

Reprinted

FILED FEB 06 1989

SENATE FILE 153
BY COMMITTEE ON WAYS AND
MEANS

(SUCCESSOR TO SSB 38)

Passed Senate, Date 2/13/89 (p.362) Passed House, Date 4/26/89 (P.1983)
Vote: Ayes 48 Nays 0 Vote: Ayes 93 Nays 0
Approved May 29, 1989

A BILL FOR

1 An Act relating to the department of inspections and appeals by
2 providing for income tax refund and rebate setoff procedures
3 by the investigations division, and exempting certain
4 nonprofit intermediate care facilities from the sales,
5 service, and use tax.

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

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SF 153

1 Section 1. Section 217.34, Code 1989, is amended to read
2 as follows:

3 217.34 ~~OFFICE-OF~~ INVESTIGATIONS DIVISION, DEPARTMENT OF
4 INSPECTIONS AND APPEALS.

5 The ~~office-of~~ investigations division of the department of
6 inspections and appeals shall provide assistance to set off
7 against a person's or provider's income tax refund or rebate
8 any debt which has accrued through written contract,
9 subrogation, departmental recoupment procedures, or court
10 judgment and which is in the form of a liquidated sum due and
11 owing the department of human services. The department of
12 inspections and appeals, with approval of the department of
13 human services, shall adopt rules under chapter 17A necessary
14 to assist the department of revenue and finance in the
15 implementation of the setoff under section 421.17, subsection
16 21.

17 Sec. 2. Section 421.17, subsection 21, Code 1989, is
18 amended to read as follows:

19 21. To establish and maintain a procedure to set off
20 against a debtor's income tax refund or rebate any debt, which
21 is assigned to the department of human services, which the
22 child support recovery unit is attempting to collect on behalf
23 of an individual not eligible as a public assistance
24 recipient, or which the foster care recovery unit of the
25 department of human services is attempting to collect on
26 behalf of a child receiving foster care provided by the
27 department of human services, which has accrued through
28 written contract, subrogation, or court judgment and which is
29 in the form of a liquidated sum due and owing for the care,
30 support or maintenance of a child or which is owed to the
31 state for public assistance overpayments to recipients or to
32 providers of services to recipients which the ~~office-of~~
33 investigations division of the department of human-services
34 inspections and appeals is attempting to collect on behalf of
35 the state. For purposes of this subsection, "public

1 assistance" means aid to dependent children, medical
2 assistance, food stamps, foster care, and state supplementary
3 assistance. The procedure shall meet the following
4 conditions:

5 a. Before setoff all outstanding tax liabilities
6 collectible by the department of revenue and finance shall be
7 satisfied except that no portion of a refund or rebate shall
8 be credited against tax liabilities which are not yet due.

9 b. Before setoff the child support recovery unit
10 established pursuant to section 252B.2, the foster care
11 recovery unit, and the ~~office-of~~ investigations division of
12 the department of inspections and appeals shall obtain and
13 forward to the department of revenue and finance the full name
14 and social security number of the debtor. The department of
15 revenue and finance shall co-operate in the exchange of
16 relevant information with the child support recovery unit as
17 provided in section 252B.9, with the foster care recovery
18 unit, and with the ~~office-of~~ investigations division of the
19 department of inspections and appeals. However, only relevant
20 information required by the child support unit, by the foster
21 care recovery unit, or by the ~~office-of~~ investigations
22 division of the department of inspections and appeals shall be
23 provided by the department of revenue and finance. The
24 information shall be held in confidence and shall be used for
25 purposes of setoff only.

26 c. The child support recovery unit, the foster care
27 recovery unit, and the ~~office-of~~ investigations division of
28 the department of inspections and appeals shall, at least
29 annually, submit to the department of revenue and finance for
30 setoff the debts described in this subsection, which are at
31 least fifty dollars, on a date to be specified by the
32 department of human services and the department of inspections
33 and appeals by rule.

34 d. Upon submission of a claim the department of revenue
35 and finance shall notify the child support recovery unit, the

1 foster care recovery unit, or the ~~office-of~~ investigations
2 division of the department of inspections and appeals as to
3 whether the debtor is entitled to a refund or rebate and if so
4 entitled shall notify the unit or ~~office~~ division of the
5 amount of the refund or rebate and of the debtor's address on
6 the income tax return.

30867 e. Upon notice of entitlement to a refund or rebate the
8 child support recovery unit, the foster care recovery unit, or
9 the ~~office-of~~ investigations division of the department of
10 inspections and appeals shall send written notification to the
11 debtor, and a copy of the notice to the department of revenue
12 and finance, of the unit's or ~~office's~~ division's assertion of
13 its rights, or the rights of the department of human services,
14 or the rights of an individual not eligible as a public
15 assistance recipient to all or a portion of the debtor's
16 refund or rebate and the entitlement to recover the debt
17 through the setoff procedure, the basis of the assertion, the
18 opportunity to request that a joint income tax refund or
19 rebate be divided between spouses, the debtor's opportunity to
20 give written notice of intent to contest the claim, and the
21 fact that failure to contest the claim by written application
22 for a hearing will result in a waiver of the opportunity to
23 contest the claim, causing final setoff by default. Upon
24 application filed with the department of human services or the
25 department of inspections and appeals within fifteen days from
26 the mailing of the notice of entitlement to a refund or
27 rebate, the ~~child-support-recovery-unit, the foster care~~
28 ~~recovery unit, or the office-of-investigations~~ department of
29 human services shall grant a hearing pursuant to chapter
30 chapters 10A and 17A. An appeal taken from the decision of an
31 administrative law judge and subsequent appeals shall be taken
32 pursuant to chapter 17A.

