

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0770.01 Ed DeCecco x4216

SENATE BILL 21-055

SENATE SPONSORSHIP

Hansen and Rankin, Moreno

HOUSE SPONSORSHIP

McCluskie, Herod, Ransom

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 CONCERNING THE COLLECTION OF DEBTS OWED TO THE STATE, AND,
102 IN CONNECTION THEREWITH, REDUCING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. The bill repeals the central collection services section (CSS) in the division of finance procurement in the department of personnel, which section was the centralized collection agency for state debts of many state agencies. Thereafter, all state agencies will be responsible for collecting their own debts. **Section 1** of the bill modifies the collection of state debts by:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- Repealing CSS and specifying that each state agency is responsible for collecting debts owed to it;
- Shifting rule-making responsibility related to debt collection from the executive director of the department of personnel to the state controller (controller);
- Permitting a state agency to certify a debt to the department of revenue, so that the department may deduct the debt from a state tax refund or lottery winnings;
- Permitting a state agency to certify a debt to the registry operator under the "Gaming Payment Intercept Act", so that the registry operator may deduct the debt from limited gaming winnings;
- Permitting a state agency to refer a debt to a private counsel or private collection agency;
- Requiring the controller to include in the fiscal rules requirements for a state agency to refer a debt to private counsel or a private collection agency or to certify a debt to the department of revenue;
- Eliminating the ability of the state to collect a debt on behalf of a political subdivision;
- Repealing the requirement that there be written notice and an opportunity for a hearing prior to a tax refund offset being implemented;
- Eliminating the controller and state treasurer's authority to write off a debt due to the state, so that they only have authority to release or compromise such a debt;
- Transferring the balance in the debt collection fund to the general fund and then repealing the fund;
- Authorizing the controller to determine the priority of debts for which amounts will be withheld from disbursements, instead of requiring a pro rata distribution, which cannot be done with decentralized debt collection;
- Repealing the vendor offset implementation fund, which currently has no balance;
- Repealing the requirement that the controller establish performance policies and standards for measuring a state agency's debt collection;
- Repealing the controller's debt collection fee;
- Requiring the controller, without consultation of others, to select the private counsel or private collection agencies, instead of the executive director of the department of personnel with consultation of others;
- Eliminating specification for applying a court-ordered award that is insufficient to cover a state debt, so that such disposition is left to the court order;

- Repealing a written notice to debtors that specifies the amount of the debt, including the itemization of any fees, and the name of the creditor to whom the debt is owed; and
- Repealing the authority for the department of personnel to enter into a reciprocal agreement with the United States government or another state to offset debts.

Sections 2 to 16 make conforming amendments related to the changes in section 1 of the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-30-202.4
3 as follows:

4 **24-30-202.4. Collection of debts due the state - state agency**
5 **options - controller's duties - offsetting disbursements - definitions -**
6 **repeal.** (1) A STATE AGENCY IS RESPONSIBLE FOR THE COLLECTION OF
7 ANY DEBT OWED TO IT. The state controller shall advise ~~and assist~~ the
8 various state agencies concerning the collection of debts due the state
9 through ~~such~~ THE agencies, in accordance with THE FISCAL rules
10 promulgated by the ~~executive director of the department of personnel~~
11 CONTROLLER IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION, to
12 achieve the prompt collection of debts due ~~such~~ THE agencies. The
13 controller may ~~delegate the responsibility for the collection of debts to the~~
14 ~~central collection services section of the division of finance and~~
15 ~~procurement, or any successor section, in the department.~~

16 (2) (a) ~~Except as otherwise provided for institutions of higher~~
17 ~~education pursuant to section 23-5-113, and except for those debts under~~
18 ~~the jurisdiction of the department of revenue referred to in section~~
19 ~~24-35-108 (1)(a), under the jurisdiction of the judicial department~~
20 ~~referred to in section 16-11-101.6, under the jurisdiction of the~~
21 ~~department of state referred to in section 1-45-111.5, and under the~~

1 jurisdiction of the department of labor and employment related to
2 overpayment of unemployment insurance benefits and delinquent taxes
3 referred to in section 8-79-102, all state agencies shall refer to the state
4 controller debts due the state that the agency has been unable to collect
5 within thirty days after such debts have become past due, together with
6 the data and information necessary for the controller to institute collection
7 procedures. Debts are not subject to referral pursuant to this subsection
8 (2) if payment arrangements have been made and payments due in
9 accordance with the terms of the arrangements are not delinquent. The
10 controller may grant a waiver to the requirement that a state agency refer
11 debts within such thirty-day period based upon a documented request and
12 justification provided by a state agency, pursuant to rules promulgated by
13 the department of personnel under article 4 of this title 24. A waiver may
14 include extended periods to collect delinquent debts. For accounts where
15 no waiver to assignment has been granted, the controller shall use all state
16 collection capabilities to collect that debt, including the certification of
17 that debt to the department of revenue for offset of that debt against any
18 tax refund due the debtor under the provisions of subsection (3)(a)(II) of
19 this section. No later than one hundred eighty days after receipt by the
20 controller, the controller or the controller's designee shall legally assign
21 all debts that are not claims in process of collection to private counsel or
22 private collection agencies that appear on the list of private counsel or
23 private collection agencies. For the purposes of this section, "claims in
24 process of collection" means any debts on which payments are being
25 made, on which payments have been promised, on which suit has been
26 brought, or any other debts as defined in rules promulgated by the
27 department of personnel pursuant to article 4 of this title 24. THE

1 CONTROLLER SHALL PROMULGATE FISCAL RULES FOR COLLECTION OF
2 DEBTS DUE TO A STATE AGENCY. THE CONTROLLER SHALL INCLUDE IN THE
3 FISCAL RULES ANY REQUIREMENTS FOR A STATE AGENCY TO REFER A DEBT
4 TO PRIVATE COUNSEL OR A PRIVATE COLLECTION AGENCY UNDER
5 SUBSECTION (2)(b) OF THIS SECTION OR TO CERTIFY A DEBT TO THE
6 DEPARTMENT OF REVENUE UNDER SUBSECTION (2.5) OF THIS SECTION.

7 (b) A STATE AGENCY MAY REFER THE DEBT TO A PRIVATE COUNSEL
8 OR PRIVATE COLLECTION AGENCY. THE CONTROLLER SHALL ESTABLISH A
9 LIST OF PRIVATE COUNSEL OR PRIVATE COLLECTION AGENCIES THAT A
10 STATE AGENCY MAY CONTRACT WITH FOR DEBT COLLECTION SERVICES.
11 THE CONTROLLER MUST SELECT the private counsel or private collection
12 agencies included in the list of private counsel or private collection
13 agencies ~~must be selected~~ through competition pursuant to the
14 "Procurement Code", articles 101 to 112 of this title 24. ~~Criteria for~~
15 ~~selection of the private counsel or private collection agencies shall be~~
16 ~~developed by the executive director of the department of personnel in~~
17 ~~consultation with the controller, affected state agencies, and the private~~
18 ~~collection community.~~

19 (2.5) (a) ~~The department of personnel may provide debt collection~~
20 ~~services, including lottery offsets, limited gaming offsets, and state tax~~
21 ~~refund offsets, for accounts assigned to central collection services by~~
22 ~~political subdivisions of the state under contract with central collection~~
23 ~~services. The provisions of this section governing the time for referral of~~
24 ~~accounts to private collection agencies, write off, release, or compromise~~
25 ~~of debts does not govern the debt collection services provided to political~~
26 ~~subdivisions except as agreed between the department and such political~~
27 ~~subdivisions or state agencies and institutions.~~ A STATE AGENCY MAY

1 CERTIFY THE AMOUNT OF A DEBT DUE TO THE STATE TO THE DEPARTMENT
2 OF REVENUE IN ORDER FOR THE DEPARTMENT TO PROVIDE LOTTERY
3 OFFSETS IN ACCORDANCE WITH SECTION 24-30-202.7, AND AN OFFSET OF
4 A STATE TAX REFUND DUE THE DEBTOR UNDER SECTION 39-21-108 (3),
5 AND TO THE REGISTRY OPERATOR IN ORDER FOR THE REGISTRY OPERATOR
6 TO PROVIDE LIMITED GAMING OFFSETS IN ACCORDANCE WITH THE
7 "GAMBLING PAYMENT INTERCEPT ACT", PART 6 OF ARTICLE 35 OF THIS
8 TITLE 24.

9 ~~(b) Upon verification by the appropriate state agency,~~
10 ~~state-supported institution of higher education, or political subdivision of~~
11 ~~the state of the amount of a debt due the state, institution, or political~~
12 ~~subdivision, the state controller may certify to the department of revenue~~
13 ~~any unpaid debt to be offset against a tax refund due the debtor pursuant~~
14 ~~to section 39-21-108 (3), C.R.S. Before certifying an unpaid debt to the~~
15 ~~department of revenue, the state controller shall give written notice to the~~
16 ~~debtor that the debt will be offset against a tax refund due the debtor and~~
17 ~~that the debtor may, within thirty days of the postmark of the written~~
18 ~~notice, request a hearing to dispute the tax refund offset. Such a hearing~~
19 ~~must be held within thirty calendar days following receipt of the request~~
20 ~~from the debtor. If the agency, institution, or political subdivision that~~
21 ~~referred the debt to the controller certifies that the debt was the subject of~~
22 ~~a final agency determination or judicial decision or that the debt has been~~
23 ~~reduced to judgment, the debtor may not dispute the validity of the debt~~
24 ~~at the hearing. If, at the hearing, the dispute is resolved in favor of the~~
25 ~~debtor, the debtor is entitled to a refund of any money due plus interest,~~
26 ~~if requested, pursuant to sections 39-21-110 and 39-21-110.5, C.R.S. The~~
27 ~~executive director of the department of personnel shall promulgate rules,~~

1 ~~in accordance with article 4 of this title, that specify provisions for~~
2 ~~adequate notice and opportunity for hearing. The state controller may~~
3 ~~write off, release, or compromise, any debt as authorized by paragraph (c)~~
4 ~~of subsection (3) of this section.~~

5 (3) (a) (I) ~~Upon referral to the controller of debts due the state, the~~
6 ~~controller shall institute procedures for collection thereof pursuant to the~~
7 ~~rules and regulations promulgated therefor by the executive director of~~
8 ~~the department of personnel.~~

9 (II) ~~Upon verification by the appropriate state agency of the~~
10 ~~amount of the debt due the state, the controller may certify to the~~
11 ~~department of revenue any unpaid debt due the state to be offset against~~
12 ~~a tax refund due the debtor, pursuant to section 39-21-108 (3), C.R.S.~~
13 ~~Before any unpaid debt is certified to the department of revenue, the~~
14 ~~controller shall give written notice to the debtor that the debt shall be~~
15 ~~offset against a tax refund due the debtor and shall notify the debtor that~~
16 ~~the debtor may, within thirty days of the postmark of the written notice~~
17 ~~from the controller, request a hearing to dispute the tax refund offset.~~
18 ~~Such hearing shall be held within thirty calendar days from receipt of the~~
19 ~~request from the debtor. If the agency that referred the debt to the~~
20 ~~controller certifies that the debt was the subject of a final agency~~
21 ~~determination or judicial decision or that the debt has been reduced to~~
22 ~~judgment, the debtor may not dispute the validity of the debt at the~~
23 ~~hearing. No money shall be refunded or offset against a tax refund due the~~
24 ~~debtor if such a hearing is requested until such time as the hearing is~~
25 ~~completed and a decision is rendered. If at the hearing the dispute is~~
26 ~~resolved in favor of the debtor, the debtor shall be entitled to a refund of~~
27 ~~any moneys due plus interest, pursuant to section 39-21-110.5, C.R.S.~~

1 ~~Provisions for adequate notice and opportunity for hearing shall be made~~
2 ~~by rules and regulations promulgated by the executive director of the~~
3 ~~department of personnel. Any debts may be written off, released, or~~
4 ~~compromised pursuant to paragraph (c) of this subsection (3).~~

5 (b) (Deleted by amendment, L. 91, p. 839, § 1, effective January
6 1, 1992.)

