

COMMITTEE REPORT
SENATE

FURTHER: Finance

2/2/81

Date: April 3, 1981

Mr. President:

The Committee on JUDICIARY has had SB 132

claims of the state

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title

report back and follows w/amd

and recommends _____

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

1 Charles H. ...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

2 Honorable ...
2 Bill Ray No REC

1 [Signature]
DO PASS CHAIRMAN

A M E N D M E N T

OFFERED IN THE SENATE:

By: Senate Judiciary

To: Senate Secretary SENATE BILL No. 132

HOUSE BILL No. _____

PAGE: _____

LINE: _____

To page 1, lines 13 & 28:

Delete "set off" and insert "offset" in its place.

To page 2, lines 12 & 13:

Delete "setting Off" and insert "offsetting" in its place.

To page 2, lines 15, 16, & 27:

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Introduced: 2/2/81
Referred: Judiciary and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 132

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to claims of the state; and providing
7 for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. LEGISLATIVE PURPOSE. The purpose of this Act is to

10 (1) require departments and agencies of the state to cooperate in
11 identifying debtors who owe money to the state and who also qualify for
12 payments from the state;

13 (2) establish procedures to set off against a payment from the
14 state the amount of a debt owed to the state.

15 * Sec. 2. AS 44 is amended by adding a new chapter to read:

16 CHAPTER 78. COLLECTION OF CLAIMS OF THE STATE.

17 Sec. 44.78.010. COLLECTION BY DEPARTMENT OF REVENUE. (a) Each
18 claimant agency of the state shall submit a liquidated debt to the de-
19 partment for collection under the procedures established in this chap-
20 ter unless:

21 (1) the agency is advised by the attorney general not to
22 submit a claim because the validity of the debt is in dispute;

23 (2) an alternative remedy is available and is believed by
24 the claimant agency to be more effective; or

25 (3) the collection attempt may result in a loss of federal
26 financial participation in state programs.

27 (b) If the amount of the liquidated debt exceeds any payment due
28 the debtor by the state, the setoff procedures established in this
29 chapter may be used concurrently with other methods for collection of

1 the excess due.

2 Sec. 44.78.020. IDENTIFYING INFORMATION. A claimant agency shall
3 obtain the full name, the social security number, the residence address
4 and mailing address, and any other identifying information required
5 under regulations of the department for a person who may be subject to
6 the collection procedures of this chapter.

7 Sec. 44.78.030. MINIMUM SUM COLLECTIBLE. In collecting a debt, a
8 claimant agency may not use the procedures established under this
9 chapter unless that debt and the payment from the state from which it
10 would be offset is at least \$100.

11 Sec. 44.78.040. COLLECTIONS. The commissioner shall attempt to
12 collect a delinquent account or debt owed to a claimant agency by set-
13 ting off a payment due the debtor from the state or by the use of other
14 collection methods permitted under AS 09.

15 Sec. 44.78.050. PROCEDURE FOR SETOFF. (a) A claimant agency
16 that attempts to collect a liquidated debt by setoff under this chapter
17 shall notify the commissioner in writing and provide the commissioner
18 with the information required under AS 44.78.020.

19 (b) If the commissioner determines that a debtor qualifies for a
20 payment of \$100 or more from the state, the department shall notify the
21 claimant agency in writing that a payment is pending, specify the
22 amount of the payment, and indicate the address of the debtor set out
23 on the invoice, billing, or other document which forms the basis of the
24 debtor's claim for payment from the state. Payment to the debtor may
25 not be made by the Department of Administration until approval is
26 received from the commissioner under AS 44.78.080(a).

27 Sec. 44.78.060. NOTICE OF INTENT TO SET OFF. (a) Upon notifi-
28 cation under AS 44.78.050(b) that a debtor is entitled to a payment,
29 the claimant agency shall within 10 days after receiving the notice

1 send a notice in writing to the debtor of its claim against the pay-
2 ment. The claimant agency shall provide a copy of this notice to the
3 commissioner.

4 (b) If the commissioner receives a copy of the notice sent under
5 (a) of this section within 30 days after the department's notice to the
6 claimant agency under AS 44.78.050(b), the commissioner shall notify
7 the Department of Administration to not issue a payment to the debtor.

8 (c) The contents of the notice to the debtor must clearly set out

9 (1) the basis for the agency's claim;

10 (2) the claimant agency's intention to apply the payment
11 against the claimed debt;

12 (3) the debtor's right to request a hearing before the
13 claimant agency within 30 days after the date of the mailing of the
14 notice;

15 (4) the mailing address to which the request for the hearing
16 must be sent; and

17 (5) the fact that failure to request a hearing in writing
18 within 30 days is a waiver of the opportunity to contest the liquidated
19 debt and is a consent to the setoff or other collection action.

20 (d) A request by the debtor for a hearing is effective when
21 mailed if the postage is prepaid and the request is properly addressed
22 to the claimant agency.

23 Sec. 44.78.070. HEARING PROCEDURES. (a) The claimant agency
24 shall grant a hearing request by a debtor under AS 44.78.060 if the
25 debtor demonstrates that there is a genuine issue with respect to the
26 amount of the debt or the identity of the debtor. An issue may not be
27 considered at this hearing which has been decided at an earlier hearing,
28 or should have been raised at an earlier hearing.

29 (b) Efforts to collect the liquidated debt must be deferred until

1 the agency either denies the debtor's request for a hearing or issues a
2 final decision after a hearing.

3 (c) Except as provided in AS 44.78.080(c), AS 44.62.330 -- 44.-
4 62.640 do not apply to hearings held under this section.

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6 expiration of the date for requesting a hearing, denial of a hearing
7 request, or a final determination after hearing favorable to the
8 claimant agency, the claimant agency shall certify to the commissioner
9 the debt determined to be due. If no certification is made within the
10 20-day period, the commissioner shall notify the Department of Admini-
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13 this section, he or she shall transfer the amounts determined to be due
14 under the final decision issued under AS 44.78.070 to the claimant
15 agency and authorize the Department of Administration to pay any re-
16 maining money to the debtor.

17 (c) A final action by the claimant agency under AS 44.78.070 may
18 be appealed under AS 44.62.560 and 44.62.570. However, no stay of the
19 commissioner's action under (b) of this section may be granted. If the
20 claimant agency's action is reversed or modified on appeal, the Depart-
21 ment of Administration shall promptly pay to the debtor any sum due,
22 together with interest computed at the rate of eight percent per year
23 from the date the Department of Revenue transmits the money to the
24 claimant agency.

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3 this chapter, including regulations governing hearing procedures under
4 AS 44.78.070 if the claimant agency has not adopted regulations which
5 establish hearing procedures.

6 Sec. 44.78.110. ADDITIONAL REMEDIES; COLLECTION OF JUDGMENTS.

7 (a) The setoff procedure established under this chapter is in addition
8 to any other remedy available by law.

9 (b) The department shall attempt to collect judgment debts under
10 AS 09 if the setoff procedures established in this chapter are inade-
11 quate or if no payment is found to be due under AS 44.78.050(b).

12 Sec. 44.78.120. DEFINITIONS. In this chapter,

13 (1) "claimant agency" means a department or agency of the
14 executive or judicial branch of the state government which believes
15 that a debt is owed to it by the debtor;

16 (2) "liquidated debt" means money owed to the state under an
17 express agreement or by operation of law which is determined by a
18 claimant agency to be a valid, enforceable debt after a hearing or by
19 expiration of the time to request a hearing;

20 (3) "commissioner" means the commissioner of revenue or his
21 designee;

22 (4) "debtor" means a person who owes money or who has a de-
23 linquent account with a claimant agency which has not been satisfied by
24 a judgment of a court of competent jurisdiction, set aside by a ju-
25 dgment, or discharged in bankruptcy;

26 (5) "department" means the Department of Revenue;

27 (6) "payment" means a claim for refund under AS 43.20, a
28 distribution of permanent fund revenues to a debtor that may be pro-
29 vided by law, and a claim for a service, material, lease, rental, or

1 other amount owed to the debtor by the state.

2 * Sec. 3. This Act takes effect July 1, 1981.
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COMMITTEE COPY

February 2, 1981

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which would centralize collection of state claims in the Department of Revenue. This bill, based on Oregon law, provides for the Department of Revenue to withhold refunds and any other payments from the state and credit those payments to a debtor's account with a state agency.

State agencies, under this bill, will submit a list of debtors having liquidated debts with the agency to the Department of Revenue which will determine whether those debtors are entitled to a tax refund or other payment. If it is determined that enough money is available for setoff, the claimant agency will notify the debtor of its intent to set off the debt and provide the debtor with an opportunity to request a hearing. After a hearing, or after the expiration of time for a hearing, the Department of Revenue will divert part or all of the payment to the agency, which in turn will credit the debtor's account in the amount of the setoff. This bill will provide an efficient method of collecting debts owed to the state.

Sincerely,

S/JSH

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 132
 Title Statewide Collection Act
 Requested by Governor Date January 19, 1981

II. FISCAL DETAIL

Agency Affected Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected Enforcement

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		114.6				
200 TRAVEL		5.0				
300 CONTRACTUAL		27.0				
400 COMMODITIES		1.6				
500 EQUIPMENT		4.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		152.2				

FUNDING (Thousands of Dollars)

GENERAL FUND		152.2				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		4				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See memo from Fred Boetsch, Director, Enforcement Division to Joseph K. Donohue, Deputy Commissioner of Taxation, dated January 19, 1981, attached.

IV. DATE January 19, 1981 PREPARED BY Fred P. Boetsch
 AGENCY Revenue
 PHONE 465-2366

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

MEMORANDUM


State of Alaska

TO: *Joeseph K. Donohue*
Deputy Commissioner
Department of Revenue

DATE: January 19, 1981

FILE NO:

TELEPHONE NO:

FROM: *Fred P. Boetsch* 
Director
Enforcement Division

SUBJECT: *Fiscal Note for*
Statewide Collection
Act

The Statewide Collection Act which the Governor is introducing is similar to House Bill 869 from last year's session. Some changes have been made to that bill in order to strengthen its operation. In the first place, the Act requires that liquidated debts be turned over to the Department of Revenue for collection procedures unless certain exceptions delineated in section 2 exist. Secondly, the set-off procedure would be against any amount owed by the state to the debtor instead of just taxes and/or Permanent fund dividends. And third, the Department of Revenue would also have the authority to follow concurrent collection procedures under AS 09.

It appears from our research that accounts receivable of 3 1/2 to 4 million dollars might be subject to collection by the Department of Revenue under this bill. The bulk of these delinquent accounts is in the student loan program, although a certain amount of delinquency also exists in most of the other state loan programs. We will initiate the program with a modest core unit designed to implement all the responsibilities and functions assigned to us under this bill. The first year of experience will give us an opportunity to ascertain the precise workload that will be assigned to the Department of Revenue. It is possible that this group could be expanded horizontally in subsequent years if there is sufficient workload justification.

The Department of Revenue, through its experience with tax collection efforts, has developed expertise in the areas of skip-tracing, progressive collection efforts, and levy and seizure. With the elimination of individual income tax and the collection workload related to that, we are in a good position to pick up other collection efforts. Although this fiscal note identifies additional resources necessary to do this job, it should be pointed out that our FY '82 budget contemplates the deletion of some sixteen positions during FY '82. The operation of that budget and this fiscal note concurrently would result in our retaining some of those positions scheduled for deletion under the FY '82 budget proposal. Accordingly, the cost indicated below would merely be retractions of the deletion proposed for FY '82 rather than actual additions to the FY '81 continuation level (that is we would drop 16 positions and add back 4 with a net deletion of 12).

