

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 13-0652.01 Jason Gelender x4330

SENATE BILL 13-247

SENATE SPONSORSHIP

Heath,

HOUSE SPONSORSHIP

Court,

Senate Committees
Finance

House Committees
Finance

HOUSE
3rd Reading Unamended
May 3, 2013

A BILL FOR AN ACT

101 **CONCERNING THE COLLECTION OF DEBT OWED TO GOVERNMENTAL**
102 **ENTITIES, AND, IN CONNECTION THEREWITH, SPECIFYING**
103 **PROCEDURAL REQUIREMENTS FOR OFFSETTING SUCH DEBTS**
104 **AGAINST STATE TAX REFUNDS AND AUTHORIZING THE STATE TO**
105 **ENTER INTO RECIPROCAL DEBT COLLECTION AGREEMENTS WITH**
106 **THE FEDERAL GOVERNMENT AND OTHER STATES.**

HOUSE
2nd Reading Unamended
May 2, 2013

SENATE
3rd Reading Unamended
April 15, 2013

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://www.leg.state.co.us/billsummaries>.)

SENATE
Amended 2nd Reading
April 12, 2013

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

Current law authorizes the department of personnel to provide centralized debt collection services for debts owed to agencies, institutions, and political subdivisions of the state. The bill specifies procedural requirements, including a hearing requirement, to be followed before the state controller may certify such a debt to the department of revenue to be offset against a tax refund. The bill also authorizes the state to enter into reciprocal debt collection agreements with the federal government and other states. Under such agreements:

- ! The state uses moneys owed by the state to a person, including tax refunds, to pay debts that the person owes to the federal government or another state; and
- ! The federal government or another state uses moneys that it owes to another person, excluding tax refunds in the case of the federal government, to pay debts that the person owes to the state of Colorado.

If multiple creditors have claims against the same person to be paid from moneys owed by the state to the person, such moneys must be used first to pay debts owed to agencies and institutions of the state, next to pay debts owed to political subdivisions of the state, and last to pay debts owed to the federal government and other states.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-30-202.4, **amend**
3 (2.5) and **add** (10) as follows:

4 **24-30-202.4. Collection of debts due the state - controller's**
5 **duties - creation of debt collection fund - definitions - reciprocal debt**
6 **collection agreements.** (2.5) (a) The department of personnel may
7 provide debt collection services, INCLUDING LOTTERY OFFSETS, LIMITED
8 GAMING OFFSETS, AND STATE TAX REFUND OFFSETS, for ACCOUNTS
9 ASSIGNED TO CENTRAL COLLECTION SERVICES BY political subdivisions of
10 the state UNDER CONTRACT WITH CENTRAL COLLECTION SERVICES. The
11 provisions of this section governing the time for referral of accounts to
12 private collection agencies, write off, release, or compromise of debts
13 ~~shall~~ DOES not govern the debt collection services provided to political
14 subdivisions except as agreed between the department and such political

1 subdivisions or state agencies and institutions.

