

Testimony of Eli Justman  
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**March 2, 2015**  
**Senate Committee on Rules**  
**SB 55**

Chair Rosenbaum and Members of the Committee:

Thank you for taking the time to hear these complex and important bill. Representative Vicki Berger arranged for the drafting of the legislative concepts that became SB 55 and 56. I worked on these issues for Representative Berger throughout most of last year, and at her direction I attended numerous meetings and workgroups with stakeholders and agencies to discuss what could be done to improve the efficiency and effectiveness of efforts to collect the State's liquidated and delinquent debt.

Those meetings and a great deal of work led to these bills. The focus of the bills is to increase oversight and accountability for the timely and effective collection of liquidated and delinquent accounts, provide agencies with tools to collect on these accounts, and to ensure that every agency is able to conduct collections and accounting within this scheme in a lawful, efficient, and effective manner. I'm happy to elaborate on how the various parts of the bills work, and other subject matter experts should be testifying as well.

Due to submission timelines, these drafts came to the committee before the stakeholders and agencies had been able to comment upon them. As a result, several mechanisms within both of the bills will not work as intended unless they are amended. In order to address this, I attach to this testimony a proposed amended version of each bill. I'll briefly note what the primary changes would be, below. If you approve of these, our hope is that you would ask legislative counsel to prepare these amendments for you.

**SB 55**

1. The original bill has in Section 1 a statutory requirement for agencies to request debtors' Social Security numbers. Even though the disclaimer provisions of the section are intended to satisfy the federal Privacy Act, we have discovered that it will be difficult for certain agencies who already collect Social Security Numbers for non-collections purposes to properly track how they are authorized to use numbers that they collect. However, for many other agencies, requesting, collecting, and properly storing the number should not be a challenge. As a result, we propose having DAS take responsibility for this matter in rule. Since DAS would take on several areas of authority in this bill, I proposed in our amendments that Section 1 should be replaced with a provision that points agencies to DAS rules when collecting and accounting for liquidated and delinquent debt.
2. One area that our bill sought to strengthen was legislative oversight of uncollected debt, focusing on debt that has gone more than 90 days without being assigned for collections. The LFO already collects information and produces a report on liquidated and delinquent debt. The initial bill, in Section 2, calls for agencies also to report the number and dollar amount of debt they hold that is more than 90 days past due. We

are now told that DAS accountants can already estimate this amount. Accordingly, to reduce unnecessary burden on reporting agencies, we propose that the bill only modify the LFO report to collect an acknowledgement from agencies, saying whether or not the agency has any debt not exempt from assignment that is more than 90 days past due. This would promote accountability without causing a headache at agencies.

3. The original bill clarifies in Section 4 that agencies can propose an accept compromise in settlement, according to approved criteria. This is an important provision, as many agencies could save state money and improve collection in certain cases if settlement is possible and clearly lawful. However, the original language makes it appear as though Private Collection Agencies (PCFs) could unilaterally accept offers in compromise. Our proposal is to clear this up, providing that the creditor agency must specifically authorize such a settlement when the account is out on assignment.

4. The original draft of the bill provides for a fee that agencies would add to debtor accounts in order to fund DAS activities of oversight, training, and technical assistance around liquidated and delinquent debt. However, we have since discovered that the it would not be feasible for the Oregon Judicial Department to pass along this fee. In addition, the Division of Child Support at the Department of Justice would be unable to pass along the whole fee due to obligations imposed by the federal government. Other agencies may also have a good reason that they would be unable to pass along the fee as prescribed directly by statute; so we propose allowing DAS to set out the allocations and possible exemptions from the fee by rule, giving the scheme enough flexibility to work as well as possible across the whole state enterprise.

5. The original draft of the bill called for cities and counties to have access to the offset program at the department of revenue. This provision was intended as an invitation to have counties involved in the process of these bills. However, despite my communication on behalf of the other stakeholders, the counties have not responded one way or another on these bills. As some stakeholders have opposed these provisions, and our intent was to have a concept with a strong consensus, we propose deleting the provisions granting county and city access to the offset program.

Thank you again for taking the time to consider these bills, and hear our proposed changes.

Eli Justman

# Senate Bill 55

## SUMMARY

~~Directs state agencies to request Social Security numbers of certain applicants for state services if application could result in debt owed to state agency. Requires notice to applicants regarding use of Social Security numbers for debt collection purposes. Directs state agencies to collect upon, account for, and manage information regarding liquidated and delinquent debts as the Oregon Department of Administrative Services specifies by rule.~~

Requires that annual state agency report to Legislative Fiscal Office on liquidated and delinquent accounts include total number and amount of accounts for which no payment has been received for more than 90 days and that have not been assigned to private collection agency or Department of Revenue for collection.

Allows state agencies or private collection agencies to propose and accept offers of compromise for settlement of debt owed to state agency.

~~Allows Department of Revenue to offset refunds due to a debtor against delinquent accounts of county or city.~~

Directs Oregon Department of Administrative Services to provide training and technical assistance to state agencies on managing accounts receivable and collecting liquidated and delinquent accounts. Directs department to adopt rules governing collection of liquidated and delinquent accounts.