The cost associated with implementation of this bill would amount to \$152,200 for FY '82. This includes the salary and benefits for a Revenue Enforcement Officer III, 2 Tax Collection Specialists II's, (or Paralegal Assistants) and an Accounts Receivable Clerk. In addition, we would require \$5,000 in travel money for the Revenue Enforcement Officer to meet face to face with debtors in the extremely difficult collection cases. We would also need an enhancement of the existing accounts receivable system in order to accommodate the liquidated debts assigned to us. The basic design for that

Joseph K. Donohue

-2-

January 19, 1981

system already exists and would need some minor modification to include these additional accounts. Detailed design and programming effort in order to get an up and running system which would accommodate the debts under this bill would cost an additional \$20,000, which is included in contractual services. I have also included \$5,000 for additional telephone costs and \$2,000 for postage. Additional commodities and equipment costs are also included in the fiscal note.

It is difficult to estimate at this time the potential results which could be achieved from this bill. Based on our past performance with the collection of taxes, a very difficult item to collect these days, I feel that the Enforcement Division is well situated to significantly improve the collection of delinquent accounts on a statewide basis. We will find that the amount collected will far exceed the cost involved. The first year of experience will give us a better handle on the cost/benefits as well as the potential workload for this unit.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 132
 Title Relating to Claims of the State
 Requested by the Governor Date 1/26/81

II. FISCAL DETAIL

Agency Affected _____ Revenue _____
 Program Category Affected _____ General Government _____
 BRU, Program, or Subprogram(s) Affected Administration & Support, Management Services
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		9.9	30.2			
200 TRAVEL						
300 CONTRACTUAL			50.5			
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		9.9	80.7			

FUNDING (Thousands of Dollars)


GENERAL FUND		9.9	80.7			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME		1/3mm	2/12mm			
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See Page 2.

IV. DATE 1-28-81 PREPARED BY  Philip A. Wall
 AGENCY Revenue
 PHONE 465-2313
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Assumptions

Claims submitted by State agencies will off-set against tax refund and Permanent Fund Dividend payments being processed by the Department of Revenue and against payments being made by the Department of Administration. The computer programs to data capture claims information, attach payments being made and process the off-set must be written. Resources will be needed to process the claims and apply controls will also be required. The expenditures defined below will enable system design and initial process and will define on-going costs for future budget requests.

Positions

One Systems Analyst to design the processing system and write the computer programs:

6mm @ R 18, \$2,640 per mo, plus 25% 19.8

One Accounting Clerk to batch claims, apply controls, make corrections, prepare offset adjustments and release payment of money excess to debts:

6mm @ R 8, \$1,393 per mo., plus 25% 10.4

Other Expenditures

Data Processing Costs: Storage, 50mgb @ \$4 - 24.0;
Program Development and Processing @ 2.0 per mo - 24.0

Communications: Postage and Toll Calls - 1.5

Miscellaneous Contractual - 1.0 50.5

30.7

ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST... Session

SENATE BILL..... NO. 132...

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating to claims of the state; and providing for an effective date."

Introduced in the Senate ... 2/2/... 19... 81

HISTORY IN THE SENATE

19 81

Read first time and referred to Committee on Judiciary and Finance

2 2

4 6

Reported back with recommendation that *jud. deposit report proceed to floor*

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

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Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

AMENDMENT

OFFERED IN THE SENATE:

By: Senate Judiciary

To: Senate Secretary SENATE BILL No. 132

HOUSE BILL No. _____

PAGE: _____

LINE: _____

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Finance

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BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

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SENATE BILL NO. 132

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to claims of the state; and providing
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* Sec. 2. AS 44 is amended by adding a new chapter to read:

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20 (3) "commissioner" means the commissioner of revenue or his
21 designee;

22 (4) "debtor" means a person who owes money or who has a de-
23 linquent account with a claimant agency which has not been satisfied by
24 a judgment of a court of competent jurisdiction, set aside by a ju-
25 dgment, or discharged in bankruptcy;

26 (5) "department" means the Department of Revenue;

27 (6) "payment" means a claim for refund under AS 43.20, a
28 distribution of permanent fund revenues to a debtor that may be pro-
29 vided by law, and a claim for a service, material, lease, rental, or

1 other amount owed to the debtor by the state.

2 * Sec. 3. This Act takes effect July 1, 1981.

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