITSEMA of Sioux

HOUSE AMENDMENT TO SENATE FILE 2180

S-5230

1 Amend Senate File 2180 as follows:

2 1. Page 3, by inserting after line 9 the following:

3 "Sec. \_\_\_\_ . Section 421.17, Code 1981, is amended

4 by adding the following new subsection:

5 NEW SUBSECTION. To enter into reciprocal agreements  
6 with the departments of revenue of other states that  
7 have enacted legislation, that is substantially  
8 equivalent to the setoff procedure in section 2 of  
9 this Act. A reciprocal agreement shall also be  
10 approved by the college aid commission. The agreement  
11 shall authorize the department to provide by rule  
12 for the setoff of state income tax refunds or rebates  
13 of defaulters from states with which Iowa has a  
14 reciprocal agreement and to provide for sending lists  
15 of names of Iowa defaulters to the states with which  
16 Iowa has a reciprocal agreement for setoff of that  
17 state's income tax refunds."

18 2. Page 3, by striking lines 12 through 17 and  
19 inserting in lieu thereof the following:

20 "NEW SUBSECTION. To provide that in the case of  
21 multiple claims to refunds or rebates filed by the  
22 child support recovery unit under subsection 21 and  
23 the college aid commission under section 2 of this  
24 Act, that priority shall be given to claims filed  
25 by the child support recovery unit under subsection  
26 21."

27 3. Title page, by striking lines 1 and 2 and  
28 inserting in lieu thereof the following: "An Act  
29 relating to setoffs against state income tax refunds,  
30 including claims based on defaults on guaranteed  
31 student loans and child support recovery claims, and  
32 authorizing reciprocal agreements with other states  
33 dealing with the subject matter."

S-5230 FILED

MARCH 11, 1982

RECEIVED FROM THE HOUSE

*Senate concurred 5/16 (p 768)*

SENATE FILE 2180

AN ACT

RELATING TO SETOFFS AGAINST STATE INCOME TAX REFUNDS, INCLUDING CLAIMS BASED ON DEFAULTS ON GUARANTEED STUDENT LOANS AND CHILD SUPPORT RECOVERY CLAIMS, AND AUTHORIZING RECIPROCAL AGREEMENTS WITH OTHER STATES DEALING WITH THE SUBJECT MATTER.

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

Section 1. Section 261.37, subsection 7, Code 1981, is amended to read as follows:

7. To establish an effective system for the collection of delinquent loans, including the adoption of an agreement with the Iowa department of revenue to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed student or parental loan made under this division. The commission shall adopt rules under chapter 17A necessary to assist the department of revenue in the implementation of the student loan setoff program as established under section 421.17 in section 2 of this Act.

Sec. 2. Section 421.17, Code 1981, is amended by adding the following new subsection:

**NEW SUBSECTION.** To establish and maintain a procedure to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed student or parental loan under chapter 261. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department of revenue shall be satisfied except that a refund or rebate shall not be credited against tax liabilities which are not yet due.

b. Before setoff the college aid commission shall obtain and forward to the department of revenue the full name and social security number of the defaulter. The department of revenue shall cooperate in the exchange of relevant information with the college aid commission.

c. The college aid commission shall, at least annually, submit to the department of revenue for setoff the guaranteed student loan defaults, which are at least fifty dollars, on a date or dates to be specified by the college aid commission by rule.

d. Upon submission of a claim, the department of revenue shall notify the college aid commission whether the defaulter is entitled to a refund or rebate of at least fifty dollars and if so entitled shall notify the commission of the amount of the refund or rebate and of the defaulter's address on the income tax return. Section 422.72, subsection 1, does not apply to this paragraph.

e. Upon notice of entitlement to a refund or rebate, the college aid commission shall send written notification to the defaulter, and a copy of the notice to the department of revenue, of the commission's assertion of its rights to all or a portion of the defaulter's refund or rebate and the entitlement to recover the amount of the default through the setoff procedure. On the basis of the assertion, the defaulter's opportunity to request that a joint income tax refund or rebate be divided between spouses, the defaulter's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing before a specified date will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application, the commission shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer and any subsequent appeals shall be taken pursuant to chapter 17A.

f. Upon the timely request of a defaulter or a defaulter's spouse to the college aid commission and upon receipt of the full name and social security number of the defaulter's spouse, the commission shall notify the department of revenue of the request to divide a joint income tax refund or rebate. The department of revenue shall upon receipt of the notice divide a joint income tax refund or rebate between the defaulter and the defaulter's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department of revenue shall, after notice has been sent to the defaulter by the college aid commission, set off the amount of the default against the defaulter's income tax refund or rebate if both the amount of the default and the refund or rebate are at least fifty dollars. The department shall refund any balance of the income tax refund or rebate to the defaulter. The department of revenue shall periodically transfer the amount set off to the college aid commission. If the defaulter gives written notice of intent to contest the claim, the commission shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The commission shall notify the defaulter in writing upon completion of setoff.

Sec. 3. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To enter into reciprocal agreements with the departments of revenue of other states that have enacted legislation, that is substantially equivalent to the setoff procedure in section 2 of this Act. A reciprocal agreement shall also be approved by the college aid commission. The agreement shall authorize the department to provide by rule for the setoff of state income tax refunds or rebates of defaulters from states with which Iowa has a reciprocal agreement and to provide for sending lists of names of Iowa defaulters to the states with which Iowa has a reciprocal agreement for setoff of that state's income tax refunds.

Sec. 4. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To provide that in the case of multiple claims to refunds or rebates filed by the child support recovery unit under subsection 21 and the college aid commission under section 2 of this Act, that priority shall be given to claims filed by the child support recovery unit under subsection 21.

\_\_\_\_\_  
TERRY E. BRANSTAD  
President of the Senate

\_\_\_\_\_  
DELWYN STROMER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2180, Sixty-ninth General Assembly.

\_\_\_\_\_  
K. MARIE THAYER  
Secretary of the Senate

Approved March 29, 1982

\_\_\_\_\_  
ROBERT D. RAY  
Governor