33 f. Upon the request of a debtor or a debtor's spouse to
34 the child support recovery unit, the foster care recovery
35 unit, or the ~~office-of~~ investigations division of the

1 department of inspections and appeals, filed within fifteen
2 days from the mailing of the notice of entitlement to a refund
3 or rebate, and upon receipt of the full name and social
4 security number of the debtor's spouse, the unit or office
5 division shall notify the department of revenue and finance of
6 the request to divide a joint income tax refund or rebate.

7 The department of revenue and finance shall upon receipt of
8 the notice divide a joint income tax refund or rebate between
9 the debtor and the debtor's spouse in proportion to each
10 spouse's net income as determined under section 422.7.

11 g. The department of revenue and finance shall, after
12 notice has been sent to the debtor by the child support
13 recovery unit, the foster care recovery unit, or the ~~office-of~~
14 investigations division of the department of inspections and
15 appeals, set off the debt against the debtor's income tax
16 refund or rebate. However, if a debtor has made all current
17 child support or foster care payments in accordance with a
18 court order or an assessment of foster care liability for the
19 twelve months preceding the proposed setoff and has regularly
20 made delinquent child support or foster care payments during
21 those twelve months, the child support or foster care recovery
22 unit shall notify the department of revenue and finance not to
23 set off the debt against the debtor's income tax refund or
24 rebate. If a debtor has made all current repayment of public
25 assistance in accordance with a court order or voluntary
26 repayment agreement for the twelve months preceding the
27 proposed setoff and has regularly made delinquent payments
28 during those twelve months, the ~~office-of~~ investigations
29 division of the department of inspections and appeals shall
30 notify the department of revenue and finance not to set off
31 the debt against the debtor's income tax refund or rebate.
32 The department of revenue and finance shall refund any balance
33 of the income tax refund or rebate to the debtor. The
34 department of revenue and finance shall periodically transfer
35 the amount set off to the child support recovery unit, the

1 foster care recovery unit, or the ~~office-of~~ investigations
2 division of the department of inspections and appeals. If the
3 debtor gives timely written notice of intent to contest the
4 claim the department of revenue and finance shall hold the
5 refund or rebate until final disposition of the contested
6 claim pursuant to chapter 17A or by court judgment. The child
7 support recovery unit, the foster care recovery unit, or the
8 ~~office-of~~ investigations division of the department of
9 inspections and appeals shall notify the debtor in writing
10 upon completion of setoff.

11 Sec. 3. Section 421.17, subsection 26, Code 1989, is
12 amended to read as follows:

13 26. To provide that in the case of multiple claims to
14 payments filed under subsections 21, 23, 25, and 29 that
15 priority shall be given to claims filed by the child support
16 recovery unit or the foster care recovery unit under
17 subsection 21, next priority shall be given to claims filed by
18 the college aid commission under subsection 23, next priority
19 shall be given to claims filed by the ~~office-of~~ investigations
20 division of the department of inspections and appeals under
21 subsection 21, next priority shall be given to claims filed by
22 a clerk of the district court under subsection 25, and last
23 priority shall be given to claims filed by other state
24 agencies under subsection 29. In the case of multiple claims
25 under subsection 29, priority shall be determined in
26 accordance with rules to be established by the director.

3067

27 Sec. 4. Section 422.45, subsection 22, paragraph a, Code
28 1989, is amended to read as follows:

29 a. Residential care facilities and intermediate care
30 facilities for the mentally retarded and residential care
31 facilities and intermediate care facilities for the mentally
32 ill licensed ~~by the department of health~~ under chapter 135C.

3066, 3037

33 EXPLANATION

34 This bill makes reference changes to the investigations
35 division of the department of inspections and appeals as the

1 office to administer income tax refunds or rebate setoffs and
2 to administer the setoff for any debt owing to the state for
3 overpayment of public assistance. This bill also exempts
4 certain nonprofit intermediate care facilities from sales,
5 service, and use tax on the gross receipts from the sale or
6 rental of tangible personal property or from services
7 performed, rendered, or furnished.

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**SENATE FILE 153
FISCAL NOTE**

A fiscal note for SENATE FILE 153 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 153 adds nonprofit intermediate care facilities for the mentally ill to the list of nonprofit corporations exempted from the sales, service, and use tax on the gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished. The bill also makes reference changes to the investigations division of the department of inspections and appeals as the office to administer income tax refunds or rebate setoffs and to administer the setoff of any debt owing to the state for overpayment of public assistance.

FISCAL EFFECT

The effect of this proposal will be to reduce General Fund sales tax receipts by an unknown but minimal amount.

Source: Department of Inspections and Appeals
Department of Revenue and Finance

(LSB 1242s, PDD)

ED FEBRUARY 7, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 153

S-3066

1 Amend Senate File 153 as follows:
2 1. Page 5, by inserting after line 32 the
3 following:
4 "Sec. 5. Section 422.45, Code 1989, is amended
5 by adding the following new subsection:
6 NEW SUBSECTION. 41. The gross receipts from
7 the sale of equipment and supplies used for the
8 delivery of services if purchased by the following
9 nonprofit health organizations which receive federal
10 funds:
11 a. Community-based substance abuse treatment
12 and prevention programs.
13 b. Child health clinics.
14 c. Maternal health clinics.
15 d. Well-elderly clinics.
16 e. Family planning clinics."