2 (b) UPON VERIFICATION BY THE APPROPRIATE STATE AGENCY,
3 STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, OR POLITICAL
4 SUBDIVISION OF THE STATE OF THE AMOUNT OF A DEBT DUE THE STATE,
5 INSTITUTION, OR POLITICAL SUBDIVISION, THE STATE CONTROLLER MAY
6 CERTIFY TO THE DEPARTMENT OF REVENUE ANY UNPAID DEBT TO BE
7 OFFSET AGAINST A TAX REFUND DUE THE DEBTOR PURSUANT TO SECTION
8 39-21-108 (3), C.R.S. BEFORE CERTIFYING AN UNPAID DEBT TO THE
9 DEPARTMENT OF REVENUE, THE STATE CONTROLLER SHALL GIVE WRITTEN
10 NOTICE TO THE DEBTOR THAT THE DEBT WILL BE OFFSET AGAINST A TAX
11 REFUND DUE THE DEBTOR AND THAT THE DEBTOR MAY, WITHIN THIRTY
12 DAYS OF THE POSTMARK OF THE WRITTEN NOTICE, REQUEST A HEARING TO
13 DISPUTE THE TAX REFUND OFFSET. SUCH A HEARING MUST BE HELD WITHIN
14 THIRTY CALENDAR DAYS FOLLOWING RECEIPT OF THE REQUEST FROM THE
15 DEBTOR. IF THE AGENCY, INSTITUTION, OR POLITICAL SUBDIVISION THAT
16 REFERRED THE DEBT TO THE CONTROLLER CERTIFIES THAT THE DEBT WAS
17 THE SUBJECT OF A FINAL AGENCY DETERMINATION OR JUDICIAL DECISION
18 OR THAT THE DEBT HAS BEEN REDUCED TO JUDGMENT, THE DEBTOR MAY
19 NOT DISPUTE THE VALIDITY OF THE DEBT AT THE HEARING. IF, AT
20 THE HEARING, THE DISPUTE IS RESOLVED IN FAVOR OF THE DEBTOR, THE
21 DEBTOR IS ENTITLED TO A REFUND OF ANY MONEY DUE PLUS INTEREST, IF
22 REQUESTED, PURSUANT TO SECTIONS 39-21-110 AND 39-21-110.5, C.R.S.
23 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL SHALL
24 PROMULGATE RULES, IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE,
25 THAT SPECIFY PROVISIONS FOR ADEQUATE NOTICE AND OPPORTUNITY FOR
26 HEARING. THE STATE CONTROLLER MAY WRITE OFF, RELEASE, OR
27 COMPROMISE, ANY DEBT AS AUTHORIZED BY PARAGRAPH (c) OF

1 SUBSECTION (3) OF THIS SECTION.

2 (10) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND
3 PURSUANT TO 31 U.S.C. SEC. 3716 (b) AND (h) (1), THE DEPARTMENT OF
4 PERSONNEL, AT THE REQUEST OF ANY EXECUTIVE, JUDICIAL, OR
5 LEGISLATIVE BRANCH AGENCY OF THE STATE, STATE-SUPPORTED
6 INSTITUTION OF HIGHER EDUCATION, OR POLITICAL SUBDIVISION OF THE
7 STATE, MAY ENTER INTO A RECIPROCAL AGREEMENT WITH THE UNITED
8 STATES GOVERNMENT TO OFFSET:

9 (I) THE CLAIM OF ANY PERSON AGAINST THE STATE, INCLUDING
10 ANY STATE TAX REFUND TO WHICH THE PERSON MAY BE ENTITLED, TO ANY
11 DEBT OF THE PERSON OWED TO THE UNITED STATES GOVERNMENT THAT
12 THE UNITED STATES GOVERNMENT HAS CERTIFIED AS FINAL, DUE, AND
13 OWING, WITH ALL APPEALS AND LEGAL ACTIONS HAVING BEEN WAIVED OR
14 EXHAUSTED; AND

15 (II) ANY NONTAX CLAIM OF ANY PERSON AGAINST THE UNITED
16 STATES GOVERNMENT TO ANY LIQUIDATED DEBT OF THE PERSON OWED TO
17 THE STATE. ANY FEES ASSOCIATED WITH ANY OFFSET OF FEDERAL MONEYS
18 WILL BE DEDUCTED BY THE UNITED STATES GOVERNMENT FROM THE
19 AMOUNT OF MONEYS OFFSET, WHICH MAY THEN BE ADDED TO THE
20 BALANCE OF THE DEBT OWED, BUT ANY FEES ASSOCIATED WITH ANY
21 OFFSET OF STATE MONEYS WILL NOT BE CHARGED TO THE UNITED STATES
22 GOVERNMENT.

23 (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
24 DEPARTMENT OF PERSONNEL, AT THE REQUEST OF ANY EXECUTIVE,
25 JUDICIAL, OR LEGISLATIVE BRANCH AGENCY, STATE-SUPPORTED
26 INSTITUTION OF HIGHER EDUCATION, OR POLITICAL SUBDIVISION OF THE
27 STATE, MAY ENTER INTO A RECIPROCAL AGREEMENT WITH ANY STATE TO

1 OFFSET:

2 (I) THE CLAIM OF ANY PERSON AGAINST THE STATE TO ANY DEBT
3 OF THE PERSON OWED TO ANY STATE THAT HAS CERTIFIED THE DEBT AS
4 FINAL, DUE, AND OWING, WITH ALL APPEALS AND LEGAL ACTIONS HAVING
5 BEEN WAIVED OR EXHAUSTED; AND

6 (II) ANY CLAIM OF ANY PERSON AGAINST ANY STATE TO ANY
7 LIQUIDATED DEBT OF THE PERSON OWED TO THE STATE.

