

SENATE FILE 351  
BY HUSAK

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the setoff of criminal fines, civil penalties,  
2 surcharges, or court costs against an income tax refund or  
3 rebate owed the debtor.

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

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SF 351

1 Section 1. Section 421.17, subsection 25, Code 1991, is  
2 amended to read as follows:

3 25. To establish and maintain a procedure to set off  
4 against a debtor's income tax refund or rebate any debt which  
5 is in the form of a liquidated sum due, owing, and payable to  
6 ~~the clerk of the district court~~ as a criminal fine, civil  
7 penalty, surcharge, or court costs. The procedure shall meet  
8 the following conditions:

9 a. Before setoff all outstanding tax liabilities  
10 collectible by the department shall be satisfied except that  
11 no portion of a refund or rebate shall be credited against tax  
12 liabilities which are not yet due.

13 b. Before setoff the ~~clerk of the district court~~ county  
14 attorney shall obtain from the clerk of the district court and  
15 forward to the department the full name and social security  
16 number of the debtor. The department shall cooperate in the  
17 exchange of relevant information with the ~~clerk~~ county  
18 attorney. However, only relevant information required by the  
19 ~~clerk~~ county attorney shall be provided by the department.  
20 The information shall be held in confidence and shall be used  
21 for purposes of setoff only.

22 c. The ~~clerk~~ county attorney shall, at least quarterly and  
23 monthly if practicable, submit to the department for setoff  
24 the debts described in this subsection, which are at least  
25 fifty dollars.

26 d. Upon submission of a claim the department shall notify  
27 the ~~clerk~~ county attorney if the debtor is entitled to a  
28 refund or rebate and of the amount of the refund or rebate and  
29 the debtor's address on the income tax return.

30 e. Upon notice of entitlement to a refund or rebate the  
31 ~~clerk~~ county attorney shall send written notification to the  
32 debtor of the ~~clerk's~~ county attorney's assertion of rights to  
33 all or a portion of the debtor's refund or rebate and the  
34 entitlement to recover the debt through the setoff procedure,  
35 the basis of the assertion, the opportunity to request that a

1 joint income tax refund or rebate be divided between spouses,  
2 and the debtor's opportunity to give written notice of intent  
3 to contest the amount of the claim. The clerk county attorney  
4 shall send a copy of the notice to the department.

5 f. Upon the request of a debtor or a debtor's spouse to  
6 the clerk county attorney, filed within fifteen days from the  
7 mailing of the notice of entitlement to a refund or rebate,  
8 and upon receipt of the full name and social security number  
9 of the debtor's spouse, the clerk county attorney shall notify  
10 the department of the request to divide a joint income tax  
11 refund or rebate. The department shall upon receipt of the  
12 notice divide a joint income tax refund or rebate between the  
13 debtor and the debtor's spouse in proportion to each spouse's  
14 net income as determined under section 422.7.

15 g. The department shall, after notice has been sent to the  
16 debtor by the clerk county attorney, set off the debt against  
17 the debtor's income tax refund or rebate. The department  
18 shall transfer at least quarterly and monthly if practicable,  
19 the amount set off to the clerk county attorney. The county  
20 attorney shall remit fifty percent of the amount set off to  
21 the clerk of the district court for disposition as if the  
22 fine, penalty, surcharge, or court costs had been paid  
23 directly by the debtor and fifty percent to the county general  
24 fund. If the debtor gives timely written notice of intent to  
25 contest the amount of the claim, the department shall hold the  
26 refund or rebate until final determination of the correct  
27 amount of the claim. The clerk county attorney shall notify  
28 the debtor in writing upon completion of setoff.

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#### EXPLANATION

30 This bill provides that the county attorney shall work with  
31 the department of revenue and finance to set off criminal  
32 fines, civil penalties, surcharges, or court costs against a  
33 tax refund owed the person owing the fine, penalty, surcharge,  
34 or court costs. The bill also directs the county attorney to  
35 remit 50 percent of the moneys collected in this manner to the

1 general fund of the county and 50 percent to the clerk of the  
2 district court.

3 This bill establishes a state mandate under chapter 25B.  
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8 SENATE FILE 351  
9 FISCAL NOTE

A fiscal note for Senate File 351 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 351 provides that the county attorney shall work with the Department of Revenue and Finance to set off criminal fines, civil penalties, surcharges, or court costs against a tax refund owed the person owing the fine, penalty, surcharge, or court costs. The bill also directs the county attorney to remit 50 percent of the moneys collected in this manner to the general fund of the county and 50 percent to the clerk of the district court.

Fiscal Effect:

The Judicial Department is unable to provide a fiscal estimate of Senate File 351 because the clerks of district court do not have computerized information to provide to the Department of Revenue and Finance. Second, the court system does not have the social security numbers of debtors which is required to implement the tax intercept procedure.

Source: Judicial Department, Department of Revenue and Finance (LSB 2038ss, LCS)

FILED MARCH 27, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR