



**SF 2383** – Debt Collection (LSB 6250SV)

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Fiscal Note Version – New

### **Description**

**Senate File 2383** relates to the collection of debt obligations owed the State and cities and establishing the Office of the State Debt Coordinator located in the Department of Revenue, providing a fee, and including effective date provisions.

The summary chart below is an estimate of the overall fiscal impact. Not all departments and agencies had responded to the request for fiscal note information at the time this fiscal note was published. In addition, some of the concepts contained in SF 2383 will enhance collections; but the additional revenue cannot be estimated. The estimates also took into consideration the amount of debt that may have been collected under another Program.

Of the total revenue estimate, approximately 9.0% includes surcharges which are deposited to the General Fund as well as other funds such as the Crime Victim Compensation Fund and local governments. That amount cannot be estimated.

### **Overall Fiscal Impact Summary**

Program	FY 2011		FY 2012	
	Est. Cost	Est. Revenue	Est. Cost	Est. Revenue
Court Debt Set Off Priority	\$ 10,000	unknown	\$ 0	unknown
County Treasurer Vehicle Registration Collections	60,000	unknown	0	unknown
Taxpayer Public/Private Utility Customer Match	0	0	0	1,700,000
State Debt Coordinator	290,000	0	270,000	0
Liens in Civil Action	0	unknown	0	unknown
Debt Settlement Program	0	350,000	0	700,000
Assignment of Debt to the CCU	0	-2,400,000	0	-2,400,000
Minimum for County Attorney Collections	0	56,000	0	56,000
Debt to Private Debt Collector	0	unknown	0	unknown
Payment on Date of Imposition	0	unknown	0	unknown
Debt Amnesty Program	1,150,000	3,200,000	0	0
	<u>\$ 1,510,000</u>	<u>\$ 1,206,000</u>	<u>\$ 270,000</u>	<u>\$ 56,000</u>

N/A = Not available - cannot estimate

### **Section 1 – Court Debt Priority Ranking For Setoffs**

### **Background**

In situations of multiple claims to payments recovered through the Income Setoff Program, priority is given in the following order:

1. Child Support Recovery Unit or Foster Care Recovery Unit
2. College Student Aid Commission

3. Department of Inspections and Appeals
4. Clerk of District Court
5. Other State Agencies

According to the Department of Revenue, this list was established in the 1980's based on the order the agencies signed up for the program. The Program is currently run by the Department of Administrative Services.

This Section moves the Clerk of Court (Judicial Branch) to second position on the priority list.

### **Assumptions**

- The Department of Administrative Services (DAS) offsets the money and returns the money back to the respective department or agency to be applied to the various funding sources.
- In FY 2009, the College Student Aid Commission collected approximately \$535,000 for the student loan program through setoff collections, the majority of which was for federal and private loans.
- In FY 2009, the Department of Inspections and Appeals collected approximately \$900,000 through setoff collections for overpayments by the Department of Human Services (DHS) and incorrect payments in DHS assistance programs.
- There will be programming costs to the Department of Administrative Services (DAS) – Information Technology Enterprise (ITE) to modify both the vendor and offset systems.

### **Fiscal Impact**

The fiscal impact to DAS is approximately \$10,000 for programming costs. This Section may result in additional receipts to the General Fund or other funds resulting from the collection of debt, but the amount cannot be estimated. The Judicial Branch has a large number of offsets of varying dollar amounts that may or may not impact the offsets of the College Student Aid Commission and the Department of Inspections and Appeals.

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## **Sections 2, 4, 5, 7, 13, 14, and 23 – County Treasurer Collection for Vehicle Registrations**

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### **Background**

County treasurers are required to refuse to renew a vehicle registration if the treasurer knows that the person has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to or being collected by the State. The debt has to be paid before the county treasurer can renew the vehicle registration.

The Motor Vehicle Division of the Department of Transportation receives 96.0% of its budget from the Road Use Tax Fund (RUTF) and 4.0% from the Primary Road Fund.

- The Sections specify it is the intent of the General Assembly that the county treasurers begin collecting delinquent court debt at the time a person renews a motor vehicle registration beginning July 1, 2011. A plan regarding this to be developed by the Judicial Branch and submitted to the General Assembly on or before December 1, 2010. These Sections allow the Department of Revenue to provide the county treasurers access to confidential information required for the collection of delinquent taxes and makes the county treasurers subject to confidentiality requirements and penalties.