Directs state agencies to impose fee for collection of liquidated and delinquent accounts. Dedicates fee to payment of expenses of Oregon Department of Administrative Services in providing training and technical assistance.

Authorizes Oregon Department of Administrative Services to enter into reciprocal offset agreement with United States Secretary of Treasury.

Declares emergency, effective on passage.

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1 **A BILL FOR AN ACT**

2 Relating to debt collection; creating new provisions; amending ORS 137.118, 156.315,  
3 293.229, 293.231, 293.240, 293.245 and 293.250; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in **boldfaced** type.

1 SECTION 1. (1) Any state agency which is owed liquidated and delin-  
2 quent debts shall collect upon, account for, and manage information re-  
3 garding such debts as the Oregon Department of Administrative Services  
4 specifies by rule.

5 ~~SECTION 1. (1) Whenever it is reasonably foreseeable that the execution~~  
6 ~~of an application, form or other instrument used by a state agency may~~  
7 ~~result in the person executing the application, form or instrument owing~~  
8 ~~the state agency more than \$100, the state agency shall may request the~~  
9 ~~Social Security number of the person. If Tthe state agency requests a So-~~  
10 ~~cial Security Number pursuant to this statute, it shall segregate the Social~~  
11 ~~Security number on a separate page from the rest of the application, form~~  
12 ~~or other instrument or take other action to allow the Social Security~~  
13 ~~number to be easily redacted pursuant to a valid public records request.~~  
14 ~~The request for a Social Security number required by this subsection~~  
15 ~~shall be accompanied by the following notice:~~

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~~—Your Social Security number is being solicited pursuant to section 1 of~~  
17 ~~this 2015 Act. The number may be used for debt collection activities, to~~  
18 ~~conduct a credit check or to discover more information about you in the~~  
19 ~~event that you owe a delinquent debt to the State of Oregon or a local~~  
20 ~~government in the state of Oregon.~~

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~~—(2) For any application, form or other instrument for which a state~~  
22 ~~agency is not authorized by law to collect Social Security numbers for a~~  
23 ~~purpose other than collection of a debt owed to a state agency or a local~~  
24 ~~government as defined in ORS 174.116, the notice described in subsection~~  
25 ~~(1) of this section shall also include the phrase “Disclosure of your Social~~  
26 ~~Security number is voluntary.”.~~

27 ~~—(3) Subsections (1) and (2) of this section do not apply if the state~~  
28 ~~agency has already obtained the person’s Social Security number or has~~  
29 ~~other reliable methods for obtaining Social Security numbers.~~

30 ~~—(34) A state agency, the Department of Revenue or a private collection~~  
31 ~~agency assigned a delinquent account under ORS 1.197, 293.231 or~~  
32 ~~293.250 may use a Social Security number collected under this section, or~~  
33 ~~collected as otherwise allowed by law, to collect any debt owed a state~~  
34 ~~agency.~~

1 ~~agency or local government by the person associated with the Social Se-~~  
2 ~~curity number.~~

3  
4 ~~—(45) Nothing in this section authorizes a state agency, the Department~~  
5 ~~of Revenue or a private collection agency assigned an account under ORS~~  
6 ~~1.197, 293.231 or 293.250 to use or disclose a Social Security number for~~  
7 ~~any reason other than a reason specified in this section.~~

8 ~~—(5) As used in this section, “state agency” means any state officer,~~  
9 ~~board, commission, corporation, institution, department or other state~~  
10 ~~organization.~~

11 **SECTION 2.** ORS 293.229 is amended to read:

12 293.229. (1) Not later than October 1 of each fiscal year, each state agency  
13 shall submit a report to the Legislative Fiscal Office that describes the sta-  
14 tus of that agency’s liquidated and delinquent accounts and efforts made by  
15 that agency to collect liquidated and delinquent accounts during the previous  
16 fiscal year. The report required under this subsection shall be in a form  
17 prescribed by the Legislative Fiscal Office and shall include but not be lim-  
18 ited to:

19 (a) Beginning balance and total number of all liquidated and delinquent  
20 accounts;

21 (b) New liquidated and delinquent accounts added during the last pre-  
22 ceding fiscal year;

23 (c) Total collections of liquidated and delinquent accounts;

24 (d) Total amount and total number of liquidated and delinquent accounts  
25 that have been written off;

26 (e) Total number and ending balance of all liquidated and delinquent ac-  
27 counts;

28 (f) Total amount of liquidated and delinquent accounts turned over to  
29 private collection agencies and total amount collected by those agencies un-  
30 der ORS 293.231; [and]

31 (g) Total number and total amount of all liquidated and delinquent ac-  
32 counts exempted under ORS 293.233; and

1     **(h) Total number and total amount ofAn acknowledgement indicating**  
2 **whether any person owes the agency one or more –liquidated and delin-**  
3 **quent**  
4 **accounts-debts that are not exempt under ORS 293.233 or otherwise pro-**  
5 **hibited or exempted by law from assignment, for which no pay-**  
6 **ment has been received for more than 90 days and that have not been**  
7 **assigned to a private collection agency or to the Department of Revenue**  
8 **under ORS 293.231.**