By CHARLES BRUNER

S-3066 FILED FEBRUARY 13, 1989

WITHDRAWN 2-13-89 (p.362)

SENATE FILE 153

S-3067

1 Amend Senate File 153 as follows:
2 1. Page 5, by inserting after line 26, the
3 following:
4 "Sec. ____ . Section 422.45, subsection 20, Code
5 1989, is amended to read as follows:
6 20. The gross receipts from sales or services
7 rendered, furnished or performed by a county or city.
8 This exemption does not apply to the tax specifically
9 imposed under section 422.43 on the gross receipts
10 from the sales, furnishing or service of gas,
11 electricity, water, heat and communication service to
12 the public by a municipal corporation in its
13 proprietary capacity and does not apply to fees paid
14 to cities and counties for the privilege of
15 participating in any athletic sports."
16 2. Title page, line 4, by inserting after the
17 word "facilities" the following: "and certain
18 athletic sports fees paid to cities and counties".
19 3. Renumber as necessary.

By JIM LIND

LARRY MURPHY

ROBERT M. CARR

S-3067 FILED FEBRUARY 13, 1989

RULED OUT OF ORDER 2-13-89 (p.362)

not germane

S-3036

SENATE FILE 153

1 Amend Senate File 153 as follows:
2 1. Page 3, lines 24 and 25, by striking the words
3 "or the department of inspections and appeals".

By JOHN P. KIBBIE

S-3036 FILED FEBRUARY 7, 1989

adopted - 2-13-89 (p. 362)

SENATE FILE 153

S-3037

1 Amend Senate File 153 as follows:
2 1. Page 5, by inserting after line 32 the
3 following:
4 "Sec. ____ . Section 422.45, subsection 22, paragraph
5 b, Code 1989, is amended to read as follows:
6 b. Residential facilities ~~for-mentally-retarded~~
7 ~~children, other than individuals as defined in section~~
8 ~~237.1, subsection 7,~~ licensed by the department of
9 human services pursuant to chapter 237."
10 2. Title, line 4, by inserting after the word
11 "facilities" the following: "and residential
12 facilities".

Corrected

By JOHN P. KIBBIE
RAY TAYLOR

S-3037 FILED FEBRUARY 7, 1989

~~out~~

CORRECTED S-3037
SENATE FILE 153

S-3037

1 Amend Senate File 153 as follows:
2 1. Page 5, by inserting after line 32 the
3 following:
4 "Sec. ____ . Section 422.45, subsection 22, paragraph
5 b, Code 1989, is amended to read as follows:
6 b. Residential facilities ~~for-mentally-retarded~~
7 ~~children, other than individuals as defined in section~~
8 ~~237.1, subsection 7,~~ licensed by the department of
9 human services pursuant to chapter 237."
10 2. Title, line 4, by inserting after the word
11 "facilities" the following: "and residential
12 facilities".

S-3037

FILED FEBRUARY 7, 1989

By JOHN P. KIBBIE
RAY TAYLOR

out of order 2-13-89 (p. 362)
NOT germane

House Ways & Means

DO PASS Demand 4153
4-21-89 (p 1796)

SENATE FILE 153
BY COMMITTEE ON WAYS AND
MEANS

(SUCCESSOR TO SSB 38)

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 13, 1989)

* - Language Stricken by the Senate

Re Passed Senate, Date 5-1-89 (p 1798) Passed House, Date 4-26-89 (p 1983)
Vote: Ayes 50 Nays 0 Vote: Ayes 93 Nays 0
Approved May 29, 1989

A BILL FOR

4307-1 An Act relating to the department of inspections and appeals by
2 providing for income tax refund and rebate setoff procedures
3 by the investigations division, and exempting certain
4 nonprofit intermediate care facilities from the sales,
5 service, and use tax.

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

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in

SENATE FILE 153

H-4153

- 9 1 Amend Senate File 153, as amended, passed, and
- 10 2 reprinted by the Senate as follows:
- 11 3 1. Page 1, line 3, by striking the words
- 12 4 "INVESTIGATIONS DIVISION, DEPARTMENT OF" and inserting
- 13 5 the following: "INVESTIGATIONS DEBT SET OFF".
- 14 6 2. Page 1, by striking line 4.
- 15 7 3. Page 1, line 6, by inserting after the word
- 16 8 "appeals" the following: "and the department of human
- 17 9 services".
- 18 10 4. Page 1, line 16, by inserting after the figure
- 19 11 "21" the following: "in regard to money owed to the
- 20 12 state for public assistance overpayments and in regard
- 21 13 to collections by the child support recovery unit and
- 14 14 the foster care recovery unit".
- 15 15 5. Page 5, by striking lines 26 through 31.

BY COMMITTEE ON WAYS AND MEANS
TABOR of Jackson, Chairperson

H-4153 FILED APRIL 21, 1989

Withdrawn 4-20-89 (p. 1983)

1 Section 1. Section 217.34, Code 1989, is amended to read
2 as follows:

4207, 1153-3 217.34 ~~OFFICE-OF~~ INVESTIGATIONS DIVISION, DEPARTMENT OF
4 INSPECTIONS AND APPEALS.

