

Sen. Day - House 3/31

Bill 2 recommended
for passage 4/9
(p. 1375)
Amended per 5754
Do Pass 4/11
(p. 1375)

MAR 17 1980

WAYS & MEANS CALENDAR

HOUSE FILE 2554

By COMMITTEE ON WAYS AND MEANS

(Formerly House File 2347)

Passed House, Date 3/27/80 (p. 1225) Passed Senate, Date 4/22/80 (p. 1005)

Vote: Ayes 74 Nays 0 Vote: Ayes 47 Nays 1

Approved May 17, 1980

Repassed House 4/26/80 (p. 2125)

97-0

A BILL FOR

1 An Act relating to a setoff against income tax refunds of
2 certain accrued and liquidated debts assigned to the
3 department of social services and due and owing for
4 the care, support or maintenance of a child.

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

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1 Section 1. Section two hundred fifty-two B point five
2 (252B.5), Code 1979, is amended by adding the following new
3 subsection:

4 NEW SUBSECTION. Assistance to set off against a debtor's
5 income tax refund any debt assigned to the department of
6 social services which has accrued through written contract,
7 subrogation, or court judgment, and which is in the form of
8 a liquidated sum due and owing for the care, support or
9 maintenance of a child. The department of social services
10 shall promulgate rules pursuant to chapter seventeen A (17A)
11 of the Code necessary to assist the department of revenue
12 in the implementation of the child support setoff as
13 established under section two (2) of this Act.

14 Sec. 2. Section four hundred twenty-one point seventeen
15 (421.17), Code 1979, is amended by adding the following new
16 subsection:

17 NEW SUBSECTION. To establish and maintain a procedure
18 to set off against a debtor's income tax refund any debt
19 assigned to the department of social services which has accrued
20 through written contract, subrogation, or court judgment and
21 which is in the form of a liquidated sum due and owing for
22 the care, support or maintenance of a child. The procedure
23 shall meet the following conditions:

24 a. Before setoff all outstanding tax liabilities
25 collectible by the department of revenue shall be satisfied
26 except that no portion of a refund shall be credited against
27 any tax liabilities which are not yet due.

28 b. Before setoff the child support recovery unit estab-
29 lished pursuant to section two hundred fifty-two B point two
30 (252B.2) of the Code shall obtain and forward to the depart-
31 ment of revenue the full name and social security number of
32 the debtor. The department of revenue shall cooperate in
33 the exchange of relevant information with the child support
34 recovery unit as provided in section two hundred fifty-two
35 B point nine (252B.9) of the Code.

1 c. The child support recovery unit shall, at least
2 annually, submit to the department of revenue for setoff the
3 above-mentioned debts, which are at least fifty dollars, on
4 a date or dates to be specified by the department of social
5 services by rule.

6 d. Upon submission of a claim the department of revenue
7 shall notify the child support recovery unit whether the
8 debtor is entitled to a refund of at least fifty dollars and
9 if so entitled shall notify the unit of the amount of the
10 refund and of the debtor's address on the income tax return.

11 e. Upon notice of entitlement to a refund the child support
12 recovery unit shall send written notification to the debtor,
13 and a copy of the notice to the department of revenue, of
14 the unit's assertion of rights to all or a portion of the
15 debtor's refund and the entitlement to recover the debt through
16 the setoff procedure, the basis of the assertion, the
17 opportunity to request that a joint income tax refund be
18 divided between spouses, the debtor's opportunity to give
19 written notice of intent to contest the claim, and the fact
20 that failure to contest the claim by written application for
21 a hearing will result in a waiver of the opportunity to contest
22 the claim, causing final setoff by default. The child support
23 recovery unit shall upon application grant a hearing pursuant
24 to chapter seventeen A (17A) of the Code. Any appeal taken
25 from the decision of a hearing officer and any subsequent
26 appeals shall be taken pursuant to chapter seventeen A (17A)
27 of the Code.

28 f. Upon the timely request of a debtor or a debtor's
29 spouse to the child support recovery unit and upon receipt
30 of the full name and social security number of the debtor's
31 spouse, the unit shall notify the department of revenue of
32 the request to divide a joint income tax refund. The
33 department of revenue shall upon receipt of the notice divide
34 a joint income tax refund between the debtor and the debtor's
35 spouse in proportion to each spouse's net income as determined

1 under section four hundred twenty-two point seven (422.7)
2 of the Code.