9     (2) The Legislative Fiscal Office shall produce an annual report not later  
10 than December 31 of each fiscal year on the status of liquidated and delin-  
11 quent accounts of state agencies. The report shall be based on the reports  
12 submitted by state agencies as required in this section **and shall include**  
13 **the total number and total amount ofinformation indicating which agen-**  
14 **cies possess liquidated and delinquent ac-**  
15 **counts that are not exempt under ORS 293.233 or otherwise prohibited or**  
16 **exempted by law from assignment, for which no payment**  
17 **has been received for more than 90 days and that have not been as-**  
18 **signed to a private collection agency or to the Department of Revenue**  
19 **under ORS 293.231.**

20     **SECTION 3.** ORS 293.231 is amended to read:

21     293.231. (1) Except as provided in subsections (4) to (9) of this section, a  
22 state agency, unless otherwise prohibited by law, shall offer for assignment  
23 every liquidated and delinquent account to a private collection agency or to  
24 the Department of Revenue as provided in ORS 293.250 not later than:

25     (a) Ninety days from the date the account was liquidated if no payment  
26 has been received on the account within the 90-day period; or

27     (b) Ninety days from the date of receipt of the most recent payment on  
28 the account.

29     (2) Nothing in subsection (1) of this section prohibits a state agency from  
30 offering for assignment a liquidated and delinquent account to a private  
31 collection agency at any time within the 90-day period.

32     (3) If, after a reasonable time, the private collection agency is unable to  
33 collect the account, the private collection agency shall notify the state

1 agency that assigned the account that it has been unable to collect the ac-  
2 count and shall relinquish the account to the state agency. A private col-  
3 lection agency that collects an account under this section shall be held to  
4 the same standard of confidentiality, service and courtesy imposed on the  
5 state agency that assigned the account.

6 (4) If a state agency assigns a liquidated and delinquent account to the  
7 Department of Revenue as provided in ORS 293.250, the department shall  
8 have six months from the date of assignment to collect a payment. If the  
9 department does not collect a payment within that six-month period or if six  
10 months have elapsed since the date of receipt of the most recent payment  
11 on the account, the department shall notify the state agency. The state  
12 agency shall then immediately offer for assignment the debt to a private  
13 collection agency.

14 (5) The provisions of subsection (1) of this section do not apply to a liq-  
15 uidated and delinquent account that is prohibited by state or federal law or  
16 regulation from assignment or collection.

17 (6) The Oregon Department of Administrative Services may adopt rules  
18 exempting specified kinds of liquidated and delinquent accounts from the  
19 time periods established in subsections (1), (2) and (4) of this section.

20 (7) The Oregon Department of Administrative Services shall adopt rules  
21 exempting liquidated and delinquent accounts that originate in the Depart-  
22 ment of Revenue or the Employment Department from the time periods es-  
23 tablished in subsections (1), (2) and (4) of this section.

24 (8) A liquidated and delinquent account that is subject to assignment  
25 under this section shall be assigned to a private collection agency if more  
26 than one year has elapsed without a payment on the account.

27 (9) Notwithstanding subsection (1) of this section, a state agency may, at  
28 its discretion, choose not to offer for assignment to a private collection  
29 agency a liquidated and delinquent account that:

30 (a) Is secured by a consensual security interest in real or personal prop-  
31 erty;

32 (b) Is a court-ordered judgment that includes restitution or a payment to

- 1 the Department of Justice Crime Victims' Assistance Section;
- 2 (c) Is in litigation, including bankruptcy, arbitration and mediation;
- 3 (d) Is a student loan owed by a student who is attending school;
- 4 (e) Is owed to a state agency by a local or state government or by the
- 5 federal government;



1 (f) Is owed by a debtor who is hospitalized in a state hospital as defined  
2 in ORS 162.135, who receives public assistance as defined in ORS 411.010 or  
3 who receives medical assistance as defined in ORS 414.025;

4 (g) Is owed by a debtor who is imprisoned;

5 (h) Is less than \$100, including penalties; or

6 (i) Would result in loss of federal funding if assigned.

7 (10) Nothing in this section prohibits a state agency from collecting a tax  
8 offset after a liquidated and delinquent account is assigned to a private col-  
9 lection agency.

10 (11) For the purposes of this section, a state agency shall be deemed to  
11 have offered for assignment an account if:

12 (a) The terms of the offer are of a type generally acceptable within the  
13 collections industry for the type of account offered for assignment; and

14 (b) The offer is made to a private collection agency that engages in col-  
15 lecting on accounts of the type sought to be assigned or is made generally  
16 available to private collection agencies through a bid or request for proposal  
17 process.