4207, 4153-5 The ~~office-of~~ investigations division of the department of
6 inspections and appeals shall provide assistance to set off
7 against a person's or provider's income tax refund or rebate
8 any debt which has accrued through written contract,
9 subrogation, departmental recoupment procedures, or court
10 judgment and which is in the form of a liquidated sum due and
11 owing the department of human services. The department of
12 inspections and appeals, with approval of the department of
13 human services, shall adopt rules under chapter 17A necessary
14 to assist the department of revenue and finance in the
15 implementation of the setoff under section 421.17, subsection
16 21.

17 Sec. 2. Section 421.17, subsection 21, Code 1989, is
18 amended to read as follows:

19 21. To establish and maintain a procedure to set off
20 against a debtor's income tax refund or rebate any debt, which
21 is assigned to the department of human services, which the
22 child support recovery unit is attempting to collect on behalf
23 of an individual not eligible as a public assistance
24 recipient, or which the foster care recovery unit of the
25 department of human services is attempting to collect on
26 behalf of a child receiving foster care provided by the
27 department of human services, which has accrued through
28 written contract, subrogation, or court judgment and which is
29 in the form of a liquidated sum due and owing for the care,
30 support or maintenance of a child or which is owed to the
31 state for public assistance overpayments to recipients or to
32 providers of services to recipients which the ~~office-of~~
33 investigations division of the department of ~~human-services~~
34 inspections and appeals is attempting to collect on behalf of
35 the state. For purposes of this subsection, "public

1 assistance" means aid to dependent children, medical
2 assistance, food stamps, foster care, and state supplementary
3 assistance. The procedure shall meet the following
4 conditions:

5 a. Before setoff all outstanding tax liabilities
6 collectible by the department of revenue and finance shall be
7 satisfied except that no portion of a refund or rebate shall
8 be credited against tax liabilities which are not yet due.

9 b. Before setoff the child support recovery unit
10 established pursuant to section 252B.2, the foster care
11 recovery unit, and the ~~office-of~~ investigations division of
12 the department of inspections and appeals shall obtain and
13 forward to the department of revenue and finance the full name
14 and social security number of the debtor. The department of
15 revenue and finance shall co-operate in the exchange of
16 relevant information with the child support recovery unit as
17 provided in section 252B.9, with the foster care recovery
18 unit, and with the ~~office-of~~ investigations division of the
19 department of inspections and appeals. However, only relevant
20 information required by the child support unit, by the foster
21 care recovery unit, or by the ~~office-of~~ investigations
22 division of the department of inspections and appeals shall be
23 provided by the department of revenue and finance. The
24 information shall be held in confidence and shall be used for
25 purposes of setoff only.

26 c. The child support recovery unit, the foster care
27 recovery unit, and the ~~office-of~~ investigations division of
28 the department of inspections and appeals shall, at least
29 annually, submit to the department of revenue and finance for
30 setoff the debts described in this subsection, which are at
31 least fifty dollars, on a date to be specified by the
32 department of human services and the department of inspections
33 and appeals by rule.

34 d. Upon submission of a claim the department of revenue
35 and finance shall notify the child support recovery unit, the

1 foster care recovery unit, or the office-of investigations
2 division of the department of inspections and appeals as to
3 whether the debtor is entitled to a refund or rebate and if so
4 entitled shall notify the unit or office division of the
5 amount of the refund or rebate and of the debtor's address on
6 the income tax return.

7 e. Upon notice of entitlement to a refund or rebate the
8 child support recovery unit, the foster care recovery unit, or
9 the office-of investigations division of the department of
10 inspections and appeals shall send written notification to the
11 debtor, and a copy of the notice to the department of revenue
12 and finance, of the unit's or office's division's assertion of
13 its rights, or the rights of the department of human services,
14 or the rights of an individual not eligible as a public
15 assistance recipient to all or a portion of the debtor's
16 refund or rebate and the entitlement to recover the debt
17 through the setoff procedure, the basis of the assertion, the
18 opportunity to request that a joint income tax refund or
19 rebate be divided between spouses, the debtor's opportunity to
20 give written notice of intent to contest the claim, and the
21 fact that failure to contest the claim by written application
22 for a hearing will result in a waiver of the opportunity to
23 contest the claim, causing final setoff by default. Upon
24 application filed with the department of human services within
25 fifteen days from the mailing of the notice of entitlement to
26 a refund or rebate, the ~~child-support-recovery-unit, the~~
27 ~~foster-care-recovery-unit, or the office-of-investigations~~
28 department of human services shall grant a hearing pursuant to
29 ~~chapter~~ chapters 10A and 17A. An appeal taken from the
30 decision of an administrative law judge and subsequent appeals
31 shall be taken pursuant to chapter 17A.

32 f. Upon the request of a debtor or a debtor's spouse to
33 the child support recovery unit, the foster care recovery
34 unit, or the office-of investigations division of the
35 department of inspections and appeals, filed within fifteen

1 days from the mailing of the notice of entitlement to a refund
2 or rebate, and upon receipt of the full name and social
3 security number of the debtor's spouse, the unit or ~~office~~
4 division shall notify the department of revenue and finance of
5 the request to divide a joint income tax refund or rebate.
6 The department of revenue and finance shall upon receipt of
7 the notice divide a joint income tax refund or rebate between
8 the debtor and the debtor's spouse in proportion to each
9 spouse's net income as determined under section 422.7.