### **Assumptions**

- The Department of Revenue will adopt administrative rules to implement the collection program for county treasurers.
- If the person renewing their vehicle registration chooses to pay their delinquent taxes with the county treasurer, a \$5 processing fee will be charged and deposited in the county general fund.
- In FY 2008, there were approximately 4.1 million vehicles registered in the State of Iowa. This includes automobiles, trucks, motor homes, buses, multi-purpose vehicles, motorcycles, tractor/trucks, and trailers.
- The Department of Transportation information technology programming to implement the program is estimated to include 1,013 hours and totals approximately \$55,000. In addition, there is a 10.0% administrative cost of \$5,000.

### **Fiscal Impact**

The Department of Revenue cannot estimate the costs associated with changes to its information systems and collections processes. The Department of Transportation impact for programming is approximately \$60,000 and will be absorbed within the current budget. The Judicial Branch anticipates FY 2012 costs associated with changes to its computer interface but these costs cannot be estimated prior to the completion of the plan in December 2010.

These Sections may result in additional receipts to the General Fund or other funds resulting from the collection of debt, but the amount cannot be estimated. These Sections may also result in additional revenue to county treasurers as a result of the \$5 filing fee, but the amount cannot be estimated.

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## **Section 6 –Collection of Judgment Debt Owed to Cities**

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### **Background**

- Court debt owed to cities is deemed delinquent at 30 days.
- At 90 days, this Section permits the cities to contract with a private debt collector.
- Permits an add-on collection fee of up to 25.0%.

### **Fiscal Impact**

This Section may result in additional revenue to cities as a result of contracting with a private debt collector, but the amount cannot be determined.

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## **Section 8 – Taxpayer Public/Private Utility Customer Match**

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### **Background**

This Section permits the Department of Revenue to subpoena records of public and private utilities. The records that may be subpoenaed pertain to potential customers of the utility that may owe taxes, penalties, interest, and court debt to the State of Iowa.

This Section states that the public or private utility may not be held liable for good faith and reasonable actions taken when complying with the subpoena.

### **Assumptions**

- This Section is effective January 1, 2011.
- The time required to issue subpoenas, review records, identify potential State debtors, notify the debtor, and collect the debt will exceed six months.

### **Fiscal Impact**

The Department of Revenue estimates that \$1.7 million per year will be collected from State debtors through the additional subpoena powers allowed under the Bill. The first fiscal year impacted is FY 2012.

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## **Section 9 – State Debt Coordinator**

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### **Background**

- Creates the Office of the State Debt Coordinator in the Department of Revenue.
- The position will be appointed by the Governor and confirmed by the Senate for a four-year term.
- Allows the State Debt Coordinator to adopt administrative rules for the Office.
- Some of the responsibilities of the position include coordinating collection efforts between each branch of government, making recommendations to the General Assembly to improve or increase collections and efficiencies, and managing the Debt Settlement Program, county attorney collections program, and civil liens.

### **Assumption**

- Assumes the Office will consist of the Coordinator, an administrative assistant, and a management analyst.

### **Fiscal Impact**

In FY 2011, costs for the Office of the State Debt Coordinator are estimated to be \$290,000 and 3.0 FTE positions. In FY 2012 and on-going, the costs are estimated to be \$270,000. If more staff positions are added to the Office, costs will increase. The funding for these positions is not included in this Bill.

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## **Section 10 – Notice of Lien in Civil Action**

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### **Background**

Permits the State Debt Coordinator to file a lien against a person owing a debt to the State.

### **Assumptions**

- The Judicial Branch has approximately 75,000 civil filings a year.
- The lien can be filed in a settlement.

### **Fiscal Impact**

This Section may result in additional receipts to the General Fund or other funds resulting from the collection of debt, but the amount cannot be determined.