18 **(12) A state agency that retains a private collection agency under**  
19 **this section, or assigns an account to the Department of Revenue for col-**  
20 **lection under shall add a fee to be paid by the debtor to the amount of**  
21 **the liquidated and delinquent account, unless the Oregon Department of**  
22 **Administrative Services exempts the agency from adding the fee by rule.**  
23 **The fee shall be in an amount**

24 **specified by the Oregon Department of Administrative Services by**  
25 **rule. The state agency shall deposit fees collected under this sub-**  
26 **section in the Delinquent Accounts Training Fund established by sec-**  
27 **tion 8 of this 2015 Act. A fee may not be added under this subsection un-**  
28 **less the state agency has provided notice to the debtor:**

29 **(a) Of the existence of the debt;**

30 **(b) That the debt may be assigned to a private collection agency for**  
31 **collection; and**

32 **(c) Of the amount of the fee that may be added to the debt under this**  
33 **subsection.**

1 [(12)] **(13)** A state agency that retains a private collection agency under  
2 this section may add a fee to the amount of the liquidated and delinquent  
3 account as provided in ORS 697.105. A fee may not be added under this  
4 subsection unless the state agency has provided notice to the debtor:

5 (a) Of the existence of the debt;

6 (b) That the debt may be assigned to a private collection agency for col-  
7 lection; and

8 (c) Of the amount of the fee that may be added to the debt under this  
9 subsection.

10 [(13)] **(14)** Except as provided by federal law, the state agency may not  
11 add a fee under subsection (12) or (13) of this section that exceeds the col-  
12 lection fee of the private collection agency.

13 **SECTION 4.** ORS 293.240 is amended to read:

14 293.240. (1) If a state agency has made all reasonable efforts to collect  
15 money owed to it, including money owed on a liquidated and delinquent ac-  
16 count that has been relinquished by a private collection agency under ORS  
17 293.231, and has determined that the money and any interest or penalties on  
18 the money are uncollectible, the agency may write off the debt on its ac-  
19 counts.

20 (2) Before determining that money is uncollectible under subsection (1)  
21 of this section, a state agency must adopt criteria for determining when  
22 money is uncollectible. The criteria must include the right of offset and must  
23 be approved by the Attorney General.

24 **(3) A state agency or a private collection agency collecting on an**  
25 **account under ORS 293.231 may propose and accept offers in compro-**  
26 **mise for settlement of a debt owed to a state agency. Before accepting**  
27 **an offer in compromise, a state agency ~~or a private collection agency~~ must**  
28 **adopt criteria for deter-mining when offers of compromise may be made.**  
29 **The criteria must be approved by the Oregon Department of Administra-**  
30 **tive Services and the Attorney General. A private collection agency may**  
31 **only compromise a state debt under this subsection**

32 **(a) in accordance with criteria promulgated by the state agency to**  
33 **which the debt belongs, and**

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1 (b) with the authorization of the state agency in each instance to settle  
2 the debt upon the proposed terms.

3 This subsection does not allow the compromise of a criminal resti-  
4 tution judgments.

5 [(3)] (4) This section does not apply to debts owed to a state agency for  
6 which a procedure for compromise, release, discharge, waiver, cancellation  
7 or other form of settlement for the debt for reasons other than  
8 uncollectibility is by law made specially applicable to the state agency.

9 **SECTION 5.** ORS 293.245 is amended to read:

10 293.245. (1) If a debt previously written off pursuant to ORS 293.240 sub-  
11 sequently becomes collectible, the state agency to which the money is owed  
12 shall proceed to collect the money due. The agency shall credit the money  
13 so collected to the accounts or funds to which the debt was originally owing.

14 **(2) Subsection (1) of this section does not apply to debts that are**  
15 **settled by compromise under ORS 293.240 (3).**

16 **SECTION 6.** ORS 293.250 is amended to read:

17 293.250. (1) There is [hereby] created a Collections Unit in the Department  
18 of Revenue.

19 (2) The Department of Revenue may render assistance in the collection  
20 of any delinquent account owing to any [state officer, board, commission,  
21 corporation, institution, department or other state organization] **state**  
22 **agency**, or to a county pursuant to a judgment obtained under ORS 169.151,  
23 assigned by the **state** agency or county to which the delinquent account is  
24 owed to the department [of Revenue] for collection. ~~The department may~~  
25 ~~also collect debts owed to counties or cities of this state pursuant to sub-~~  
26 ~~section 3(d)~~ **The Department of Revenue may prescribe criteria for the**  
27 **kinds of accounts that may be assigned under this section, including a**  
28 **minimum dollar amount owed.**

29 (3)(a) Subject to rules prescribed by the Oregon Department of Adminis-  
30 trative Services for collection of delinquent accounts owing to [the respective  
31 officers, departments, boards and commissions of state government, and] **state**  
32 **agencies or** to counties, the Department of Revenue shall render assistance  
33 in [such] **the** collection and shall charge [such officers, agencies and] **the**

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1 **state agencies or** counties separately for the cost of [such] assistance[,  
2 provided that charges shall]. The charges may not exceed the proceeds of  
3 collection credited to [such officer,] **the state** agency or county for the same  
4 biennium. The Department of Revenue may designate a single percentage to  
5 retain from the proceeds of collection as a charge for the cost of assistance.  
6 If the Department of Revenue finds that accounts assigned to the department  
7 [of Revenue] for collection by certain [officers,] **state** agencies or counties  
8 lack sufficient information to properly and efficiently identify the debtor or  
9 that the account information must be put into a form usable by the depart-  
10 ment [of Revenue] in order to efficiently provide collection services, the de-  
11 partment [of Revenue] may establish a separate percentage charge to be  
12 retained from collections for the [officer,] **state** agency or county. The charge  
13 must reflect the average of the actual cost to provide collection services for  
14 all accounts assigned by that [officer,] state agency or county.