10 g. The department of revenue and finance shall, after
11 notice has been sent to the debtor by the child support
12 recovery unit, the foster care recovery unit, or the ~~office-of~~
13 investigations division of the department of inspections and
14 appeals, set off the debt against the debtor's income tax
15 refund or rebate. However, if a debtor has made all current
16 child support or foster care payments in accordance with a
17 court order or an assessment of foster care liability for the
18 twelve months preceding the proposed setoff and has regularly
19 made delinquent child support or foster care payments during
20 those twelve months, the child support or foster care recovery
21 unit shall notify the department of revenue and finance not to
22 set off the debt against the debtor's income tax refund or
23 rebate. If a debtor has made all current repayment of public
24 assistance in accordance with a court order or voluntary
25 repayment agreement for the twelve months preceding the
26 proposed setoff and has regularly made delinquent payments
27 during those twelve months, the ~~office-of~~ investigations
28 division of the department of inspections and appeals shall
29 notify the department of revenue and finance not to set off
30 the debt against the debtor's income tax refund or rebate.
31 The department of revenue and finance shall refund any balance
32 of the income tax refund or rebate to the debtor. The
33 department of revenue and finance shall periodically transfer
34 the amount set off to the child support recovery unit, the
35 foster care recovery unit, or the ~~office-of~~ investigations

1 division of the department of inspections and appeals. If the
2 debtor gives timely written notice of intent to contest the
3 claim the department of revenue and finance shall hold the
4 refund or rebate until final disposition of the contested
5 claim pursuant to chapter 17A or by court judgment. The child
6 support recovery unit, the foster care recovery unit, or the
7 ~~office-of~~ investigations division of the department of
8 inspections and appeals shall notify the debtor in writing
9 upon completion of setoff.

10 Sec. 3. Section 421.17, subsection 26, Code 1989, is
11 amended to read as follows:

12 26. To provide that in the case of multiple claims to
13 payments filed under subsections 21, 23, 25, and 29 that
14 priority shall be given to claims filed by the child support
15 recovery unit or the foster care recovery unit under
16 subsection 21, next priority shall be given to claims filed by
17 the college aid commission under subsection 23, next priority
18 shall be given to claims filed by the ~~office-of~~ investigations
19 division of the department of inspections and appeals under
20 subsection 21, next priority shall be given to claims filed by
21 a clerk of the district court under subsection 25, and last
22 priority shall be given to claims filed by other state
23 agencies under subsection 29. In the case of multiple claims
24 under subsection 29, priority shall be determined in
25 accordance with rules to be established by the director.

4074153- 26 Sec. 4. Section 422.45, subsection 22, paragraph a, Code
27 1989, is amended to read as follows:

28 a. Residential care facilities and intermediate care
29 facilities for the mentally retarded and residential care
30 facilities and intermediate care facilities for the mentally
31 ill licensed ~~by-the-department-of-health~~ under chapter 135C.

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SENATE FILE 153

H-4207

- 1 Amend Senate File 153, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 1, line 3, by striking the words
4 "INVESTIGATIONS DIVISION, DEPARTMENT OF" and inserting
5 the following: "INVESTIGATIONS DEBT SET OFF".
6 2. Page 1, by striking line 4.
7 3. Page 1, line 6, by inserting after the word
8 "appeals" the following: "and the department of human
9 services".
10 4. Page 1, line 16, by inserting after the figure
11 "21" the following: "in regard to money owed to the
12 state for public assistance overpayments. The
13 department of human services shall adopt rules under
14 chapter 17A necessary to assist the department of
15 revenue and finance in the implementation of the
16 setoff under section 421.17, subsection 21, in regard
17 to collections by the child support recovery unit and
18 the foster care recovery unit".
19 5. Page 5, by striking lines 26 through 31.
20 6. Title page, by striking lines 3 through 5, and
21 inserting the following: "by the investigations
22 division, and use tax."

By CHAPMAN of Linn

H-4207 FILED APRIL 25, 1989

Adopted 4-26-89 (p. 1983)

HOUSE AMENDMENT TO
SENATE FILE 153

S-3981

- 1 Amend Senate File 153, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 1, line 3, by striking the words
4 "INVESTIGATIONS DIVISION, DEPARTMENT OF" and inserting
5 the following: "INVESTIGATIONS DEBT SET OFF".
6 2. Page 1, by striking line 4.
7 3. Page 1, line 6, by inserting after the word
8 "appeals" the following: "and the department of human
9 services".
10 4. Page 1, line 16, by inserting after the figure
11 "21" the following: "in regard to money owed to the
12 state for public assistance overpayments. The
13 department of human services shall adopt rules under
14 chapter 17A necessary to assist the department of
15 revenue and finance in the implementation of the
16 setoff under section 421.17, subsection 21, in regard
17 to collections by the child support recovery unit and
18 the foster care recovery unit".
19 5. Page 5, by striking lines 26 through 31.
20 6. Title page, by striking lines 3 through 5, and
21 inserting the following: "by the investigations
22 division, and use tax."

RECEIVED FROM THE HOUSE

S-3981 FILED APRIL 28, 1989

Senate Concurred 5-1-89 (p. 1798)

KIBBIE, CH.