8 (c) IF MULTIPLE CREDITORS HAVE CERTIFIED LIQUIDATED DEBT
9 AGAINST THE SAME PERSON ON A CLAIM AGAINST THE STATE PURSUANT TO
10 THIS SECTION, THE DEBTS OF THE STATE, ANY STATE-SUPPORTED
11 INSTITUTION OF HIGHER EDUCATION, OR ANY POLITICAL SUBDIVISION OF
12 THE STATE SHALL BE CREDITED FIRST IN THE PRIORITY ESTABLISHED IN
13 PARAGRAPH (b) OF SUBSECTION (3.5) OF THIS SECTION, WITH THE
14 UNDERSTANDING THAT ANY STATE AGENCY OR STATE-SUPPORTED
15 INSTITUTION OF HIGHER EDUCATION DEBT WILL BE PAID FIRST BEFORE ANY
16 DEBT FOR A POLITICAL SUBDIVISION OF THE STATE ASSIGNED TO CENTRAL
17 COLLECTION SERVICES. IF THERE IS ANY BALANCE DUE THE CLAIMANT
18 AFTER SETTling THE WHOLE DEMANDS OF THE STATE, ANY EXECUTIVE,
19 JUDICIAL, OR LEGISLATIVE BRANCH AGENCY OF THE STATE, ANY
20 STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, AND ANY
21 POLITICAL SUBDIVISION OF THE STATE, THE BALANCE SHALL BE CREDITED
22 TO THE LIQUIDATED DEBTS CERTIFIED BY THE UNITED STATES
23 GOVERNMENT AND THEN TO THE LIQUIDATED DEBTS CERTIFIED BY ANY
24 OTHER STATE IN THE ORDER IN WHICH THE CLAIMS WERE FILED WITH THE
25 STATE TREASURER. IF THERE IS A BALANCE DUE THE CLAIMANT AFTER
26 SATISFACTION OF ALL LIQUIDATED DEBTS AS ITEMIZED IN THIS SECTION
27 AND ANY COURT-ORDERED PAYMENTS, THE BALANCE SHALL BE PAID TO

1 THE CLAIMANT.

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

4 **24-30-202.7. Lottery winnings offset - definitions.** (1) As used
5 in this section, unless the context otherwise requires:

6 (b) "Outstanding debt" means any unpaid debt due to the state that
7 is referred pursuant to section 24-30-202.4 (2) to the state controller or
8 the central collection services section of the division of finance and
9 procurement, or any successor section, in the department of personnel,
10 including the collection fee and any allowable fees and costs pursuant to
11 section 24-30-202.4 (8). "Outstanding debt" ~~does not include~~ INCLUDES
12 any debt collected by the department of personnel for a political
13 subdivision of the state UNDER CONTRACT WITH CENTRAL COLLECTION
14 SERVICES, WITH THE UNDERSTANDING THAT ANY STATE AGENCY OR
15 STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION DEBT WILL BE PAID
16 BEFORE ANY DEBT FOR A POLITICAL SUBDIVISION OF THE STATE ASSIGNED
17 TO CENTRAL COLLECTION SERVICES.

18 **SECTION 3.** In Colorado Revised Statutes, 24-35-605, **amend**
19 (2) (b) (V) as follows:

20 **24-35-605. Payments - limited gaming and pari-mutuel**
21 **wagering licensees - procedures.** (2) (b) If the registry operator replies
22 that the winner is listed in the registry:

23 (V) The department of human services shall process moneys
24 received from the registry operator pursuant to subparagraph (IV) of this
25 paragraph (b) in accordance with section 26-13-118.7, C.R.S. The judicial
26 department shall process moneys received from the registry operator
27 pursuant to subparagraph (IV) of this paragraph (b) in accordance with

1 the rules of the department. THE DEPARTMENT OF PERSONNEL SHALL
2 PROCESS MONEYS RECEIVED FROM THE REGISTRY OPERATOR PURSUANT TO
3 SUBPARAGRAPH (IV) OF THIS PARAGRAPH (b) IN ACCORDANCE WITH THE
4 RULES OF THE DEPARTMENT OF PERSONNEL, WITH THE UNDERSTANDING
5 THAT ANY STATE AGENCY OR STATE-SUPPORTED INSTITUTION OF HIGHER
6 EDUCATION DEBT WILL BE PAID BEFORE ANY DEBT FOR A POLITICAL
7 SUBDIVISION OF THE STATE ASSIGNED TO CENTRAL COLLECTION SERVICES.