15 ~~(b) In addition to the charges imposed under paragraph (a) of this~~  
16 ~~subsection, the Department of Revenue shall add a fee to be paid by~~  
17 ~~the debtor to the amount of the delinquent account. The fee shall be~~  
18 ~~in an amount specified by the Oregon Department of Administrative~~  
19 ~~Services by rule. The Department of Revenue shall deposit fees added to~~  
20 ~~an account pursuant to ORS 293.231, and collected from an account as-~~  
21 ~~signed by a state agency col-~~  
22 ~~lected under this paragraph in the Delinquent Accounts Training Fund~~  
23 ~~established by section 8 of this 2015 Act, as specified by the Oregon De-~~  
24 ~~partment of Administrative Services by rule.~~

25 (c) In providing assistance, the Department of Revenue shall utilize all  
26 means available to collect the delinquent accounts including the setoff of any  
27 refunds or sums due to the debtor from the department [of Revenue] or any  
28 other state agency. The department [of Revenue] may offset any refunds or  
29 sums due to the debtor from the department or any other state agency  
30 against delinquent accounts assigned by a county to the department for col-  
31 lection under this section.

32 [The Department of Revenue may prescribe criteria for the kinds of ac-  
33 counts that may be assigned under this section, including a minimum dollar

1 amount owed.]

2 ~~(d) The Department of Revenue may offset any refunds or sums due to a~~  
3 ~~debtor from the department or any other state agency against delin-~~  
4 ~~quent accounts of a county or city. Debts owed to any state agency, or to~~  
5 ~~a county pursuant to a judgment obtained under ORS 169.151, take~~  
6 ~~priority for setoff over debts owed to a county or city.]~~

7 [(b)] (e) No setoff [will] may be made by the Department of Revenue un-  
8 less the debt is in a liquidated amount.

9 [(c)] (f) When the Department of Revenue has notified the assigning state  
10 agency or a county ~~or city~~ that a refund or other sum due to the debtor is  
11 available for setoff, the debtor may arrange with the Department of  
12 Revenue, ~~or county or city~~, for payment of the debt in full before the setoff  
13 is made. However, the assigning **state** agency or county shall not enter into  
14 any agreement with the debtor for payment of the debt before the setoff is  
15 made.

16 [(d)] (g) At the time any setoff is made the debtor shall be notified by the  
17 Department of Revenue of its intention to apply sums due from a state  
18 agency against the debtor's delinquent account. The notice shall provide that  
19 the debtor within 30 days may request a hearing before the claimant **state**  
20 agency, [or] county ~~or city~~. No issues at the hearing may be considered that  
21 have been litigated previously, or if the debtor after being given due notice  
22 of rights of appeal has failed to exercise them timely.

23 [(e)] (h) All moneys received by the Department of Revenue in payment  
24 of charges made under paragraph (a) of this subsection shall be paid into the  
25 State Treasury and deposited in a miscellaneous receipts account for the  
26 Department of Revenue.

27 [(f)] (i) Net proceeds of collections of delinquent accounts shall be cred-  
28 ited to the account or fund of the [officer,] **state** agency or county to which  
29 the debt was originally owing.

30 (4)(a) In providing assistance in the collection of any delinquent account  
31 under this section, the Department of Revenue may issue a warrant for the  
32 collection of the delinquent account. The warrant may be recorded in the  
33 County Clerk Lien Record maintained under ORS 205.130.

1 (b) A warrant [shall] **may** not be issued under this subsection unless the  
2 debt is in a liquidated amount.

3 (c) The amount of any warrant issued under this subsection shall include  
4 the principal amount of the debt, any added penalties or interest attributable  
5 to the delinquent account and any costs associated with recording, indexing  
6 or service of the warrant and any satisfaction or release thereof.

7 (d) A warrant [shall] **may** not be issued under this subsection before the  
8 debtor has been notified that the department intends to issue the warrant  
9 and of the collection action that may be taken under the warrant.

10 (5) Nothing in this section [shall prohibit] **prohibits** the collection of:

11 (a) A child or spousal support obligation as provided in ORS 25.610; or

12 (b) Criminal judgments that impose monetary obligations, including  
13 judgments requiring the payment of fines, costs, assessments, compensatory  
14 fines, attorney fees, forfeitures or restitution.