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## **Sections 11, 12, and 25 – Debt Settlement Program**

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### **Background and Assumptions**

- This Section is effective January 1, 2011.
- Debt must be more than four years old and person's income must be at or below 200.0% of the federal poverty level.
- Forgiveness is limited to 50.0% of the debt.
- The person is not eligible if another payment plan is in effect.
- Of the \$525.3 million in total court debt, \$47.8 million is more than four years old and owed by people at or below 200.0% of the federal poverty level.
- Assumes that 1.5% of the total will be collected through this program.
- The county attorneys and the Centralized Collection Unit (CCU) in the Department of Revenue can offer the Debt Settlement Program.

### **Fiscal Impact**

The revenue generated from the Debt Settlement Program is estimated to be approximately \$350,000 in FY 2011 and approximately \$700,000 in FY 2012.

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## **Section 15 – Assignment of Debt to CCU**

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### **Background**

Under current law, court debt is owed and payable to the Clerk of District Court (except restitution) and is deemed delinquent if not paid within 30 days after being assessed or 30 days after an installment payment is missed. After 30 days, the debt (at the discretion of the clerk of court) may be assigned to the CCU in the Department of Revenue. If assigned, the debt remains at the CCU for the next 60 days (90 days from the date assessed). Court debt that is 90 days delinquent from the date assessed can be sent to the county attorneys or their designee for collection.

The most active collection period for the CCU is within the first 12 to 15 months of receiving the debt. The CCU works the debt for up to two years, at which time, it is returned back to the Judicial Branch. The CCU averages \$1.7 million per month in collections. In FY 2008, the CCU collected \$20.4 million in court debt. In FY 2009, the CCU collected \$19.8 million in court debt. The CCU charges a 10.0% add-on fee to each account and the fee is added by the Judicial Branch to the total when the account is placed with the CCU. If the debt is moved from the CCU to the county attorneys, the 10.0% add-on fee is removed. In FY 2010, account placements are approximately 73.0% of FY 2009 placements. This would suggest a 27.0% decrease in collections; however, collections are actually up 18.0% year-to-date primarily due to accounts placed with the CCU from FY 2008 and FY 2009.

At the end of FY 2009, the Judicial Branch did not send debt to the CCU from a county active in a county attorney collections program. This decision was later revised. In FY 2010, the Judicial Branch was not sending any of the debt to either the CCU or the county attorneys for 90 days from the date of assessment. This decision was also later revised.

Under current practice, debt from counties without an active county attorney collection program is sent to the CCU for collection at 31 days. At 90 days after assessment, the debt from counties with a county attorney collection program is sent to both the county attorneys and the CCU at the same time. Both entities work the debt simultaneously. This Section codifies current practice with the exception of limiting the time the debt is held at the CCU to 120 days.

### **Assumptions**

- The Judicial Branch is required to send debt to the CCU at 30 days to be worked for a period of 120 days, unless a county attorney has filed a notice of full commitment to collect delinquent court debt.
- The county attorneys will continue to receive the debt at 90 days from the date of assessment (current law).
- Requires a minimum collection of \$25,000 annually by a participating county attorney.
- The number of new cases worked by the CCU between six months and two years cannot be determined.
- Assigning debt and pulling it back will result in a lag on collections.

### **Fiscal Impact**

The fiscal impact of requiring the unworked debt to go to a private debt collector at 120 days is estimated to reduce CCU collections by \$2.4 million. The private debt collector may collect a comparable amount to what the CCU would collect; however, with the ability to negotiate a higher add-on fee than that of the CCU, the private debt collector would have to collect more than the CCU to hold the General Fund harmless.

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## **Section 19 – Establishes a Minimum for County Attorney Collections at \$25,000**

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### **Background**

Under current law, the distribution of county attorney collections are based on a threshold formula based on the county population. County attorneys retain 40.0% of the amount collected through the county attorney collections program and the remaining 60.0% is deposited in the State General Fund. Once the county's threshold is met, the county retains an additional 12.0% (total of 52.0%) of the funds collected and the General Fund receives 48.0%. Below is a list of the thresholds:

- Population greater than 150,000 - \$500,000
- Population greater than 100,000 to 150,000 - \$400,000
- Population greater than 50,000 to 100,000 - \$250,000
- Population greater than 26,000 to 50,000 - \$100,000
- Population greater than 15,000 to 26,000 - \$50,000
- Population less than or equal to 15,000 - \$25,000

For FY 2010, there are 47 counties participating in collections. Crawford and Carroll counties and Decatur and Wayne counties have entered into 28E agreements. As of February 28, 2010, 11 counties met their required threshold amount.