7 (c) The ~~state~~ controller, with the consent of the state treasurer, is
8 authorized to ~~write off~~, release or compromise any debt due the state, but
9 only in accordance with the rules applicable thereto. Such rules may
10 provide delegated authority and criteria for ~~write off~~, release and
11 compromise of debts and may include provisions to prohibit the referral
12 of debts for tax offset based on the age or amounts of debts. ~~The rules~~
13 ~~governing write off, release, and compromise of debts may include~~
14 ~~provisions authorizing the collection of principal, interest, and other~~
15 ~~collection fees and costs, including the fees required in subsection (8) of~~
16 ~~this section.~~

17 (d) Proceeds of debts collected by ~~the state controller~~ A STATE
18 AGENCY or by a private counsel or private collection agency ~~shall be~~ ARE
19 accounted for and paid into the fund from which the receivable was
20 derived, and if the fund is no longer in existence, it ~~shall be~~ IS paid into
21 the general fund. ~~Revenues collected by the controller to pay for state~~
22 ~~collection activities shall be deposited in the debt collection fund.~~

23 (e) (I) There is hereby created in the state treasury a fund to be
24 known as the debt collection fund. Subject to annual appropriation by the
25 general assembly, moneys in the debt collection fund may be used by the
26 controller to offset a shortfall during the fiscal year in the revenue
27 available to pay for the expenses incurred by the controller in collecting

1 debts owed the state. The debt collection fund balance at the end of any
2 fiscal year shall not exceed twenty-five percent of the annual appropriated
3 budget for the collection of debts owed the state. Net revenues collected
4 in excess of twenty-five percent of the debt collection fund balance shall
5 revert to the general fund at the end of each fiscal year.

6 (II) ON JUNE 30, 2021, THE STATE TREASURER SHALL TRANSFER
7 THE BALANCE IN THE DEBT COLLECTION FUND TO THE GENERAL FUND.
8 THIS SUBSECTION (3)(e) IS REPEALED, EFFECTIVE JULY 1, 2021.

9 ~~(f) Notwithstanding any provision of paragraph (e) of this~~
10 ~~subsection (3) to the contrary, on June 30, 2012, the state treasurer shall~~
11 ~~deduct two hundred forty-nine thousand four hundred ninety-four dollars~~
12 ~~from the debt collection fund and transfer such sum to the general fund.~~

13 ~~(g) Notwithstanding any provision of this section to the contrary,~~
14 ~~for the 2011-12 fiscal year the general assembly may appropriate moneys~~
15 ~~in the debt collection fund created in paragraph (e) of this subsection (3)~~
16 ~~to the department of revenue for the purpose of modifying the program~~
17 ~~administered through the "Gambling Payment Intercept Act", part 6 of~~
18 ~~article 35 of this title, to include the collection of unpaid debts due to the~~
19 ~~state.~~

20 (3.5) (a) (I) The controller shall approve disbursements from state
21 funds from the state's central accounting system in accordance with
22 section 24-30-202 (2). ~~If the controller finds that there is an unpaid~~
23 ~~balance or debt owing to state agency claimants for any of the following,~~
24 ~~the controller, upon notice of withholding to the payee, shall~~ OWED, A
25 STATE AGENCY MAY DIRECT THE CONTROLLER TO withhold the amount of
26 the disbursement that does not exceed the amount of: ~~the unpaid balance~~
27 ~~or debt.~~

1 (A) Any unpaid child support debt as set forth in section
2 14-14-104, ~~C.R.S.~~, or child support arrearages that are the subject of
3 enforcement services provided pursuant to section 26-13-106, ~~C.R.S.~~, as
4 certified by the department of human services;

5 (B) Any unpaid balance of tax, accrued interest, or other charges
6 specified in article 21 of title 39, ~~C.R.S.~~, that is subject to offset under
7 section 39-21-108 (3), ~~C.R.S.~~, and owing by the payee according to the
8 records of the controller;

9 (C) Any unpaid debt owing to the state or any agency thereof by
10 ~~such~~ A payee, the amount of which is found to be owing as a result of a
11 final agency determination or the amount of which has been reduced to
12 judgment; ~~as certified by the controller;~~

13 (D) Any unpaid loan due to the student loan division of the
14 department of higher education as set forth in section 23-3.1-104 (1)(p),
15 ~~C.R.S.~~, found to be owing to ~~such~~ THE division by ~~such~~ A payee as a
16 result of final agency determination; or

17 (E) Any amount required to be paid to the unemployment
18 compensation fund pursuant to articles 70 to 82 of title 8, ~~C.R.S.~~, the
19 amount of which has been determined to be owing as a result of a final
20 agency determination or judicial decision or that has been reduced to
21 judgment by the division of unemployment insurance in the department
22 of labor and employment. ~~and referred to the controller for collection~~
23 ~~pursuant to section 8-79-102 (2), C.R.S.~~

24 (II) Any ~~moneys~~ MONEY withheld for payment of child support
25 debt or child support arrearages pursuant to ~~subparagraph (I) of this~~
26 ~~paragraph (a) shall be~~ SUBSECTION (3.5)(a)(I) OF THIS SECTION IS
27 deposited with the state treasurer for disbursement by the department of

1 human services. For all names and amounts certified by the department
2 of human services pursuant to section 26-13-111, ~~C.R.S.~~, the controller
3 shall provide to the department of human services the payees' names and
4 associated amounts deposited with the state treasurer pursuant to this
5 ~~subparagraph (H)~~ SUBSECTION (3.5)(a)(II) and any other identifying
6 information as required by the department of human services.

7 (III) Any ~~moneys~~ MONEY withheld for payment of an unpaid
8 balance of tax, interest, or other charges specified in ~~subparagraph (F)~~ of
9 ~~this paragraph (a)~~ SUBSECTION (3.5)(a)(I) OF THIS SECTION and subject to
10 offset under section 39-21-108 (3), ~~C.R.S.~~, ~~shall be~~ IS deposited with the
11 state treasurer. For all names and amounts submitted by the executive
12 director of the department of revenue pursuant to section 39-21-114 (10),
13 ~~C.R.S.~~, the controller shall provide to ~~said~~ THE department the payees'
14 names and associated amounts deposited with the state treasurer pursuant
15 to this ~~subparagraph (H)~~ SUBSECTION (3.5)(a)(III).

16 (IV) Any ~~moneys~~ MONEY withheld for payment of an unpaid debt
17 owing to the state pursuant to ~~subparagraph (F)~~ of ~~this paragraph (a)~~ shall
18 ~~be~~ SUBSECTION (3.5)(a)(I) OF THIS SECTION IS deposited with the state
19 treasurer. For all names and amounts certified by ~~the central collections~~
20 ~~unit~~ A STATE AGENCY pursuant to SUBSECTION (3.5)(a) OF this section, the
21 controller shall provide to the ~~central collections unit~~ STATE AGENCY the
22 payees' names and associated amounts deposited with the state treasurer
23 pursuant to this ~~subparagraph (IV)~~ SUBSECTION (3.5)(a)(IV).

24 (V) All ~~moneys~~ MONEY withheld for payment of a student loan
25 division debt pursuant to ~~subparagraph (F)~~ of ~~this paragraph (a)~~ shall ~~be~~
26 SUBSECTION (3.5)(a)(I) OF THIS SECTION IS deposited with the state
27 treasurer for disbursement by the state treasurer to the division. For all

1 names and amounts certified by the division pursuant to section
2 23-3.1-104 (1)(q), ~~C.R.S.~~, the controller shall provide to the division the
3 payees' names and associated amounts deposited with the state treasurer
4 pursuant to this ~~subparagraph (V)~~ SUBSECTION (3.5)(a)(V).

5 (VI) The controller shall deposit with the state treasurer any
6 ~~moneys~~ MONEY withheld for payment of unemployment compensation
7 debt pursuant to ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION
8 (3.5)(a)(I) OF THIS SECTION, and the state treasurer shall credit the ~~moneys~~
9 MONEY to the unemployment compensation fund. For all names and
10 amounts certified by the division of unemployment insurance, ~~pursuant~~
11 ~~to section 8-79-102 (2), C.R.S.~~, the controller shall provide to the division
12 the payees' names and associated amounts deposited with the state
13 treasurer pursuant to this ~~subparagraph (VI)~~ SUBSECTION (3.5)(b)(VI).

14 (VII) THE CONTROLLER SHALL PAY any approved disbursement in
15 excess of the unpaid balance or debt ~~shall be paid~~ to the approved payee.

16 (b) In the event that there are debts for unpaid child support, as set
17 forth in section 26-13-111, ~~C.R.S.~~, debts for an unpaid balance of tax,
18 interest, or other charges pursuant to article 21 of title 39, ~~C.R.S.~~, and
19 other debts owing to the state or any agency thereof as set forth in
20 ~~subparagraph (I) of paragraph (a) of this subsection (3.5)~~ SUBSECTION
21 (3.5)(a)(I) OF THIS SECTION, the amount withheld pursuant to
22 ~~subparagraph (I) of paragraph (a) of this subsection (3.5)~~ shall be
23 SUBSECTION (3.5)(a)(I) OF THIS SECTION IS credited to the unpaid debts
24 and ~~shall be~~ IS applied first to those unpaid debts in the order they appear
25 in this ~~paragraph (b)~~ SUBSECTION (3.5)(b), and any remaining amounts
26 ~~shall be prorated among other unpaid debts~~ withheld pursuant to
27 ~~subparagraph (I) of paragraph (a) of this subsection (3.5)~~ on the basis of

1 ~~the ratio of the amount of each such remaining unpaid debt as compared~~
2 ~~to the total amount of the remaining unpaid debts~~ SUBSECTION (3.5)(a)(I)
3 OF THIS SECTION IS APPLIED BASED ON THE PRIORITY DETERMINED BY THE
4 CONTROLLER.

5 (c) ~~The controller shall charge for disbursements withheld~~
6 ~~pursuant to subparagraph (I) of paragraph (a) of this section and shall~~
7 ~~credit amounts so collected to the vendor offset implementation fund,~~
8 ~~which fund is hereby created in the state treasury. The amount of such~~
9 ~~charges shall be negotiated by the controller with departments using the~~
10 ~~vendor offset intercept system.~~

11 (4) (Deleted by amendment, L. 99, p. 689, § 9, effective August
12 4, 1999.)