15 ~~(6) As used in this section, “state agency” means any state officer,  
16 board, commission, corporation, institution, department or other state  
17 organization.~~

18 **SECTION 7. (1) The Oregon Department of Administrative Services**  
19 **shall:**

20 (a) **Provide training to state agencies regarding processing and**  
21 **managing accounts receivable in compliance with applicable law and**  
22 **state policies.**

23 (b) **Provide technical assistance to state agencies in resolving chal-**  
24 **lenges in processing and managing accounts receivable and developing**  
25 **financial administrative systems to improve the handling of liquidated**  
26 **and delinquent accounts.**

27 (c) **Adopt rules, after consultation with the Attorney General, for ef-**  
28 **fective and efficient assignment of liquidated and delinquent accounts to**  
29 **the Department of Revenue or private collection agencies, and setting**  
30 **performance measurements to be used in the application of the criteria.**

31 (d) **Adopt rules for the allocation, form, and amount of charges or fees**  
32 **added to liqui-**

**Comment [ERM1]:** State Agency is already defined for this chapter in 293.227

1 dated and delinquent accounts under ORS 291.231, 291.250 and 697.105,  
2 and for the orderly and lawful distribution of amounts collected under  
3 ORS 293.231 and 293.250, and providing exemptions or adjustments for  
4 state agencies that are subject to laws prohibiting or altering the addition  
5 or collection of fees added under ORS 291.231, 291.250 and 697.105, or  
6 for such agencies for whom lawful addition or collection of such fees  
7 would not be feasible given the state agency’s current resources for the  
8 collection of accounts receivable.

9 ~~when debtors make partial payments or payments in compromise.~~

10 (e) Adopt rules ~~for the maintenance of information that identifies~~  
11 ~~debtors, and~~ for the improvement of communications regarding delin-  
12 quent and liquidated accounts between ~~creditor~~  
13 state agencies, private collection agencies and the Department of  
14 Revenue, and providing guidelines for state agencies to request and col-  
15 lect Social Security numbers in accordance with state and federal law  
16 when it is reasonably foreseeable that a person may owe the state agency  
17 a liquidated and delinquent amount in excess of \$100 as a result of the  
18 transaction or activity.

19 (f) Adopt rules, after consultation with the Attorney General, set-  
20 ting criteria under which state agencies and private collection agencies  
21 may accept offers in compromise as provided in ORS 293.240.

22 (2) As used in this section, “state agency” means any state officer,  
23 board, commission, corporation, institution, department or other state  
24 organization.

25 **SECTION 8.** (1) The Delinquent Accounts Training Fund is estab-  
26 lished in the State Treasury, separate and distinct from the General  
27 Fund. Interest earned by the Delinquent Accounts Training Fund shall  
28 be credited to the fund. Moneys in the fund are continuously appro-  
29 priated to the Oregon Department of Administrative Services for pur-  
30 poses of administering section 7 of this 2015 Act.

31 (2) The fund shall consist of:

32 (a) Fees collected by state agencies or the Department of Revenue  
33 and dedicated to the fund under ORS 293.231 and 293.250;

34 (b) Amounts donated to the fund;

35 (c) Amounts appropriated or otherwise transferred to the fund by

1 **the Legislative Assembly; and**

2 **(d) Other amounts deposited in the fund from any source.**

3 **SECTION 9. As used in sections 9 to 13 of this 2015 Act:**

4 **(1) “Debt” means any delinquent account owing to any unit of state**  
5 **government as defined in ORS 174.111 or a federal nontax debt certified**  
6 **by a federal official.**

7 **(2) “Federal official” means a unit or official of the federal govern-**  
8 **ment that:**

9 **(a) Is charged with the collection of nontax liabilities payable to the**  
10 **federal government; and**

11 **(b) Has the authority to make offsets under an offset agreement.**

12 **(3) “Offset agreement” means an agreement between the Oregon**  
13 **Department of Administrative Services and the Secretary of the**  
14 **Treasury of the United States as authorized by section 10 of this 2015**  
15 **Act.**

16 **(4)(a) “State payments” means any refunds, including tax refunds,**  
17 **or amounts due to the debtor from any unit of state government as**  
18 **defined in ORS 174.111, including any vendor or contractor payments**  
19 **made by the state to any person.**

20 **(b) “State payments” does not include salary, wages, pension pay-**  
21 **ments or any other type, class or amount of payment that the Oregon**  
22 **Department of Administrative Services designates by rule as not sub-**  
23 **ject to an offset agreement.**

24 **(5) “Tax refund” means a tax refund from the Department of Rev-**  
25 **enue.**

26 **SECTION 10. (1) Notwithstanding any other law, the Oregon De-**  
27 **partment of Administrative Services may enter into an offset agree-**  
28 **ment with the Secretary of the Treasury of the United States to**  
29 **participate in a reciprocal Treasury Offset Program under 31 U.S.C.**  
30 **3716 for the collection of any debts owed to the state or to state**  
31 **agencies from federal payments to vendors, contractors and taxpayers.**

32 **(2) The offset agreement may provide for the federal government**



1 **to submit nontax debts owed to federal agencies for offset against**  
2 **state payments otherwise due and owing to taxpayers and to vendors**  
3 **and contractors providing goods or services to this state or to any unit**  
4 **of state government as defined in ORS 174.111.**

5 **SECTION 11. If the Oregon Department of Administrative Services**  
6 **enters into an offset agreement under section 10 of this 2015 Act, a**  
7 **federal official may do the following as provided in the offset agree-**  
8 **ment:**

9 **(1) Certify to the department the existence of a person’s delinquent**  
10 **nontax debt owed by the person to the federal government, by pro-**  
11 **viding:**

12 **(a) The full name and address of the person and any other names**  
13 **known to be used by the person;**

14 **(b) The person’s Social Security number or federal tax identification**  
15 **number;**

16 **(c) The amount of the person’s federal nontax debt;**

17 **(d) A statement certifying that the person’s federal nontax debt is**  
18 **past due, that due process has been provided to the person and that**

1 the person's federal nontax debt is legally enforceable in the amount  
2 certified, which may be provided in procedures for certifying payments  
3 as specified in the offset agreement; and

4 (e) Any other information required by the offset agreement.