3 g. The department of revenue shall, after notice has been
4 sent to the debtor by the child support recovery unit, set
5 off the above mentioned debt against the debtor's income tax
6 refund if both the debt and the refund are at least fifty
7 dollars. The department shall refund any balance of the
8 income tax refund to the debtor. The department of revenue
9 shall periodically transfer the amount set off to the child
10 support recovery unit. If the debtor gives written notice
11 of intent to contest the claim the department of social
12 services shall hold the refund until final disposition of
13 the contested claim pursuant to chapter seventeen A (17A)
14 of the Code or by court judgment. The child support recovery
15 unit shall notify the debtor in writing upon completion of
16 setoff.

17 h. Notwithstanding section four hundred twenty-two point
18 sixteen (422.16), subsection nine (9) of the Code, the payment
19 of interest is not required if the department of revenue or
20 the department of social services holds an individual or a
21 joint refund for the purpose of setoff under this section
22 beyond the allowed period of time.

23 EXPLANATION

24 This bill authorizes the department of revenue to set off
25 against income tax refunds accrued and liquidated debts
26 assigned to the department of social services and due and
27 owing for the care, support or maintenance of a child. The
28 child support recovery unit of the department of social
29 services is charged with submitting the names and other
30 pertinent information to the department of revenue for setoff.
31 The unit is responsible for notifying the debtor of the setoff
32 proceedings and the debtor's right to contest the claim under
33 the administrative procedures act. Both the debt and the
34 refund must be at least fifty dollars before setoff can occur.
35 Upon request a joint income tax refund must be divided between

1 spouses in proportion to each spouse's net income.

2 The bill would become law on July first following enactment
3 to allow time for implementation before the next year's tax
4 refunds are due.

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FISCAL NOTE
House File 2554
Requested by Representative Daggett
March 17, 1980

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9 In compliance with a written request there is hereby submitted
10 a Fiscal Note for House File 2554 pursuant to Joint Rule 16.

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H.F. 2554, An Act relating to a setoff against income tax refunds of certain accrued and liquidated debts and owing for care, support or maintenance of a child.

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The bill authorizes the Department of Revenue to setoff against income tax refunds accrued and liquidated debts due and owing for the care, support or maintenance of a child.

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The estimated fiscal effect of H.F. 2554 is as follows:

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Increase in Child Support Recoveries

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<u>Recoveries</u>	<u>FY '81</u>	<u>FY '82</u>	<u>FY '83</u>	<u>FY '84</u>	<u>FY '85</u>
State	\$ 43,430	217,000	217,000	217,000	217,000
Federal	56,570	283,000	283,000	283,000	283,000
	<u>100,000</u>	<u>500,000</u>	<u>500,000</u>	<u>500,000</u>	<u>500,000</u>
<u>Operating</u>					
State	5,000	5,000	5,000	5,000	5,000
Federal	15,000	15,000	15,000	15,000	15,000
	<u>20,000</u>	<u>20,000</u>	<u>20,000</u>	<u>20,000</u>	<u>20,000</u>
Total Net Recovery	\$ <u>80,000</u>	<u>480,000</u>	<u>480,000</u>	<u>480,000</u>	<u>480,000</u>
Total State Recovery	\$ <u>38,430</u>	<u>212,000</u>	<u>212,000</u>	<u>212,000</u>	<u>212,000</u>

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It should be noted that no inflation factor was applied to recoveries or operating costs for future fiscal years. Also, the FY '81 federal financial participation percentage was utilized to arrive at the federal/state split for fiscal years '82, '83, '84, and '85. It is not known at this time what this percentage will be for future years.

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Source: Department of Social Services

34

FILED MARCH 17, 1980

35

BY GERRY D. RANKIN
Legislative Fiscal Bureau

LSB 4353H 68

rj/rh/8

HOUSE FILE 2554

S-5781

1 Amend Senate amendment, S-5771, to House File 2554;
2 as follows:

3 1. Page 1, line 3, by inserting after the word
4 "refund" the words "or rebate".