13 (5) ~~No contract for the collection of state debts under the~~
14 ~~provisions of this section shall be awarded for a term in excess of that~~
15 ~~permitted by the provisions of the "Procurement Code", articles 101 to~~
16 ~~112 of this title.~~

17 (6) Any contract awarded to private counsel or private collection
18 agency shall require that the ~~contractee~~ CONTRACTOR remain licensed
19 under the ~~contractee's~~ CONTRACTOR'S respective occupational licensing
20 statutes or rules during the term of the contract. The contract shall require
21 that a private counsel or private collection agency shall at all times act in
22 compliance with the provisions of the "Colorado Fair Debt Collection
23 Practices Act", article 16 of title 5, and in compliance with any rules
24 promulgated by the ~~executive director~~ CONTROLLER.

25 (7) ~~The controller shall establish specific performance policies~~
26 ~~and standards for measuring state agency performance in collecting debts~~
27 ~~due the state.~~

1 (8) (a) ~~The department of personnel may add a collection fee to~~
2 ~~the amount of a debt's principal and accruing interest referred to the state~~
3 ~~controller pursuant to this section except where other specific statutory~~
4 ~~authority, requirements under federal programs, or written agreement~~
5 ~~with the debtor provide otherwise. The department shall determine upon~~
6 ~~annual review the amount of the collection fee, which shall approximate~~
7 ~~the reasonable costs incurred by the controller in collecting debts. The~~
8 ~~collection fee may include a fee to recover the collection costs incurred~~
9 ~~by either the controller, private counsel, or private collection agencies, but~~
10 ~~in no case shall the aggregate fee for the controller or private collection~~
11 ~~agencies exceed eighteen percent and in no case shall the aggregate fee~~
12 ~~for private counsel exceed twenty-five percent. A COLLECTION FEE FOR A~~
13 ~~PRIVATE COLLECTION AGENCY SHALL NOT EXCEED EIGHTEEN PERCENT OF~~
14 ~~THE DEBT, AND THE FEE FOR PRIVATE COUNSEL SHALL NOT EXCEED~~
15 ~~TWENTY-FIVE PERCENT OF THE DEBT. ALL FEES COLLECTED AND RETAINED~~
16 ~~BY A PRIVATE COLLECTION AGENCY OR PRIVATE COUNSEL AS PAYMENT~~
17 ~~FOR SERVICES COLLECTING A DEBT THAT ARE NOT DEPOSITED IN THE~~
18 ~~STATE TREASURY ARE NOT SUBJECT TO ARTICLE 36 OF TITLE 24 OR~~
19 ~~SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.~~

20 (b) The debtor ~~shall be~~ IS liable for repayment of the total amount
21 of a debt due to the state, including ~~the~~ collection fee CHARGED BY THE
22 PRIVATE COLLECTION AGENCY OR PRIVATE COUNSEL, plus allowable fees
23 and costs pursuant to ~~paragraph (c) of this subsection (8)~~ SUBSECTION
24 (8)(c) OF THIS SECTION and the delinquency charge pursuant to section
25 24-79.5-102. ~~Any court-ordered award that is insufficient to cover the~~
26 ~~total amount outstanding shall be applied first to the principal amount~~
27 ~~owed, then to court costs, then to attorney fees, then to interest, and then~~

1 to any delinquency charge.

2 (c) If such a debt due to the state is litigated and the state prevails,
3 in addition to the collection fee, the debtor shall also be liable for the
4 following:

5 (I) Reasonable attorney fees as may be determined by the court;

6 (II) Court costs as described in section 13-16-122; ~~C.R.S.~~; and

7 (III) Fees incurred by the state's attorney in processing the
8 litigation and collection of any judgment.

9 (d) If such a debt due to the state is in the form of a check, draft,
10 or order not paid upon presentment, ~~and referred to the department of~~
11 ~~personnel for collection,~~ the department STATE AGENCY is entitled, in
12 addition to the A collection fee, IF APPLICABLE, to collect damages as
13 specified in section 13-21-109 (1)(b)(II) and (2)(a). ~~C.R.S.~~

14 (9) ~~Except as provided in the "Colorado Fair Debt Collection~~
15 ~~Practices Act", article 16 of title 5, within five days after the initial~~
16 ~~communication with a debtor in connection with the collection of any~~
17 ~~debt, the controller, private counsel, or private collection agency shall,~~
18 ~~unless the information is contained in the initial communication or the~~
19 ~~debtor has paid the debt, send the debtor a written notice with the~~
20 ~~disclosures specified in subsections (9)(a) and (9)(b) of this section. If the~~
21 ~~disclosures are placed on the back of the notice, the front of the notice~~
22 ~~shall contain a statement notifying debtors of that fact. The disclosures~~
23 ~~shall state:~~

24 (a) ~~The amount of the debt, including an itemization of any fees~~
25 ~~assessed as provided for in paragraph (a) of subsection (8) of this section;~~
26 ~~and~~

27 (b) ~~The name of the creditor to whom the debt is owed.~~

1 (10) (a) Notwithstanding any other provision of law, and pursuant
2 to 31 U.S.C. sec. 3716 (b) and (h)(1), the department of personnel, at the
3 request of any executive, judicial, or legislative branch agency of the
4 state, state-supported institution of higher education, or political
5 subdivision of the state, may enter into a reciprocal agreement with the
6 United States government to offset:

7 (I) The claim of any person against the state, including any state
8 tax refund to which the person may be entitled, to any debt of the person
9 owed to the United States government that the United States government
10 has certified as final, due, and owing, with all appeals and legal actions
11 having been waived or exhausted; and

12 (II) Any nontax claim of any person against the United States
13 government to any liquidated debt of the person owed to the state. Any
14 fees associated with any offset of federal moneys will be deducted by the
15 United States government from the amount of moneys offset, which may
16 then be added to the balance of the debt owed, but any fees associated
17 with any offset of state moneys will not be charged to the United States
18 government.