5 (2) Request that the department withhold any state payment to  
6 which the person is entitled.

7 (3) Retain a part of the proceeds of any federal administrative setoff  
8 authorized by the federal offset program.

9 **SECTION 12.** The following apply if the Oregon Department of Ad-  
10 ministrative Services enters into an offset agreement under section 10  
11 of this 2015 Act:

12 (1) The department shall do the following as provided in the offset  
13 agreement:

14 (a) Determine if a person whose name has been certified by a fed-  
15 eral official is due a state payment;

16 (b) Withhold a state payment that is due to a person whose name  
17 has been certified by a federal official;

18 (c) Notify the person from whom a state payment is withheld under  
19 this section of the amount withheld; and

20 (d) Pay to the federal official making the certification under section  
21 11 of this 2015 Act the lesser of the entire state payment withheld or  
22 the amount certified by the federal official.

23 (2) If the amount certified by the federal official under section 11  
24 of this 2015 Act is less than a state payment due to the person, the  
25 Oregon Department of Administrative Services shall pay to the person  
26 the part of the state payment due to the person that exceeds the cer-  
27 tified amount, less any fee imposed pursuant to section 13 of this 2015  
28 Act.

29 (3) If an individual filed a joint income tax return and the debt  
30 certified by a federal official is not the liability of both parties to the  
31 joint income tax return, the Oregon Department of Administrative

1 **Services may not withhold or pay to the federal official the part of any**  
2 **income tax refund attributable to the individual not owing the debt.**  
3 **The department shall notify taxpayers filing a joint income tax return**  
4 **of a proposed offset of a state income tax refund for a debt certified**  
5 **by a federal official. A taxpayer that filed a joint income tax return**  
6 **and receives the notice may, not more than 60 days after the notice**  
7 **is sent, notify the department in writing that the taxpayer asserts that**  
8 **a part of the income tax refund is attributable to the individual not**  
9 **owing the debt. If a taxpayer that is a party to the joint income tax**  
10 **return does not notify the department of the assertion not more than**  
11 **60 days after the department’s notice is sent, all of the income tax**  
12 **refund is considered attributable to the individual owing the debt.**

13 **(4) The Oregon Department of Administrative Services may do the**  
14 **following as provided in an offset agreement entered into under sec-**  
15 **tion 10 of this 2015 Act:**

16 **(a) Certify to a federal official a person’s delinquent debt owed to**  
17 **the state by providing the federal official:**

18 **(A) The full name and address of the person and any other names**  
19 **known to be used by the person;**

20 **(B) The person’s Social Security number or federal tax identifica-**  
21 **tion number;**

22 **(C) The amount of the person’s debt owed to the state;**

23 **(D) A statement certifying that the person’s debt is past due, that**  
24 **due process has been provided to the person and that the person’s debt**  
25 **is legally enforceable in the amount certified, which may be provided**  
26 **in procedures for certifying payments as specified in the offset agree-**  
27 **ment; and**

28 **(E) Any other information required by state law or rules applicable**  
29 **to the collection of the debt by offset of federal payments or required**  
30 **by the offset agreement.**

31 **(b) Request that the federal official withhold from any federal pay-**

1 **ment to which the person is entitled the lesser of the entire federal**  
2 **payment or the amount certified by the Oregon Department of Ad-**  
3 **ministrative Services.**

4 **(5) If the amount certified by the department under subsection (4)**  
5 **of this section is less than a federal payment due to the person, the**  
6 **federal official may pay to the person the part of the federal payment**  
7 **due to the person that exceeds the certified amount, less any fee im-**  
8 **posed pursuant to section 13 of this 2015 Act.**

9 **SECTION 13. (1) The Oregon Department of Administrative Services**  
10 **by rule may establish a reasonable administrative fee to be charged**  
11 **to a person for the provision of the state offset of a federal debt or the**  
12 **federal offset of a state debt.**

13 **(2) A fee authorized by this section is a separate debt and may be**  
14 **withheld from any refund, reimbursement or other money held for the**  
15 **person.**

16 **(3) The department may charge the person who is the subject of the**  
17 **state offset of a federal debt or the federal offset of a state debt the**  
18 **fee authorized by this section. A fee may not be added under this subsec-**  
19 **tion unless the department has provided notice to the debtor:**

20 **(a) Of the existence of the debt;**

21 **(b) That the debt may be assigned to a private collection agency for**  
22 **collection; and**

23 **(c) Of the amount of the fee that may be added to the debt under this**  
24 **subsection.**

25 **(4) Any fees collected under this section may be retained by the**  
26 **department and used for the costs of administering the offset program**  
27 **entered into under section 10 of this 2015 Act, including reporting.**

28 **SECTION 14. ORS 137.118 is amended to read:**

29 **137.118. (1) Judgments in criminal actions that impose monetary obli-**  
30 **gations, including judgments requiring the payment of fines, costs, assess-**  
31 **ments, compensatory fines, attorney fees, forfeitures or restitution, may be**  
32 **assigned by the state, by a municipal court or by a justice court for col-**  
33 **lection.**

1 (2)(a) The state may assign a judgment to the Department of Revenue or  
2 a private collection agency.