8 **SECTION 4.** In Colorado Revised Statutes, 39-21-108, **amend**
9 (3) (a) (I) (A) as follows:

10 **39-21-108. Refunds.** (3) (a) (I) (A) Whenever it is established
11 that any taxpayer has, for any period open under the statutes, overpaid a
12 tax covered by articles 22 and 26 to 29 of this title, article 60 of title 34,
13 C.R.S., and article 3 of title 42, C.R.S., and that: There is an unpaid
14 balance of tax and interest accrued, according to the records of the
15 executive director, owing by such taxpayer for any other period; there is
16 an amount required to be repaid to the unemployment compensation fund
17 pursuant to section 8-81-101 (4), C.R.S., the amount of which has been
18 determined to be owing as a result of a final agency determination or
19 judicial decision or that has been reduced to judgment by the division of
20 unemployment insurance in the department of labor and employment;
21 there is any unpaid child support debt as set forth in section 14-14-104,
22 C.R.S., or child support arrearages that are the subject of enforcement
23 services provided pursuant to section 26-13-106, C.R.S., as certified by
24 the department of human services; there are any unpaid obligations owing
25 to the state as set forth in section 26-2-133, C.R.S., for overpayment of
26 public assistance or medical assistance benefits, the amount of which has
27 been determined to be owing as a result of final agency determination or

1 judicial decision or that has been reduced to judgment, as certified by the
2 department of human services; there is any unpaid loan or other
3 obligation due to a state-supported institution of higher education as set
4 forth in section 23-5-115, C.R.S., the amount of which has been
5 determined to be owing as a result of a final agency determination or
6 judicial decision or that has been reduced to judgment, as certified by the
7 appropriate institution; there is any unpaid loan due to the student loan
8 division of the department of higher education as set forth in section
9 23-3.1-104 (1) (p), C.R.S., the amount of which has been determined to
10 be owing as a result of a final agency determination or judicial decision
11 or that has been reduced to judgment, as certified by the division; there
12 is any unpaid loan due to the collegeinvest division of the department of
13 higher education as set forth in section 23-3.1-206, C.R.S., the amount of
14 which has been determined to be owing as a result of a final agency
15 determination or judicial decision or that has been reduced to judgment;
16 there is any outstanding judicial fine, fee, cost, or surcharge as set forth
17 in section 16-11-101.8, C.R.S., or judicial restitution as set forth in
18 section 16-18.5-106.8, C.R.S., the amount of which has been determined
19 to be owing as a result of a final judicial department determination or
20 certified by the judicial department as a judgment owed the state or a
21 victim; there is any unpaid debt owing to the state or any agency thereof
22 by such taxpayer, and that is found to be owing as a result of a final
23 agency determination or the amount of which has been reduced to
24 judgment and as certified by the controller; or the taxpayer is a qualified
25 individual identified pursuant to section 39-22-120 (10) or 39-22-2003
26 (9), so much of the overpayment of tax plus interest allowable thereon as
27 does not exceed the amount of such unpaid balance or unpaid debt must

1 be credited first to the unpaid balance of tax and interest accrued and then
2 to the unpaid debt, and any excess of the overpayment must be refunded.
3 If the taxpayer elects to designate his or her refund as a credit against a
4 subsequent year's tax liability, the amount allowed to be so credited must
5 be reduced first by the unpaid balance of tax and interest accrued and then
6 by the unpaid debt. If the taxpayer filed a joint return, the executive
7 director shall notify the taxpayer's spouse that the portion of the
8 overpayment that is generated by the spouse's income will be refunded
9 upon receipt of a request detailing said amount. As used in this section,
10 unless the context otherwise requires, "agency" includes A state-supported
11 ~~institutions~~ INSTITUTION of higher education OR A POLITICAL SUBDIVISION
12 OF THE STATE UNDER CONTRACT WITH CENTRAL COLLECTION SERVICES.

13 **SECTION 5. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2014 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.