5 2. Page 1, by inserting after line 8 the following:

6 "_____. Page 1, line 18, by inserting after the
7 word "refund" the words "or rebate"."

8 3. Page 1, by inserting after line 14 the
9 following:

10 "_____. Page 1, line 26, by inserting after the
11 word "refund" the words "or rebate".

12 _____. Page 2, line 8, by inserting after the word
13 "refund" the words "or rebate".

14 _____. Page 2, line 10, by inserting after the word
15 "refund" the words "or rebate".

16 _____. Page 2, line 11, by inserting after the word
17 "refund" the words "or rebate".

18 4. Page 1, by inserting after line 18 the
19 following:

20 "_____. Page 2, line 15, by inserting after the
21 word "refund" the words "or rebate".

22 _____. Page 2, line 17, by inserting after the word
23 "refund" the words "or rebate".

24 _____. Page 2, line 32, by inserting after the word
25 "refund" the words "or rebate".

26 _____. Page 2, line 34, by inserting after the word
27 "refund" the words "or rebate".

28 _____. Page 3, line 6, by inserting before the word
29 "if" the words "or rebate".

30 _____. Page 3, line 6, by inserting before the word
31 "are" the words "or rebate".

32 5. Page 1, line 27, by inserting after the word
33 "refund" the words "or rebate".

34 6. Page 1, by inserting after line 27 the
35 following:

36 "_____. Page 3, line 8, by inserting after the word
37 "refund" the words "or rebate".

38 _____. Page 3, line 12, by inserting after the word
39 "refund" the words "or rebate".

40 7. Title page, line 1, by inserting after the
41 word "refunds" the words "and rebates".

S-5781 FILED

BY C. W. (BILL) HUTCHINS

APRIL 21, 1980

Adopted 2/22 (S 1004)

S-5771

1 Amend House File 2554 as follows:

2 1. Page 1, by striking lines 5 and 6 and inserting
3 in lieu thereof the words "income tax refund any debt,
4 which is assigned to the department of social services
5 or which the child support recovery unit is attempting
6 to collect on behalf of any individual not eligible
7 as a public assistance recipient, which has accrued
8 through written contract,".

9 2. Page 1, by striking line 19 and inserting in
10 lieu thereof the words ", which is assigned to the
11 department of social services or which the child
12 support recovery unit is attempting to collect on
13 behalf of any individual not eligible as a public
14 assistance recipient, which has accrued".

15 3. Page 2, line 14, by striking the word "rights"
16 and inserting in lieu thereof the words "its rights
17 or the rights of an individual not eligible as a
18 public assistance recipient".

19 4. Page 3, line 7, by inserting after the word
20 "dollars." the words "However, if a debtor has made
21 all current child support payments in accordance with
22 a court order for the twelve months preceding the
23 proposed setoff and has regularly made delinquent
24 child support payments during those twelve months,
25 the child support recovery unit shall notify the
26 department of revenue not to setoff the debt against
27 the debtor's income tax refund."

28 5. Page 3, by striking lines 17 through 22 and
29 inserting in lieu thereof the following:

30 "h. Notwithstanding section four hundred twenty-
31 two point sixteen (422.16), subsection nine (9) and
32 section four hundred twenty-two point twenty-five
33 (422.25) of the Code, the payment of interest is not
34 required on the amount of setoff under this section.
35 However; any amount erroneously setoff shall accrue
36 interest at the rate per month or fraction thereof
37 specified in section four hundred twenty-two point
38 sixteen (422.16), subsection nine (9) of the Code
39 until refunded. This interest shall be refunded by
40 the department of social services. There is
41 appropriated out of funds which have been appropriated
42 to the department of social services sufficient funds
43 to carry out the provisions of this paragraph."

S-5771 FILED
APRIL 18, 1980

BY COMMITTEE ON WAYS AND MEANS
ROLF V. CRAFT, CHAIRPERSON

*Adopted as amended by SFR
4/23 (p. 1624)*

S-5754

1 Amend House File 2554 as follows:

2 1. Page 1, by striking lines 5 and 6 and inserting
3 in lieu thereof the words "income tax refund any debt,
4 which is assigned to the department of social services
5 or which the child support recovery unit is attempting
6 to collect on behalf of any individual not eligible
7 as a public assistance recipient, which has accrued
8 through written contract,".