3 (b) A justice court may assign a judgment to a private collection agency  
4 or, in a criminal action, to the Department of Revenue for the purposes de-  
5 scribed in ORS 156.315.

6 (c) A municipal court may assign a judgment to:

7 (A) A private collection agency; or

8 (B) The Department of Revenue for the purposes described in subsections  
9 (6) to (8) of this section, if the judgment was entered in a criminal action  
10 and part of the judgment is payable to the State of Oregon.

11 (d) Nothing in this subsection limits the right of a municipal court or a  
12 justice court to assign for collection judgments in matters other than crimi-  
13 nal actions.

14 (3) A municipal or justice court may add to any judgment in a criminal  
15 action that includes a monetary obligation a fee for the cost of collection if  
16 the court gives the defendant a period of time to pay the obligation after the  
17 date of imposition of the sentence or after the date of the hearing or pro-  
18 ceeding that results in the imposition of the financial obligation. The fee  
19 may not exceed 25 percent of the monetary obligation imposed by the court  
20 without the addition of the cost of collection and may not be more than \$250.  
21 The fee shall be waived or suspended by the court if the defendant pays the  
22 monetary obligation in the manner required by the court.

23 (4) A state court shall add to any judgment in a criminal action that in-  
24 cludes a monetary obligation the fees required by ORS 1.202.

25 (5) As used in subsections (1) to (5) of this section, “criminal action” has  
26 the meaning given that term in ORS 131.005.

27 (6) If part of a judgment in a criminal action, as described in subsections  
28 (1) to (5) of this section, is payable to the State of Oregon, a municipal court  
29 may assign the judgment to the Collections Unit in the Department of Rev-  
30 enue for the following purposes:

31 (a) To determine whether refunds or other sums are owed to the debtor  
32 by the department; and

1 (b) To deduct the amount of debt from any refunds or other sums owed  
2 to the debtor by the department.

3 (7) If the Collections Unit determines that refunds or other sums are owed  
4 to the debtor, the department shall deduct the amount of the debt from any  
5 refunds or other sums owed to the debtor by the department. After also de-  
6 ducting costs of its actions under subsections (6) to (8) of this section, the  
7 department shall remit the amount deducted from refunds or other sums  
8 owed to the debtor to the municipal court that assigned the judgment.

9 (8) A debtor whose account is assigned to the Department of Revenue for  
10 setoff under subsections (6) to (8) of this section is entitled to the notice  
11 required by ORS 293.250 [(3)(d)] **(3)(g)** and to the opportunity for payment  
12 in ORS 293.250 [(3)(c)] **(3)(f)**.

13 **SECTION 15.** ORS 156.315 is amended to read:

14 156.315. (1) A justice court may assign a judgment in a criminal action,  
15 as described in ORS 137.118 (1) to (5), to the Collections Unit in the De-  
16 partment of Revenue for the following purposes:

17 (a) To determine whether refunds or other sums are owed to the debtor  
18 by the department; and

19 (b) To deduct the amount of the debt from any refunds or other sums owed  
20 to the debtor by the department.

21 (2) If the Collections Unit determines that refunds or other sums are owed  
22 to the debtor, the department shall deduct the amount of the debt from any  
23 refunds or other sums owed to the debtor by the department. After also de-  
24 ducting costs of its actions under this section, the department shall remit the  
25 amount deducted from refunds or other sums owed to the debtor to the jus-  
26 tice court that assigned the judgment.

27 (3) A debtor whose account is assigned to the Department of Revenue for  
28 setoff under this section is entitled to the notice required by ORS 293.250  
29 [(3)(d)] **(3)(g)** and to the opportunity for payment in ORS 293.250 [(3)(c)]  
30 **(3)(f)**.

31 **SECTION 16. (1) Sections 1 and 7 to 13 of this 2015 Act and the**  
32 **amendments to ORS 137.118, 156.315, 293.229, 293.231, 293.240, 293.245 and**

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1 **293.250 by sections 2 to 6, 14 and 15 of this 2015 Act become operative**  
2 **January 1, 2016.**

3 (2) The Oregon Department of Administrative Services, any other  
4 state agency ~~or a county or city~~ may take any action before the op-  
5 erative date specified in subsection (1) of this section that is necessary  
6 for the department, state agency, ~~county or city~~ to exercise, on or af-  
7 ter the operative date specified in subsection (1) of this section, all the  
8 duties, functions and powers conferred on the department, or state  
9 agency, ~~county or city~~ by this 2015 Act.

10 **SECTION 17.** This 2015 Act being necessary for the immediate  
11 preservation of the public peace, health and safety, an emergency is  
12 declared to exist, and this 2015 Act takes effect on its passage.

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