19 (b) Notwithstanding any other provision of law, the department of
20 personnel, at the request of any executive, judicial, or legislative branch
21 agency, state-supported institution of higher education, or political
22 subdivision of the state, may enter into a reciprocal agreement with any
23 state to offset:

24 (I) The claim of any person against the state to any debt of the
25 person owed to any state that has certified the debt as final, due, and
26 owing, with all appeals and legal actions having been waived or
27 exhausted; and

1 ~~(H) Any claim of any person against any state to any liquidated~~
2 ~~debt of the person owed to the state.~~

3 ~~(c) If multiple creditors have certified liquidated debt against the~~
4 ~~same person on a claim against the state pursuant to this section, the debts~~
5 ~~of the state, any state-supported institution of higher education, or any~~
6 ~~political subdivision of the state shall be credited first in the priority~~
7 ~~established in paragraph (b) of subsection (3.5) of this subsection (3.5);~~
8 ~~with the understanding that any state agency or state-supported institution~~
9 ~~of higher education debt will be paid first before any debt for a political~~
10 ~~subdivision of the state assigned to central collection services. If there is~~
11 ~~any balance due the claimant after settling the whole demands of the state,~~
12 ~~any executive, judicial, or legislative branch agency of the state, any~~
13 ~~state-supported institution of higher education, and any political~~
14 ~~subdivision of the state, the balance shall be credited to the liquidated~~
15 ~~debts certified by the United States government and then to the liquidated~~
16 ~~debts certified by any other state in the order in which the claims were~~
17 ~~filed with the state treasurer. If there is a balance due the claimant after~~
18 ~~satisfaction of all liquidated debts as itemized in this section and any~~
19 ~~court-ordered payments, the balance shall be paid to the claimant.~~

20 **SECTION 2.** In Colorado Revised Statutes, 5-16-111.5, **amend**
21 (3) as follows:

22 **5-16-111.5. Fees, costs, and costs of collection - limitation.**
23 (3) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 1,
24 2023, and on or before January 1 every five years thereafter, the state
25 auditor shall review the rate described in subsection (1) of this section
26 and the aggregate fee described in section 24-30-202.4 (8)(a) and report
27 the results of his or her review to the finance committees of the senate

1 and the house of representatives or any successor committees. The report
2 may include any recommendations of the state auditor regarding raising
3 or lowering the rate or the aggregate fee.

4 **SECTION 3.** In Colorado Revised Statutes, 5-16-113, **repeal**
5 (11)(b) as follows:

6 **5-16-113. Civil liability.** (11) (b) ~~If the state controller, or a~~
7 ~~person he or she designates to recover money owed to the state, fails to~~
8 ~~comply with any provision of this article 16, the controller, or his or her~~
9 ~~designee, shall be subject to disciplinary action as specified in the rules~~
10 ~~promulgated by the executive director of the department of personnel~~
11 ~~pursuant to article 4 of title 24.~~

12 **SECTION 4.** In Colorado Revised Statutes, 8-67-110, **repeal** (2)
13 as follows:

14 **8-67-110. Collection of benefit reimbursements.** (2) ~~The board,~~
15 ~~in its role as guardian of fund dollars, is exempt from section~~
16 ~~24-30-202.4. If the board determines an account to be uncollectible, the~~
17 ~~account may be referred to the controller for collection. Reasonable fees~~
18 ~~for collection, as determined by the board and the controller, shall be~~
19 ~~added to the amount of debt. The debtor is liable for repayment of the~~
20 ~~total of the amount of outstanding debt plus the collection fee. All money~~
21 ~~collected by the controller shall be returned to the fund; except that all~~
22 ~~fees collected shall be retained by the controller. If less than the full~~
23 ~~amount is collected, the controller shall retain only a proportionate share~~
24 ~~of the collection fee.~~

25 **SECTION 5.** In Colorado Revised Statutes, 8-79-102, **repeal** (2)
26 as follows:

27 **8-79-102. Collection of premiums and surcharges, benefit**

1 **overpayments, penalties, and interest - rules.** (2) ~~The division, in its~~
2 ~~role as guardian of unemployment insurance trust fund dollars, is exempt~~
3 ~~from the provisions of section 24-30-202.4, C.R.S. If the division~~
4 ~~determines an account to be uncollectible, such account may be referred~~
5 ~~to the controller for collection. Reasonable fees for collection, as~~
6 ~~determined by the director of the division and the controller, shall be~~
7 ~~added to the amount of debt. The debtor shall be liable for repayment of~~
8 ~~the total of the amount outstanding plus the collection fee. All money~~
9 ~~collected by the controller shall be returned to the division for credit to~~
10 ~~the fund; except that, all fees collected shall be retained by the controller.~~
11 ~~If less than the full amount is collected, the controller shall retain only a~~
12 ~~proportionate share of the collection fee.~~

13 **SECTION 6.** In Colorado Revised Statutes, **amend** 8-80-102 as
14 follows:

15 **8-80-102. Limitation of fees.** No individual claiming benefits
16 shall be charged fees of any kind in any proceeding under articles 70 to
17 82 of this title by the division or its representatives or by any court or any
18 officer thereof; except that ~~the controller may charge a reasonable fee as~~
19 ~~provided in section 8-79-102 (2) for the recoupment of benefit~~
20 ~~overpayments, and any party appealing the decision of a referee shall be~~
21 ~~assessed the actual costs of preparing a transcript according to rules~~
22 ~~promulgated by the director of the division except if the appellant is~~
23 ~~successful the cost of preparing the transcript will be refunded. Any~~
24 ~~person who violates this provision is guilty of a misdemeanor. Any~~
25 ~~individual claiming benefits in any proceeding before the division or a~~
26 ~~court may be represented by counsel. Unless approved by the division, no~~
27 ~~lien shall be allowed or suit brought for attorney fees, contingent or~~

1 otherwise, for services rendered for the collection of any individual's
2 claim for benefits.