9 2. Page 1, by striking line 19 and inserting in
10 lieu thereof the words ", which is assigned to the
11 department of social services or which the child
12 support recovery unit is attempting to collect on
13 behalf of any individual not eligible as a public
14 assistance recipient, which has accrued".

15 3. Page 2, line 14, by striking the word "rights"
16 and inserting in lieu thereof the words "its rights
17 or the rights of an individual not eligible as a
18 public assistance recipient".

19 4. Page 3, by striking lines 17 through 22 and
20 inserting in lieu thereof the following:

21 "h. Notwithstanding section four hundred twenty-
22 two point sixteen (422.16), subsection nine (9) and
23 section four hundred twenty-two point twenty-five
24 (422.25) of the Code, the payment of interest is not
25 required on the amount of setoff under this section.
26 However; any amount erroneously setoff shall accrue
27 interest at the rate per month or fraction thereof
28 specified in section four hundred twenty-two point
29 sixteen (422.16), subsection nine (9) of the Code
30 until refunded. This interest shall be refunded by
31 the department of social services. There is
32 appropriated out of funds which have been appropriated
33 to the department of social services sufficient funds
34 to carry out the provisions of this paragraph."

S-5754 FILED
APRIL 16, 1980

BY COMMITTEE ON WAYS AND MEANS
ROLF V. CRAFT, CHAIRPERSON

Adopted 4/16/80

HOUSE FILE 2554

S-5777

1 Amend S-5771 to House File 2554 as follows:

2 1. Page 1, by striking lines 28 through 43 and
3 inserting in lieu thereof the following:

4 "5. Page 3, by striking lines 17 through 22."

S-5777 FILED
APRIL 21, 1980

BY LOWELL JUNKINS
GARY L. BAUGHER

Adopted 4/23/80

HOUSE CLIP SHEET

THURSDAY, APRIL 24, 1980

SENATE AMENDMENT TO
HOUSE FILE 2554

H-6317

- 1 Amend House File 2554 as follows:
- 2 1. Page 1, by striking lines 5 and 6 and inserting
- 3 in lieu thereof the words "income tax refund or rebate
- 4 any debt, which is assigned to the department of
- 5 social services or which the child support recovery
- 6 unit is attempting to collect on behalf of any
- 7 individual not eligible as a public assistance
- 8 recipient, which has accrued through written
- 9 contract,".
- 10 2. Page 1, line 18, by inserting after the word
- 11 "refund" the words "or rebate".
- 12 3. Page 1, by striking line 19 and inserting in
- 13 lieu thereof the words ", which is assigned to the
- 14 department of social services or which the child
- 15 support recovery unit is attempting to collect on
- 16 behalf of any individual not eligible as a public
- 17 assistance recipient, which has accrued".
- 18 4. Page 1, line 26, by inserting after the word
- 19 "refund" the words "or rebate".
- 20 5. Page 2, line 8, by inserting after the word
- 21 "refund" the words "or rebate".
- 22 6. Page 2, line 10, by inserting after the word
- 23 "refund" the words "or rebate".
- 24 7. Page 2, line 11, by inserting after the word
- 25 "refund" the words "or rebate".
- 26 8. Page 2, line 14, by striking the word "rights"
- 27 and inserting in lieu thereof the words "its rights
- 28 or the rights of an individual not eligible as a
- 29 public assistance recipient".
- 30 9. Page 2, line 15, by inserting after the word
- 31 "refund" the words "or rebate".
- 32 10. Page 2, line 17, by inserting after the word
- 33 "refund" the words "or rebate".
- 34 11. Page 2, line 32, by inserting after the word
- 35 "refund" the words "or rebate".
- 36 12. Page 2, line 34, by inserting after the word
- 37 "refund" the words "or rebate".
- 38 13. Page 3, line 6, by inserting before the word
- 39 "if" the words "or rebate".
- 40 14. Page 3, line 6, by inserting before the word
- 41 "are" the words "or rebate".
- 42 15. Page 3, line 7, by inserting after the word
- 43 "dollars." the words "However, if a debtor has made
- 44 all current child support payments in accordance with
- 45 a court order for the twelve months preceding the
- 46 proposed setoff and has regularly made delinquent
- 47 child support payments during those twelve months,
- 48 the child support recovery unit shall notify the
- 49 department of revenue not to setoff the debt against
- 50 the debtor's income tax refund or rebate."

