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AN ACT  
RELATING TO TAXATION; ALLOWING THE HIGHER EDUCATION  
DEPARTMENT TO BE A CLAIMANT UNDER THE TAX REFUND INTERCEPT  
PROGRAM ACT AND ESTABLISHING THE PRIORITY OF ITS CLAIMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-2C-3 NMSA 1978 (being Laws 1985,  
Chapter 106, Section 3, as amended by Laws 2006, Chapter 52,  
Section 2 and by Laws 2006, Chapter 53, Section 2) is amended  
to read:

"7-2C-3. DEFINITIONS.--As used in the Tax Refund  
Intercept Program Act:

A. "claimant agency" means the taxation and  
revenue department or any of its divisions, the human  
services department, the workforce transition services  
division of the workforce solutions department, the higher  
education department, the workers' compensation  
administration, any corporation authorized to be formed under  
the Educational Assistance Act, a district, magistrate or  
municipal court or the Bernalillo county metropolitan court;

B. "debt" means a legally enforceable obligation  
of an employer subject to the Unemployment Compensation Law,  
the Workers' Compensation Act and the Workers' Compensation  
Administration Act, or an individual to pay a liquidated  
amount of money that:

1                   (1) is equal to or more than one hundred  
2 dollars (\$100);

3                   (2) is due and owing a claimant agency,  
4 which a claimant agency is obligated by law to collect or  
5 which, in the case of an educational loan, a claimant agency  
6 has lawfully contracted to collect;

7                   (3) has accrued through contract, tort,  
8 subrogation or operation of law; and

9                   (4) either:

10                   (a) has been secured by a warrant of  
11 levy and lien for amounts due under the Unemployment  
12 Compensation Law or workers' compensation fees due under the  
13 Workers' Compensation Administration Act; or

14                   (b) has been reduced to judgment for  
15 all other cases;

16                   C. "debtor" means any employer subject to the  
17 Unemployment Compensation Law, the Workers' Compensation Act  
18 and the Workers' Compensation Administration Act, or any  
19 individual owing a debt;

20                   D. "department" or "division" means, unless the  
21 context indicates otherwise, the taxation and revenue  
22 department, the secretary of taxation and revenue or any  
23 employee of the department exercising authority lawfully  
24 delegated to that employee by the secretary;

25                   E. "educational loan" means any loan for

1 educational purposes owned by a public post-secondary  
2 educational institution, originated and owned by the higher  
3 education department or owned or guaranteed by any  
4 corporation authorized to be formed under the Educational  
5 Assistance Act;

6 F. "medical support" means amounts owed to the  
7 human services department pursuant to the provisions of  
8 Subsection B of Section 40-4C-12 NMSA 1978;

9 G. "public post-secondary educational institution"  
10 means a publicly owned or operated institution of higher  
11 education or other publicly owned or operated post-secondary  
12 educational facility located within New Mexico;

13 H. "spouse" means an individual who is or was a  
14 spouse of the debtor and who has joined with the debtor in  
15 filing a joint return of income tax pursuant to the  
16 provisions of the Income Tax Act, which joint return has  
17 given rise to a refund that may be subject to the provisions  
18 of the Tax Refund Intercept Program Act; and

19 I. "refund" means a refund, including any amount  
20 of tax rebates or credits, under the Income Tax Act or the  
21 Corporate Income and Franchise Tax Act that the department  
22 has determined to be due to an individual or corporation."

23 SECTION 2. Section 7-2C-11 NMSA 1978 (being Laws 1985,  
24 Chapter 106, Section 11, as amended by Laws 2006, Chapter 52,  
25 Section 4 and by Laws 2006, Chapter 53, Section 4) is amended

1 to read:

2 "7-2C-11. PRIORITY OF CLAIMS.--

3 A. Claims of the department take precedence over  
4 the claim of any competing claimant agency, whether the  
5 department asserts a claim or sets off an asserted debt under  
6 the provisions of the Tax Refund Intercept Program Act or  
7 under the provisions of any other law that authorizes the  
8 department to apply amounts of tax owed against any refund  
9 due an individual pursuant to the Income Tax Act.

10 B. After claims of the department, claims shall  
11 take priority in the following order before claims of any  
12 competing claimant agency:

13 (1) claims of the human services department  
14 resulting from child support enforcement liabilities;

15 (2) claims of the human services department  
16 resulting from medical support liabilities;

17 (3) claims resulting from educational loans  
18 made under the Educational Assistance Act;

19 (4) claims of the human services department  
20 resulting from temporary assistance for needy families  
21 liabilities;

22 (5) claims of the human services department  
23 resulting from supplemental nutrition assistance program  
24 liabilities;

25 (6) claims of the workforce transition

1 services division of the workforce solutions department

2 arising under the Unemployment Compensation Law;

3 (7) claims of a district court for fines,  
4 fees or costs owed to that court;

5 (8) claims of a magistrate court for fines,  
6 fees or costs owed to that court;

7 (9) claims of the Bernalillo county  
8 metropolitan court for fines, fees or costs owed to that  
9 court;

10 (10) claims of a municipal court for fines,  
11 fees or costs owed to that court;

12 (11) claims of the workers' compensation  
13 administration arising under the Workers' Compensation Act or  
14 the Workers' Compensation Administration Act; and

15 (12) claims from educational loans made by  
16 the higher education department."

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