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SENATE BILL 812

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

TIMOTHY Z. JENNINGS

AN ACT

RELATING TO TAXATION; PERMITTING DISTRICT AND MUNICIPAL COURTS  
TO COLLECT DEBTS OF OUTSTANDING COURT FINES, FEES AND COSTS  
PRIOR TO ISSUANCE OF A STATE INCOME TAX REFUND; AMENDING  
SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-2C-2 NMSA 1978 (being Laws 1985,  
Chapter 106, Section 2, as amended) is amended to read:

"7-2C-2. PURPOSE. --

A. The purpose of the Tax Refund Intercept Program  
Act is to comply with federal law:

(1) by enhancing the enforcement of child  
support and medical support obligations;

(2) to aid collection of outstanding debts owed  
for overpayment of public assistance and overissuance of food

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[bracketed material] = delete

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1 stamps and overpayment of unemployment compensation benefits and  
2 nonpayment of contributions or payments in lieu of contributions  
3 or other amounts due under the Unemployment Compensation Law;

4 (3) to promote repayment of educational loans;

5 (4) to aid collection of fines, fees and costs  
6 owed to the district, magistrate and municipal courts; and

7 (5) to aid collection of fines, fees and costs  
8 owed to the Bernalillo county metropolitan court.

9 B. Efforts to accomplish the purpose of the Tax  
10 Refund Intercept Program Act may be enhanced by establishing a  
11 system to collect debts, in particular, outstanding child  
12 support obligations, educational loans, amounts due under the  
13 Unemployment Compensation Law, fines, fees and costs owed to the  
14 district, magistrate and municipal courts and fines, fees and  
15 costs owed to the Bernalillo county metropolitan court, by  
16 setting off the amount of such debts against the state income  
17 tax refunds due the debtors. "

18 Section 2. Section 7-2C-11 NMSA 1978 (being Laws 1985,  
19 Chapter 106, Section 11, as amended) is amended to read:

20 "7-2C-11. PRIORITY OF CLAIMS. --

21 A. Claims of the department take precedence over the  
22 claim of any competing claimant agency, whether the department  
23 asserts a claim or sets off an asserted debt under the  
24 provisions of the Tax Refund Intercept Program Act or under the  
25 provisions of any other law ~~[which]~~ that authorizes the

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1 department to apply amounts of tax owed against any refund due  
2 an individual pursuant to the Income Tax Act.

3 B. After claims of the department, claims shall take  
4 priority in the following order before claims of any competing  
5 claimant agency:

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

8 (2) claims of the human services department  
9 resulting from medical support liabilities;

10 (3) claims resulting from educational loans  
11 made under the Educational Assistance Act;

12 (4) claims of the human services department  
13 resulting from AFDC liabilities;

14 (5) claims of the human services department  
15 resulting from food stamp liabilities;

16 (6) claims of the employment security division  
17 of the labor department arising under the Unemployment  
18 Compensation Law;

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

21 [~~(7)~~] (8) claims of a magistrate court for  
22 fines, fees or costs owed to that court; ~~and~~

23 ~~(8)~~ (9) claims of the Bernalillo county  
24 metropolitan court for fines, fees or costs owed to that court;  
25 and

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

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

SB 812/a

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5  
6 February 26, 1997

7  
8 Mr. President:

9  
10 Your WAYS AND MEANS COMMITTEE, to whom has been  
11 referred

12  
13 SENATE BILL 812

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

17  
18 1. On page 2, between lines 17 and 18, insert the following  
19 new section:

20  
21 "Section 2. Section 7-2C-3 NMSA 1978 (being Laws 1985,  
22 Chapter 106, Section 3, as amended by Laws 1994, Chapter 56,  
23 Section 1 and also by Laws 1994, Chapter 76, Section 2) is amended  
24 to read:

25  
"7-2C-3. DEFINITIONS. --As used in the Tax Refund Intercept

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**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

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Program Act:

A. "claimant agency" means the taxation and revenue department or any of its divisions, the human services department, the employment security division of the labor department, 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 or an individual to pay a liquidated amount of money:

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

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

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

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(4) that, in the case of an amount due under the Unemployment Compensation Law, has been secured by a warrant of levy and lien or, in all other cases, has been reduced to judgment;

C. "debtor" means any employer subject to the Unemployment Compensation Law or any individual owing a debt;

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

E. "educational loan" means any loan for educational purposes owned by a public post-secondary educational institution or owned or guaranteed by any corporation authorized to be formed under the Educational Assistance Act;

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

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

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

I. "refund" means a refund, including any amount of tax rebates or credits, under the Income Tax Act that the department has determined to be due to an individual. ""

2. Renumber the succeeding section accordingly.,

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

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and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Carlos R. Cisneros, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Duran, Kidd, Leavell, Wilson

Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

SB 812/a

February 26, 1997

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

SENATE BILL 812

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 2, between lines 17 and 18, insert the following new section:

"Section 2. Section 7-2C-3 NMSA 1978 (being Laws 1985, Chapter 106, Section 3, as amended by Laws 1994, Chapter 56, Section 1 and also by Laws 1994, Chapter 76, Section 2) is amended to read:

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

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[bracketed material] = delete

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

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Program Act:

A. "claimant agency" means the taxation and revenue department or any of its divisions, the human services department, the employment security division of the labor department, 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 or an individual to pay a liquidated amount of money:

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

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

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

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(4) that, in the case of an amount due under the Unemployment Compensation Law, has been secured by a warrant of levy and lien or, in all other cases, has been reduced to judgment;

C. "debtor" means any employer subject to the Unemployment Compensation Law or any individual owing a debt;

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

E. "educational loan" means any loan for educational purposes owned by a public post-secondary educational institution or owned or guaranteed by any corporation authorized to be formed under the Educational Assistance Act;

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

G. "public post-secondary educational institution" means

**FORTY-THIRD LEGISLATURE  
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a publicly owned or operated institution of higher education or  
other publicly owned or operated post-secondary educational  
facility located within New Mexico;

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

I. "refund" means a refund, including any amount of tax  
rebates or credits, under the Income Tax Act that the department  
has determined to be due to an individual. "

2. Renumber the succeeding section accordingly. ,

and thence referred to the JUDICIARY COMMITTEE.

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Respectfully submitted,

\_\_\_\_\_  
Carlos R. Cisneros, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Duran, Kidd, Leavell, Wilson

Absent: None

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**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**March 5, 1997**

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 812, as amended

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

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Fernando R. Maci as, Chai rman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chi ef Clerk) (Chi ef Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Sanchez, Vernon

Absent: None

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**State of New Mexico**  
**House of Representatives**

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**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

March 21, 1997

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has  
been referred

SENATE BILL 812, as amended

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

---

Jerry W. Sandel, Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Crook, Gonzales, Lovejoy, Lujan, Parsons, Sandoval

Absent: None

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