Of the 45 counties that participated in FY 2009, 15 counties (33.3%) exceeded the threshold. Three counties did not collect any money, one county collected less than \$1,000, and seven counties collected more than \$1,000 but less than \$5,000.

County attorneys do not receive a portion of any amounts collected for victim restitution, the Crime Victim Compensation Fund, the Criminal Penalty Surcharge, the Drug Abuse Resistance Education (DARE) Surcharge, the Law Enforcement Initiative Surcharge, the County Enforcement Surcharge, the \$200 DOT Civil Penalty, and the setoff procedures under Code Section 8A.504 or sheriff fees.

### **Assumptions**

- In FY 2009, there were 23 counties that did not collect more than \$25,000.
- As of February 28, 2010, 19 counties have collected less than \$15,000 with four months left in the fiscal year.
- Debt will remain with the CCU to be worked for an additional 60 days rather than being sent to counties that are not collecting at least \$25,000 in court debt a year.
- Counties that fall below the threshold can re-apply with the State Debt Coordinator to re-enter the program.
- Of the current amount collected, 60.0% already is deposited in the General Fund and the remaining 40.0% is deposited in the county general fund of the collecting county.

### **Fiscal Impact**

The revenue impact is estimated to be approximately \$56,000 to the General Fund.

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## **Section 20 – Private Debt Collector**

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### **Background**

The Judicial Branch completed a Request for Information (RFI) to contract with a private debt collector in January 2009 and anticipates issuing a Request for Proposal (RFP) sometime in FY 2010.

- Any debt that is 150 days past the date of assessment (30 days delinquent and an additional 120 days) and is not in a payment plan with the CCU or county attorneys is required to be sent to a private debt collector.
- The add-on collection fee for a private debt collector is up to 25.0%. This amount is in addition to the total debt owed.

### **Fiscal Impact**

This Section may result in additional receipts to the General Fund or other funds resulting from the collection of debt, but the amount cannot be determined.

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## **Section 21 – Clarifies Payment of a Fine at the Date of Imposition**

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### **Background**

Under current law, Code Section 909.3(1) contains language stating that all fines imposed by the Judicial Branch will be paid on the date the fine is imposed.

This Section clarifies current law by directing persons to pay court fines to the Clerk of District Court at the date of imposition.

In FY 2009, 30.0% of the fines imposed were paid within 30 days.

**Assumption:** Judges will be required to instruct the debtor to go to the clerk of court office to pay the debt prior to leaving the courthouse on the day the fine is assessed.

### **Fiscal Impact**

This Section may result in additional receipts to the General Fund or other funds resulting from the collection of debt, but the amount cannot be determined.

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## Section 22 – Debt Amnesty Program

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### **Background**

This Section establishes a Debt Amnesty Program in the Department of Revenue for the period of July 1, 2010, through December 31, 2010. This Section requires the Department to submit a report to the General Assembly on January 15, 2011. This Section outlines the following eligibility requirements:

- A person confined to jail or prison, or under correctional supervision, is not eligible for the Program.
- Debt must be more than four years old.
- Forgiveness is limited to 50.0% of the debt.
- The person is not eligible if another payment plan is in effect.

### **Assumptions**

- Of the \$525.3 million in total court debt, \$216.1 million is more than four years old.
- Assumes that 1.5% of the total will be collected through this Program.
- The Iowa Lottery Authority will help advertise the Program.
- Due to the State Early Retirement Program, the Department of Revenue will be operating at a reduced staffing level compared to the staffing level in effect when the Department operated the Tax Amnesty Program.

### **Fiscal Impact**

The revenue generated from the Debt Amnesty Program is estimated to be approximately \$3.2 million. The cost to administer the Debt Amnesty Program is estimated at \$1,150,000.

### **Sources**

Departments of Revenue, Transportation, and Administrative Services  
Judicial Branch  
Criminal and Juvenile Justice Planning Division (CJJP)  
Various Executive Branch Agencies

/s/ Holly M. Lyons

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March 23, 2010

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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