SSB 38

PALMER

WAYS & MEANS

SOORHOLTZ

How

SENATE FILE 153

BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS
BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the department of inspections and appeals by
2 providing for income tax refund and rebate setoff procedures
3 by the investigations division, and exempting certain
4 nonprofit intermediate care facilities from the sales,
5 service, and use tax.

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

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1 Section 1. Section 217.34, Code 1989, is amended to read
2 as follows:

3 217.34 ~~OFFICE-OF~~ INVESTIGATIONS DIVISION, DEPARTMENT OF
4 INSPECTIONS AND APPEALS.

5 The ~~office-of~~ investigations division of the department of
6 inspections and appeals shall provide assistance to set off
7 against a person's or provider's income tax refund or rebate
8 any debt which has accrued through written contract,
9 subrogation, departmental recoupment procedures, or court
10 judgment and which is in the form of a liquidated sum due and
11 owing the department of human services. The department of
12 inspections and appeals, with approval of the department of
13 human services, shall adopt rules under chapter 17A necessary
14 to assist the department of revenue and finance in the
15 implementation of the setoff under section 421.17, subsection
16 21.

17 Sec. 2. Section 421.17, subsection 21, Code 1989, is
18 amended to read as follows:

19 21. To establish and maintain a procedure to set off
20 against a debtor's income tax refund or rebate any debt, which
21 is assigned to the department of human services, which the
22 child support recovery unit is attempting to collect on behalf
23 of an individual not eligible as a public assistance
24 recipient, or which the foster care recovery unit of the
25 department of human services is attempting to collect on
26 behalf of a child receiving foster care provided by the
27 department of human services, which has accrued through
28 written contract, subrogation, or court judgment and which is
29 in the form of a liquidated sum due and owing for the care,
30 support or maintenance of a child or which is owed to the
31 state for public assistance overpayments to recipients or to
32 providers of services to recipients which the ~~office-of~~
33 investigations division of the department of ~~human-services~~
34 inspections and appeals is attempting to collect on behalf of
35 the state. For purposes of this subsection, "public

1 assistance" means aid to dependent children, medical
2 assistance, food stamps, foster care, and state supplementary
3 assistance. The procedure shall meet the following
4 conditions:

5 a. Before setoff all outstanding tax liabilities
6 collectible by the department of revenue and finance shall be
7 satisfied except that no portion of a refund or rebate shall
8 be credited against tax liabilities which are not yet due.

9 b. Before setoff the child support recovery unit
10 established pursuant to section 252B.2, the foster care
11 recovery unit, and the ~~office-of~~ investigations division of
12 the department of inspections and appeals shall obtain and
13 forward to the department of revenue and finance the full name
14 and social security number of the debtor. The department of
15 revenue and finance shall co-operate in the exchange of
16 relevant information with the child support recovery unit as
17 provided in section 252B.9, with the foster care recovery
18 unit, and with the ~~office-of~~ investigations division of the
19 department of inspections and appeals. However, only relevant
20 information required by the child support unit, by the foster
21 care recovery unit, or by the ~~office-of~~ investigations
22 division of the department of inspections and appeals shall be
23 provided by the department of revenue and finance. The
24 information shall be held in confidence and shall be used for
25 purposes of setoff only.

26 c. The child support recovery unit, the foster care
27 recovery unit, and the ~~office-of~~ investigations division of
28 the department of inspections and appeals shall, at least
29 annually, submit to the department of revenue and finance for
30 setoff the debts described in this subsection, which are at
31 least fifty dollars, on a date to be specified by the
32 department of human services and the department of inspections
33 and appeals by rule.

34 d. Upon submission of a claim the department of revenue
35 and finance shall notify the child support recovery unit, the

1 foster care recovery unit, or the ~~office-of~~ investigations
2 division of the department of inspections and appeals as to
3 whether the debtor is entitled to a refund or rebate and if so
4 entitled shall notify the unit or ~~office~~ division of the
5 amount of the refund or rebate and of the debtor's address on
6 the income tax return.

7 e. Upon notice of entitlement to a refund or rebate the
8 child support recovery unit, the foster care recovery unit, or
9 the ~~office-of~~ investigations division of the department of
10 inspections and appeals shall send written notification to the
11 debtor, and a copy of the notice to the department of revenue
12 and finance, of the unit's or ~~office's~~ division's assertion of
13 its rights, or the rights of the department of human services,
14 or the rights of an individual not eligible as a public
15 assistance recipient to all or a portion of the debtor's
16 refund or rebate and the entitlement to recover the debt
17 through the setoff procedure, the basis of the assertion, the
18 opportunity to request that a joint income tax refund or
19 rebate be divided between spouses, the debtor's opportunity to
20 give written notice of intent to contest the claim, and the
21 fact that failure to contest the claim by written application
22 for a hearing will result in a waiver of the opportunity to
23 contest the claim, causing final setoff by default. Upon
24 application filed with the department of human services or the
25 department of inspections and appeals within fifteen days from
26 the mailing of the notice of entitlement to a refund or
27 rebate, the ~~child-support-recovery-unit, the foster care~~
28 ~~recovery-unit, or the office-of-investigations~~ department of
29 human services shall grant a hearing pursuant to ~~chapter~~
30 chapters 10A and 17A. An appeal taken from the decision of an
31 administrative law judge and subsequent appeals shall be taken
32 pursuant to chapter 17A.