APRIL 24, 1980
PAGE TWO

H-6317
Page Two

- 1 16. Page 3, line 8, by inserting after the word
- 2 "refund" the words "or rebate".
- 3 17. Page 3, line 12, by inserting after the word
- 4 "refund" the words "or rebate".
- 5 18. Page 3, by striking lines 17 through 22.
- 6 19. Title page, line 1, by inserting after the
- 7 word "refunds" the words "and rebates".

H-6317 FILED APRIL 23, 1980

RECEIVED FROM THE SENATE

House concurred 4/26/80

HOUSE FILE 2554

AN ACT

RELATING TO A SETOFF AGAINST INCOME TAX REFUNDS AND REBATES OF CERTAIN ACCRUED AND LIQUIDATED DEBTS ASSIGNED TO THE DEPARTMENT OF SOCIAL SERVICES AND DUE AND OWING FOR THE CARE, SUPPORT OR MAINTENANCE OF A CHILD.

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

Section 1. Section two hundred fifty-two B point five (252B.5), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. Assistance to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of social services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment, and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child. The department of social services shall promulgate rules pursuant to chapter seventeen A (17A) of the Code necessary to assist the department of revenue in the implementation of the child support setoff as established under section two (2) of this Act.

Sec. 2. Section four hundred twenty-one point seventeen (421.17), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of social services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written

contract, subrogation, or court judgment and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child. 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 no portion of a refund or rebate shall be credited against any tax liabilities which are not yet due.

b. Before setoff the child support recovery unit established pursuant to section two hundred fifty-two B point two (252B.2) of the Code shall obtain and forward to the department of revenue the full name and social security number of the debtor. The department of revenue shall cooperate in the exchange of relevant information with the child support recovery unit as provided in section two hundred fifty-two B point nine (252B.9) of the Code.

c. The child support recovery unit shall, at least annually, submit to the department of revenue for setoff the above-mentioned debts, which are at least fifty dollars, on a date or dates to be specified by the department of social services by rule.

d. Upon submission of a claim the department of revenue shall notify the child support recovery unit whether the debtor is entitled to a refund or rebate of at least fifty dollars and if so entitled shall notify the unit of the amount of the refund or rebate and of the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the child support recovery unit shall send written notification to the debtor, and a copy of the notice to the department of revenue, of the unit's assertion of its rights or the rights of an individual not eligible as a public assistance recipient to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to

request that a joint income tax refund or rebate be divided between spouses, the debtor'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 will result in a waiver of the opportunity to contest the claim, causing final setoff by default. The child support recovery unit shall upon application grant a hearing pursuant to chapter seventeen A (17A) of the Code. Any appeal taken from the decision of a hearing officer and any subsequent appeals shall be taken pursuant to chapter seventeen A (17A) of the Code.

f. Upon the timely request of a debtor or a debtor's spouse to the child support recovery unit and upon receipt of the full name and social security number of the debtor's spouse, the unit 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 debtor and the debtor's spouse in proportion to each spouse's net income as determined under section four hundred twenty-two point seven (422.7) of the Code.

g. The department of revenue shall, after notice has been sent to the debtor by the child support recovery unit, set off the above-mentioned debt against the debtor's income tax refund or rebate if both the debt and the refund or rebate are at least fifty dollars. However, if a debtor has made all current child support payments in accordance with a court order for the twelve months preceding the proposed setoff and has regularly made delinquent child support payments during those twelve months, the child support recovery unit shall notify the department of revenue not to setoff the debt against the debtor's income tax refund or rebate. The department shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue shall periodically transfer the amount set off to the child support

recovery unit. If the debtor gives written notice of intent to contest the claim the department of social services shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter seventeen A (17A) of the Code or by court judgment. The child support recovery unit shall notify the debtor in writing upon completion of setoff.

WILLIAM H. HARBOR
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2554, Sixty-eighth General Assembly.

BRUCE GRAHAM
Assistant Chief Clerk of the House

Approved May 17, 1980

ROBERT D. RAY
Governor