3 **SECTION 7.** In Colorado Revised Statutes, **amend** 21-1-106 as
4 follows:

5 **21-1-106. Recoupment of fees and costs.** In any case when a
6 court determines that a defendant is able to repay all or part of the
7 expense of state-supplied or court-appointed counsel or any ancillary
8 expenses incurred in representing such defendant, the court shall assess
9 such fees or costs against such defendant and shall notify the judicial
10 district's collection investigator. ~~or the controller, who shall institute~~
11 ~~proceedings pursuant to section 24-30-202.4, C.R.S., as necessary to~~
12 ~~recover such fees or costs.~~

13 **SECTION 8.** In Colorado Revised Statutes, **amend** 21-2-106 as
14 follows:

15 **21-2-106. Recoupment of fees and costs.** In any case when a
16 court determines that a defendant is able to repay all or part of the
17 expense of state-supplied or court-appointed counsel or any ancillary
18 expenses incurred in representing such defendant, the court shall assess
19 such fees or costs against such defendant and shall notify the judicial
20 district's collection investigator. ~~or the controller, who shall institute~~
21 ~~proceedings pursuant to section 24-30-202.4, C.R.S., as necessary to~~
22 ~~recover such fees or costs.~~

23 **SECTION 9.** In Colorado Revised Statutes, 24-30-201, **amend**
24 (1)(j) as follows:

25 **24-30-201. Accounts and control - controller.** (1) The powers,
26 duties, and functions concerning accounts and control as set forth in this
27 part 2 are the responsibility of the state controller. The executive director

1 of the department of personnel shall appoint the controller, subject to
2 section 13 of article XII of the state constitution. The controller must be
3 bonded in such amount as the executive director shall fix. The powers and
4 duties of the controller are:

5 (j) ~~Pursuant to rules and regulations promulgated by the executive~~
6 ~~director of the department of personnel,~~ To assist state agencies in their
7 efforts to recover ~~moneys~~ MONEY owing to the state; ~~and to collect, on~~
8 ~~behalf of the state,~~ accounts referred to the controller under rules and
9 regulations authorizing such referral under defined circumstances, as
10 further specified in section ~~24-30-202.4;~~

11 **SECTION 10.** In Colorado Revised Statutes, 24-30-202.7,
12 **amend** (1)(b), (2), and (3) as follows:

13 **24-30-202.7. Lottery winnings offset - definitions.** (1) As used
14 in this section, unless the context otherwise requires:

15 (b) "Outstanding debt" means any unpaid debt due to the state that
16 is referred pursuant to ~~section 24-30-202.4 (2) to the state controller or~~
17 ~~the central collection services section of the division of finance and~~
18 ~~procurement, or any successor section, in the department of personnel,~~
19 CERTIFIED BY A STATE AGENCY PURSUANT TO SECTION 24-30-202.4 (2.5),
20 including the collection fee and any allowable fees and costs pursuant to
21 section 24-30-202.4 (8). "Outstanding debt" includes any debt collected
22 by the department of personnel for a political subdivision of the state
23 under contract with central collection services, with the understanding
24 that any state agency or state-supported institution of higher education
25 debt will be paid before any debt for a political subdivision of the state
26 assigned to central collection services.

27 (2) Beginning January 1, 2012, the department of personnel shall

1 ~~periodically certify to~~ A STATE AGENCY SHALL PROVIDE to the department
2 of revenue ~~information regarding debtors with an outstanding debt. Such~~
3 ~~information shall include~~ the social security number of the debtor, the
4 amount of the debtor's outstanding debt, and any other identifying
5 information required by the department of revenue.

6 (3) Upon receiving notification from the department of revenue
7 that a lottery cash prize winner appears among those certified by ~~the~~
8 ~~department of personnel~~ A STATE AGENCY, the department of revenue
9 shall notify the debtor, in writing, that the state intends to offset the
10 debtor's outstanding debt against the debtor's winnings from the state
11 lottery. ~~Such notification shall include information on the debtor's right~~
12 ~~to object to the offset and to request an administrative review pursuant to~~
13 ~~the rules of the department of personnel.~~

14 **SECTION 11.** In Colorado Revised Statutes, 24-50-142, **repeal**
15 (1) as follows:

16 **24-50-142. Repayment of debts to state-supported institutions**
17 **of higher education by state employees.** (1) ~~When a state employee has~~
18 ~~an outstanding obligation due to a state-supported institution of higher~~
19 ~~education, the board shall include provision for referral and collection of~~
20 ~~the loan or outstanding obligation to the controller pursuant to section~~
21 ~~24-30-202.4.~~

22 **SECTION 12.** In Colorado Revised Statutes, 25.5-4-301, **repeal**
23 (2)(d) as follows:

24 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
25 **adjustments - liens - review or audit procedures.** (2) Any overpayment
26 to a provider, including those of personal needs funds made pursuant to
27 section 25.5-6-206, are recoverable regardless of whether the

1 overpayment is the result of an error by the state department, a county
2 department of human or social services, an entity acting on behalf of
3 either department, or by the provider or any agent of the provider as
4 follows:

5 (d) ~~Notwithstanding the provisions of section 24-30-202.4,~~
6 ~~C.R.S., an amount specified in paragraph (a) of this subsection (2) that~~
7 ~~the state department has determined to be uncollectible may be referred~~
8 ~~to the controller for collection. Net proceeds of debts collected by the~~
9 ~~controller pursuant to this paragraph (d) shall be paid into the fund from~~
10 ~~which the overpayment was made.~~

11 **SECTION 13.** In Colorado Revised Statutes, 39-21-108, **amend**
12 (3)(a)(V) as follows:

13 **39-21-108. Refunds.** (3) (a) (V) Any ~~moneys~~ MONEY withheld
14 for payment of an unpaid debt owing to the state pursuant to this
15 subsection (3) shall be deposited with the state treasurer for disbursement
16 by the controller. For each person whose name and amount is certified by
17 ~~the controller~~ A STATE AGENCY pursuant to section 24-30-202.4, ~~C.R.S.~~;
18 the executive director of the department of revenue shall provide to the
19 controller the name, address, and social security number or federal
20 employer identification number, whichever is applicable, of the taxpayer
21 whose refund is being offset, the amount of the offset, and any other
22 identifying information as required by the controller.