33 f. Upon the request of a debtor or a debtor's spouse to
34 the child support recovery unit, the foster care recovery
35 unit, or the ~~office-of~~ investigations division of the

1 department of inspections and appeals, filed within fifteen
2 days from the mailing of the notice of entitlement to a refund
3 or rebate, and upon receipt of the full name and social
4 security number of the debtor's spouse, the unit or ~~office~~
5 division shall notify the department of revenue and finance of
6 the request to divide a joint income tax refund or rebate.
7 The department of revenue and finance shall upon receipt of
8 the notice divide a joint income tax refund or rebate between
9 the debtor and the debtor's spouse in proportion to each
10 spouse's net income as determined under section 422.7.

11 g. The department of revenue and finance shall, after
12 notice has been sent to the debtor by the child support
13 recovery unit, the foster care recovery unit, or the ~~office-of~~
14 investigations division of the department of inspections and
15 appeals, set off the debt against the debtor's income tax
16 refund or rebate. However, if a debtor has made all current
17 child support or foster care payments in accordance with a
18 court order or an assessment of foster care liability for the
19 twelve months preceding the proposed setoff and has regularly
20 made delinquent child support or foster care payments during
21 those twelve months, the child support or foster care recovery
22 unit shall notify the department of revenue and finance not to
23 set off the debt against the debtor's income tax refund or
24 rebate. If a debtor has made all current repayment of public
25 assistance in accordance with a court order or voluntary
26 repayment agreement for the twelve months preceding the
27 proposed setoff and has regularly made delinquent payments
28 during those twelve months, the ~~office-of~~ investigations
29 division of the department of inspections and appeals shall
30 notify the department of revenue and finance not to set off
31 the debt against the debtor's income tax refund or rebate.
32 The department of revenue and finance shall refund any balance
33 of the income tax refund or rebate to the debtor. The
34 department of revenue and finance shall periodically transfer
35 the amount set off to the child support recovery unit, the

1 foster care recovery unit, or the ~~office-of~~ investigations
2 division of the department of inspections and appeals. If the
3 debtor gives timely written notice of intent to contest the
4 claim the department of revenue and finance shall hold the
5 refund or rebate until final disposition of the contested
6 claim pursuant to chapter 17A or by court judgment. The child
7 support recovery unit, the foster care recovery unit, or the
8 ~~office-of~~ investigations division of the department of
9 inspections and appeals shall notify the debtor in writing
10 upon completion of setoff.

11 Sec. 3. Section 421.17, subsection 26, Code 1989, is
12 amended to read as follows:

13 26. To provide that in the case of multiple claims to
14 payments filed under subsections 21, 23, 25, and 29 that
15 priority shall be given to claims filed by the child support
16 recovery unit or the foster care recovery unit under
17 subsection 21, next priority shall be given to claims filed by
18 the college aid commission under subsection 23, next priority
19 shall be given to claims filed by the ~~office-of~~ investigations
20 division of the department of inspections and appeals under
21 subsection 21, next priority shall be given to claims filed by
22 a clerk of the district court under subsection 25, and last
23 priority shall be given to claims filed by other state
24 agencies under subsection 29. In the case of multiple claims
25 under subsection 29, priority shall be determined in
26 accordance with rules to be established by the director.

27 Sec. 4. Section 422.45, subsection 22, paragraph a, Code
28 1989, is amended to read as follows:

29 a. Residential care facilities and intermediate care
30 facilities for the mentally retarded and residential care
31 facilities and intermediate care facilities for the mentally
32 ~~ill licensed by-the-department-of-health~~ under chapter 135C.

33 EXPLANATION

34 This bill makes reference changes to the investigations
35 division of the department of inspections and appeals as the

1 office to administer income tax refunds or rebate setoffs and
2 to administer the setoff for any debt owing to the state for
3 overpayment of public assistance. This bill also exempts
4 certain nonprofit intermediate care facilities from sales,
5 service, and use tax on the gross receipts from the sale or
6 rental of tangible personal property or from services
7 performed, rendered, or furnished.

8 BACKGROUND STATEMENT

9 SUBMITTED BY THE AGENCY

10 This bill is intended to correct agency references in the
11 tax chapters. This is a technical correction and is necessary
12 so the public will reference current information.

13 One change references the collections responsibility for
14 public assistance overpayments, which was transferred to the
15 Department of Inspections and Appeals under reorganization.
16 This language is necessary to clean up language in other
17 chapters related to those collections.

18 This bill is also intended to add intermediate care fa-
19 cilities for the mentally ill to the list of nonprofit cor-
20 porations exempted from retail sales tax on the gross receipts
21 from the sale or rental of tangible personal property or from
22 services performed, rendered, or furnished.

23 Previously residential care facilities and intermediate
24 care facilities for the mentally retarded and residential care
25 facilities for the mentally ill were included as exemptions.
26 Since that time, the category of intermediate care facilities
27 for the mentally ill has been added by the legislature. For
28 this reason, these facilities should be included in the list
29 of exemptions. In addition, the agency reference correction
30 is necessary since the Department of Inspections and Appeals
31 is responsible for licensing these facilities.

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SENATE FILE 153

AN ACT

RELATING TO THE DEPARTMENT OF INSPECTIONS AND APPEALS BY PROVIDING FOR INCOME TAX REFUND AND REBATE SETOFF PROCEDURES BY THE INVESTIGATIONS DIVISION, AND USE TAX.

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

Section 1. Section 217.34, Code 1989, is amended to read as follows:

217.34 OFFICE-OF-~~INVESTIGATIONS~~ DEBT SET OFF.

The ~~office-of~~ investigations division of the department of inspections and appeals and the department of human services shall provide assistance to set off against a person's or provider's income tax refund or rebate any debt which has accrued through written contract, subrogation, departmental recoupment procedures, or court judgment and which is in the form of a liquidated sum due and owing the department of human services. The department of inspections and appeals, with approval of the department of human services, shall adopt rules under chapter 17A necessary to assist the department of revenue and finance in the implementation of the setoff under section 421.17, subsection 21 in regard to money owed to the state for public assistance overpayments. The department of human services shall adopt rules under chapter 17A necessary to assist the department of revenue and finance in the implementation of the setoff under section 421.17, subsection 21, in regard to collections by the child support recovery unit and the foster care recovery unit.

Sec. 2. Section 421.17, subsection 21, Code 1989, is amended to read as follows:

21. 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 human services, which the

child support recovery unit is attempting to collect on behalf of an individual not eligible as a public assistance recipient, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services, 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 or which is owed to the state for public assistance overpayments to recipients or to providers of services to recipients which the ~~office-of~~ investigations division of the department of ~~human-services~~ inspections and appeals is attempting to collect on behalf of the state. For purposes of this subsection, "public assistance" means aid to dependent children, medical assistance, food stamps, foster care, and state supplementary assistance. The procedure shall meet the following conditions:

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

b. Before setoff the child support recovery unit established pursuant to section 252B.2, the foster care recovery unit, and the ~~office-of~~ investigations division of the department of inspections and appeals shall obtain and forward to the department of revenue and finance the full name and social security number of the debtor. The department of revenue and finance shall co-operate in the exchange of relevant information with the child support recovery unit as provided in section 252B.9, with the foster care recovery unit, and with the ~~office-of~~ investigations division of the department of inspections and appeals. However, only relevant information required by the child support unit, by the foster care recovery unit, or by the ~~office-of~~ investigations

division of the department of inspections and appeals shall be provided by the department of revenue and finance. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The child support recovery unit, the foster care recovery unit, and the office of investigations division of the department of inspections and appeals shall, at least annually, submit to the department of revenue and finance for setoff the debts described in this subsection, which are at least fifty dollars, on a date to be specified by the department of human services and the department of inspections and appeals by rule.

d. Upon submission of a claim the department of revenue and finance shall notify the child support recovery unit, the foster care recovery unit, or the office of investigations division of the department of inspections and appeals as to whether the debtor is entitled to a refund or rebate and if so entitled shall notify the unit or office division 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, the foster care recovery unit, or the office of investigations division of the department of inspections and appeals shall send written notification to the debtor, and a copy of the notice to the department of revenue and finance, of the unit's or office's division's assertion of its rights, or the rights of the department of human services, 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. Upon application filed with the department of human services within fifteen days from the mailing of the notice of entitlement to a refund or rebate, the child support recovery unit, the foster care recovery unit, or the office of investigations department of human services shall grant a hearing pursuant to chapter chapters 10A and 17A. An appeal taken from the decision of an administrative law judge and subsequent appeals shall be taken pursuant to chapter 17A.

f. Upon the request of a debtor or a debtor's spouse to the child support recovery unit, the foster care recovery unit, or the office of investigations division of the department of inspections and appeals, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the unit or office division shall notify the department of revenue and finance of the request to divide a joint income tax refund or rebate. The department of revenue and finance 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 422.7.

g. The department of revenue and finance shall, after notice has been sent to the debtor by the child support recovery unit, the foster care recovery unit, or the office of investigations division of the department of inspections and appeals, set off the debt against the debtor's income tax refund or rebate. However, if a debtor has made all current child support or foster care payments in accordance with a court order or an assessment of foster care liability for the twelve months preceding the proposed setoff and has regularly made delinquent child support or foster care payments during those twelve months, the child support or foster care recovery unit shall notify the department of revenue and finance not to

set off the debt against the debtor's income tax refund or rebate. If a debtor has made all current repayment of public assistance in accordance with a court order or voluntary repayment agreement for the twelve months preceding the proposed setoff and has regularly made delinquent payments during those twelve months, the office of investigations division of the department of inspections and appeals shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. The department of revenue and finance shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue and finance shall periodically transfer the amount set off to the child support recovery unit, the foster care recovery unit, or the office of investigations division of the department of inspections and appeals. If the debtor gives timely written notice of intent to contest the claim the department of revenue and finance shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The child support recovery unit, the foster care recovery unit, or the office of investigations division of the department of inspections and appeals shall notify the debtor in writing upon completion of setoff.

Sec. 3. Section 421.17, subsection 26, Code 1989, is amended to read as follows:

26. To provide that in the case of multiple claims to payments filed under subsections 21, 23, 25, and 29 that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college aid commission under subsection 23, next priority shall be given to claims filed by the office of investigations division of the department of inspections and appeals under subsection 21, next priority shall be given to claims filed by a clerk of the district court under subsection 25, and last

priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 153, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved *May 29* 1989

TERRY E. BRANSTAD
Governor