23 **SECTION 14.** In Colorado Revised Statutes, 44-33-103, **amend**
24 (2)(a)(III) as follows:

25 **44-33-103. Definitions.** As used in this article 33, unless the
26 context otherwise requires:

27 (2) (a) "Outstanding debt" means:

1 (III) Any unpaid debt due to the state that is referred pursuant to
2 ~~section 24-30-202.4 (2) to the state controller or the central collection~~
3 ~~services section of the division of finance and procurement, or any~~
4 ~~successor section, in the department of personnel, and~~ CERTIFIED BY A
5 STATE AGENCY PURSUANT TO SECTION 24-30-202.4 (2.5), including the
6 collection fee and any allowable fees and costs pursuant to section
7 24-30-202.4 (8). ~~"Outstanding debt" does not include any debt collected~~
8 ~~by the department of personnel for a political subdivision of the state.~~

9 **SECTION 15.** In Colorado Revised Statutes, 44-33-104, **amend**
10 (4) and (5) as follows:

11 **44-33-104. Registry - creation - information.** (4) On and after
12 ~~January 1, 2012~~ JANUARY 1, 2021, the ~~department of personnel~~ STATE
13 AGENCIES shall certify to the registry operator the information indicated
14 in subsection (6) of this section regarding each person with an
15 outstanding debt as specified in section 44-33-103 (2)(a)(III).

16 (5) The registry operator shall enter in the registry the information
17 certified to the registry operator by the judicial department, the
18 department of human services, and ~~the department of personnel~~ A STATE
19 AGENCY pursuant to subsections (2), (3), and (4) of this section.

20 **SECTION 16.** In Colorado Revised Statutes, 44-33-105, **amend**
21 (2)(b)(IV)(C) and (2)(b)(V) as follows:

22 **44-33-105. Payments - limited gaming and pari-mutuel**
23 **wagering licensees - procedures.** (2) (b) If the registry operator replies
24 that the winner is listed in the registry:

25 (IV) The registry operator shall send to the certifying department
26 the money and information received from a licensee pursuant to
27 subsection (2)(b)(III) of this section. If more than one department

1 certified a winner, the registry operator shall send the information to each
2 certifying department and distribute the money among the departments as
3 follows:

4 (C) Of any money remaining after the distribution, if any, to the
5 judicial department pursuant to subsection (2)(b)(IV)(B) of this section,
6 the registry operator shall send to the department of ~~personnel~~ REVENUE
7 any amount certified by ~~the department of personnel~~ A STATE AGENCY IN
8 ACCORDANCE WITH SECTION 24-30-204.2 (2.5).

9 (V) The department of human services shall process money
10 received from the registry operator pursuant to subsection (2)(b)(IV) of
11 this section in accordance with section 26-13-118.7. The judicial
12 department shall process money received from the registry operator
13 pursuant to subsection (2)(b)(IV) of this section in accordance with the
14 rules of the department of revenue. The department of ~~personnel~~
15 REVENUE shall process money received from the registry operator
16 pursuant to subsection (2)(b)(IV) of this section in accordance with the
17 rules of the department of ~~personnel~~, with the understanding that any state
18 agency or state-supported institution of higher education debt will be paid
19 before any debt for a political subdivision of the state assigned to central
20 ~~collection services~~ REVENUE.

APPROPRIATION FROM

	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	\$	\$	\$	\$	\$	\$	\$

SECTION 17. Appropriation to the department of personnel for the fiscal year beginning July 1, 2020. In Session Laws of Colorado 2020, section 2 of chapter 326, (HB

20-1360), **amend** Part XV (5)(A)(2), and the affected totals, as follows:

Section 2. **Appropriation.**

PART XV

DEPARTMENT OF PERSONNEL

(5) DIVISION OF ACCOUNTS AND CONTROL

(A) Financial Operations and Reporting

(2) Collections Services

Personal Services	358,701						
	77,768						
	(4.3 FTE)						
	(0.6 FTE)						
Operating Expenses	220,000						
	30,455						

APPROPRIATION FROM

	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	\$	\$	\$	\$	\$	\$	\$
1	Private Collection Agency						
2	Fees	900,000					
3	Indirect Cost Assessment	188,776					
4		<u>1,667,477</u>			1,667,477 ^a		
5		296,999			296,999 ^a		
6							
7	^a This amount shall be from the Debt Collection Fund created in Section 24-30-202.4 (3)(e), C.R.S. The amount is from collection fees.						
8							
9	TOTALS PART XV						
10	(PERSONNEL)	\$209,825,100	\$14,876,401		\$13,025,558 ^a	\$181,923,141 ^b	
11		<u>\$208,454,622</u>			<u>\$11,655,080^a</u>		
12							

13 ^a Of this amount, \$1,848,255 contains an (I) notation.

14 ^b Of this amount, \$59,943,533 contains an (I) notation.

15

1 **SECTION 18. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety.