

Regular Session, 2013

HOUSE BILL NO. 629

BY REPRESENTATIVES BROADWATER, BARRAS, BURFORD, GUILLORY,  
HAZEL, HOFFMANN, JAMES, STOKES, THOMPSON, WHITNEY, AND  
PATRICK WILLIAMS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

REVENUE DEPARTMENT: Establishes the office of debt recovery at the Dept. of Revenue for the collection of delinquent debts owed to certain governmental entities

1 AN ACT

2 To amend and reenact R.S. 36:451(C) and R.S. 47:1603(A) and to enact R.S. 36:458(H) and  
3 R.S. 47:1676, 1676.1, and 1677, relative to collections by the Department of  
4 Revenue; to establish the office of debt recovery within the Department of Revenue  
5 to collect certain delinquent debts owed to or collected by the state; to provide for  
6 definitions; to provide for the administration of the collection of certain debts; to  
7 authorize the office to collect certain debt of political subdivisions under certain  
8 circumstances; to provide relative to the procedure for collection of certain debts; to  
9 provide for certain requirements and limitations; to authorize the collection of a fee;  
10 to provide for the establishment of an electronic debt registry; to provide relative to  
11 the information maintained in the registry; to authorize the promulgation of rules and  
12 regulations; to provide for the waiver of penalty for delinquent filing or delinquent  
13 payment under certain circumstances; to authorize establishment of certain  
14 programs; to establish the Debt Recovery Fund as a special treasury fund; to provide  
15 for the deposit, use, and investment of the monies in the fund; to authorize the  
16 establishment and use of a financial institution data match system; to authorize the  
17 acquisition and use of certain information from a financial institution; to authorize  
18 the payment of certain fees for acquisition of data match request files; to provide for  
19 the confidentiality of certain information; to provide for an effective date; and to  
20 provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 36:451(C) is hereby amended and reenacted and R.S. 36:458(H) is  
3 hereby enacted to read as follows:

4 §451. Department of Revenue; creation; domicile; composition; purposes and  
5 functions

6 \* \* \*

7 C. The Department of Revenue shall be composed of the executive office of  
8 the secretary, the office of management and finance, the office of tax administration,  
9 group I, the office of tax administration, group II, the office of tax administration,  
10 group III, the office of alcohol and tobacco control, the office of legal affairs, the  
11 office of charitable gaming, the office of debt recovery, and such other offices as  
12 shall be created by law. Whenever the secretary determines that the administration  
13 of the functions of the department may be more efficiently performed by eliminating,  
14 merging, or consolidating existing offices or establishing new offices, he shall  
15 present a plan therefor to the legislature for its approval by statute; provided that,  
16 whenever the secretary deems necessary, he may reassign the responsibility for the  
17 collection of a specific tax from one office to another office.

18 \* \* \*

19 §458. Offices; purposes and functions

20 \* \* \*

21 H. The office of debt recovery shall be responsible for, in accordance with  
22 applicable laws and under the direction of the secretary, the collection of a tax and  
23 may be responsible for the collection of delinquent debts, accounts, or claims due on  
24 behalf of other state agencies. The office of debt recovery may collect delinquent  
25 debts, accounts, or claims due to political subdivisions which are not statewide  
26 political subdivisions pursuant to a formal agreement with the Department of  
27 Revenue. Whenever the secretary deems necessary, he may reassign the  
28 responsibility for the collection of a tax, account, claims due, or other duty assigned



1 for collection when the debt has been delinquent for sixty days. All agencies which  
2 do not have collection contracts with the attorney general's office shall begin to refer  
3 delinquent debts to the office no later than January 1, 2014.

4 B. For purposes of this Section, the following words shall have the following  
5 meanings unless the context clearly indicates otherwise:

6 (1) "Agency" means any state office, department, board, commission,  
7 institution, division officer or other person, or functional group, existing or created,  
8 that is authorized to exercise, or that does exercise, any function of state government  
9 in the executive branch, but does not mean any governing body or officer of any  
10 local government or subdivision of the state, or any parochial officer who exercises  
11 functions coterminous with the municipality in which he performs those functions.

12 (2) "Authenticated" means that the referring agency has certified the amount  
13 of the delinquent debt, the debtor's liability, the debtor's name, address, telephone  
14 number, social security number, and the federal or state taxpayer identification  
15 number.

16 (3) "Debt" means any legally collectible liquidated sum due and owing an  
17 agency, or due and owing a person and collectible by any agency, or a judgment,  
18 order of the court, or bond forfeiture that is properly certified by the clerk and that  
19 orders the payment of a fine or other court-ordered penalty. The legally collectible  
20 and liquidated sum due includes principal and accruing interest, fees, and penalties,  
21 if appropriate. For purposes of this Section, "debt" shall not include any legally  
22 collectible liquidated sum due and owing to an agency or an individual pursuant to  
23 the following federal programs: Title IV-A, Title IV-B, Title IV-D, Title IV-E, Title  
24 XX of the federal Social Security Act, 7 United States Code (U.S.C.) 2011 et seq.,  
25 42 U.S.C. 9858 et seq., 42 U.S.C. 5101 et seq., 42 U.S.C. 5116 et seq., 42 U.S.C.  
26 10401 et seq.; or any state tax debt collected under Title 47 of the Louisiana Revised  
27 Statutes of 1950, as amended; or, any sums due on account of overpaid  
28 unemployment compensation benefits or unpaid contributions or reimbursements  
29 pursuant to Louisiana Security Law under R.S. 23:1471 et seq.

1           (4) "Department" means the Louisiana Department of Revenue.

2           (5) "Delinquent debt" means a final debt that is sixty days or more past due.

3           (6) "Final" means the amount due is no longer negotiable and that the debtor  
4 has no further right of administrative or judicial review.

5           (7) "Office" means the office of debt recovery within the Department of  
6 Revenue.

7           (8) "Secretary" means the secretary of the Department of Revenue.

8           C.(1) Notwithstanding any other provision of law to the contrary, in addition  
9 to any duties, powers, or responsibilities otherwise conferred, the secretary of the  
10 Department of Revenue, through the office of debt recovery, shall collect and  
11 enforce certain delinquent debts due to state agencies according to rules promulgated  
12 by the department.

13           (2)(a) No later than January 1, 2014, state agencies which do not have  
14 collection contracts with the attorney general's office for the collection of delinquent  
15 debts shall refer all delinquent debts to the office as provided by rule. Such referrals  
16 shall include data and information in the required format necessary to institute  
17 collection procedures. All debts must be final and authenticated by the state agency  
18 prior to being referred to either the office or to the attorney general's office.

19           (b) After transferring the debt to the office for collection, the referring state  
20 agency or political subdivision shall terminate all collection activities with respect  
21 to that debt except to provide assistance to the office as may be requested. The  
22 department shall notify the debtor by letter, within fifteen days of receiving the  
23 referral, that such debt has been referred to the office for collection. Upon receipt  
24 of the debt referral, the office shall assume all liability for its actions without  
25 recourse to the agency or political subdivision and shall comply with all applicable  
26 state and federal laws governing the collection of the debt. For purposes of this  
27 Section, the office shall not be considered a collection agency as defined in R.S.  
28 9:3534.1.

1           (3) The office may collect delinquent debts owed to political subdivisions  
2           that are not statewide political subdivisions, pursuant to a formal agreement with the  
3           department.

4           (4) At the discretion of the secretary, the department may contract with the  
5           attorney general's office or a third-party collection contractor for the collection of  
6           delinquent debt on behalf of the office. However, any contract entered into by the  
7           secretary for the collection of delinquent debt on behalf of the state shall be subject  
8           to review by the Cash Management Review Board. Additionally, the Legislative  
9           Auditor shall have authority to conduct audits of such contracts in accordance with  
10          the law.

11          (5) If, in the course of collecting delinquent debt, the secretary determines  
12          that the office requires the additional assistance of legal counsel, the secretary shall  
13          first seek assistance from the office of the attorney general. If the office of the  
14          attorney general is unable to or declines to offer legal counsel, the secretary is  
15          authorized to contract with a third-party for such services. However, any contract  
16          entered into by the secretary for legal services shall be subject to review by the Cash  
17          Management Review Board. Additionally, the legislative auditor shall have  
18          authority to conduct audits of such contracts in accordance with the law.

19          D.(1) Notwithstanding any other provision of law to the contrary, the  
20          secretary of the Department of Revenue may treat a delinquent debt referral in the  
21          same manner as an assessment that has become final without restriction or delay.  
22          The secretary, through the office, may use any collection remedy provided by state  
23          law to facilitate the collection of taxes to collect the delinquent debt. The office may  
24          use a participating agency's or political subdivision's statutory collection authority  
25          to collect the participating agency's delinquent debts owed to or being collected by  
26          the state. The office may also use authority granted in R.S. 47:299.3 regarding offset  
27          from income tax refunds or other accounts payable by the state for any delinquent  
28          debt transferred by state agencies and agencies of political subdivisions. The

1 secretary has the discretion to determine which method or combination thereof is  
2 most suitable to collect the delinquent debt.

3 (2) The department and the office may establish and use an electronic  
4 financial institution data match system as authorized in R.S. 47:1677 for comparison  
5 of certain account information held by financial institutions with the department and  
6 office's databases of state tax and state nontax debtors against whom an assessment  
7 or judgment for debt owed to the state has become final.

8 (3) The office shall be granted and may exercise the authority granted in R.S.  
9 47:296.2 and 296.3. Additionally, the office shall be allowed to suspend, revoke,  
10 deny, or request the suspension, revocation, or denial of any professional license or  
11 other license or permit issued, granted, or renewed by the state of Louisiana due to  
12 a debtor owing the state a delinquent debt. In exercising the authority provided for  
13 in this Section or in R.S. 47:296.2 or 296.3, the office may assume the obligation for  
14 the payment of such services in order to collect delinquent debt. The office's method  
15 and procedure for the request of or suspension, revocation, or denial of a professional  
16 license, or other license or permit pursuant to the provisions of this Section shall  
17 comport with the method utilized according to the provisions of R.S. 47:296.2 and  
18 296.3.

19 (4) The office shall be authorized to withhold, offset, levy, garnish, or seize  
20 payments of progressive slot machine annuities and cash gaming winnings in the  
21 same manner set forth in R.S. 27:24 and may assume the obligation for payment of  
22 such services in order to collect delinquent debt.

23 E. The office shall charge the debtor a fee not to exceed twenty-five percent  
24 of the total liability of the delinquent debt. Fees collected under this Subsection shall  
25 be retained by the office after the debt is collected and shall be divided equally  
26 between the office and the office of the attorney general after all of the expenses  
27 incurred in the initial establishment of the office and initial establishment of debt  
28 collection in the office of the attorney general are paid. Monies collected by the  
29 office pursuant to the provisions of this Section shall be deposited into the Debt

1        Recovery Fund established in accordance with the provisions of R.S. 47:1676.1,  
2        within thirty days after the end of the month in which the monies were collected.

3            F. Notwithstanding any law to the contrary, state agencies shall be  
4        authorized to transmit data to the office of debt recovery deemed necessary by the  
5        secretary to aid in the collection efforts of the office. The secretary shall establish  
6        a centralized electronic debt registry to compile the information provided by state  
7        agencies and participating political subdivisions and shall maintain all information  
8        provided from all sources within the state concerning addresses, financial records,  
9        and any other information useful in assisting the office in collection services of the  
10       centralized registry. The data compiled in the registry from the department, referring  
11       agencies, and the office shall be available for cross-referencing and for the  
12       identification of debtors necessary for the collection of delinquent debt. However,  
13       all data, records, and files utilized for debt collection as provided herein shall be  
14       deemed confidential and privileged, and no person shall divulge or disclose any  
15       information obtained from such records and files except in the administration and  
16       enforcement of these provisions. Compilation of tax data in the electronic registry  
17       by the department shall not be a violation of R.S. 47:1508, and any information or  
18       data gathered by the department and the office in accordance with the law may be  
19       used for purposes of collecting tax and nontax debt.

20           G. The secretary shall promulgate rules and regulations in accordance with  
21        the Administrative Procedure Act to implement the provisions of this Section,  
22        including rules authorizing any reasonable procedure or requirement for agencies  
23        or political subdivisions referring delinquent debt to the department for collection,  
24        requirements regarding information necessary to collect the debt and the formatting  
25        of that information, and the priority or ranking of debt payments against multiple  
26        agency debts. Any rule promulgated by the department shall be construed in favor  
27        of the secretary.

28           H. Reciprocal debt collection agreement with federal government. The  
29        secretary may enter into one or more reciprocal collection and offset of indebtedness

1 agreements with the federal government, pursuant to which the state shall agree to  
2 offset from state tax refunds and payments otherwise due to vendors and contractors  
3 providing goods or services to state agencies, non-tax debt owed to the federal  
4 government, and the federal government shall agree to offset from federal payments  
5 to vendors, contractors, and taxpayers debt owed to the state.

6 I. After the office exercises and employs its collection methods and tools, it  
7 shall evaluate and recommend any uncollectible debt for sale or securitization in  
8 accordance with the provisions of R.S. 39:88.2 and 88.3.

9 J. The operations of the office shall be subject to annual review by the Cash  
10 Management Review Board.

11 §1676.1. Debt Recovery Fund

12 A. There is hereby established as a special fund within the state treasury the  
13 "Debt Recovery Fund", hereinafter referred to as the "fund". After satisfying the  
14 requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative  
15 to the Bond Security and Redemption Fund, the state treasurer shall annually deposit  
16 into the fund an amount equal to the monies collected pursuant to the provisions of  
17 R.S. 47:1676 for the collection of delinquent debt.

18 B. All unexpended and unencumbered monies in the fund at the end of the  
19 fiscal year shall remain in the fund. The monies in the fund shall be invested by the  
20 state treasurer in the same manner as monies in the state general fund, and all  
21 earnings on the investment of the monies in the fund shall be deposited into the fund.

22 C. Monies in the fund shall be appropriated by the legislature to be utilized  
23 and expended solely as provided for in this Subsection. A portion of the monies in  
24 the fund shall be appropriated to any state agency which referred its delinquent debt  
25 to the office of debt recovery for collection to be used solely for purposes of federal  
26 reimbursements. However, in no case shall the amount of monies appropriated to  
27 any state agency exceed the actual amount of delinquent debt monies collected by  
28 the office of debt recovery on behalf of the state agency.

1        §1677. Financial Institution Data Match

2            A. A financial institution or its processor shall provide to the department or  
3        the office, the name, record address, social security number or other taxpayer  
4        identification number, any other identifying information, and an average daily  
5        account balance for the most recent thirty-day period, for each calendar quarter for  
6        each account owner who maintains an account at such institution and who the office  
7        purports is a tax or nontax debtor.

8            B. For purposes of this Section, the following words or phrases shall have  
9        the following meanings unless the context clearly indicates otherwise:

10           (1) "Account" shall mean any money held in the name of an account owner,  
11        individually or jointly with another, including but not limited to a deposit account,  
12        demand account, savings account, negotiable order of withdrawal account (NOW  
13        account), share account, member account, time certificate of deposit, or money  
14        market account. "Account" shall not include money held by a financial institution  
15        where the tax or nontax debtor is listed in a capacity other than owner, such as  
16        custodian, tutor, or agent.

17           (2) "Financial institution" shall mean a state or federally chartered bank,  
18        savings bank, savings and loan association, or credit union operating in this state  
19        with a main office or one or more branch offices.

20           (3) "Nontax debtor" shall mean an individual against whom an assessment  
21        or judgment for a debt owed to the state has become final and is currently  
22        enforceable in accordance with the law.

23           (4) "Tax debtor" shall mean an individual against whom an assessment or  
24        judgment for state taxes payable has become final and is currently enforceable in  
25        accordance with law.

26           C.(1) If a financial institution or its processor has a current data match  
27        system developed or used to comply with the child support data match system  
28        provided for in R.S. 46:236.1.4, the financial institution or its processor may use that  
29        system to comply with the provisions of this Section. The office shall not require a

1 financial institution or its processor to change their data match system or file format  
2 established under R.S. 46: 236.1.4 in order to comply with this Section.

3 (2) For Louisiana domiciled financial institutions having no branch offices  
4 outside the state, the office or its data match vendor shall ensure that compliance  
5 with both the provisions of this Section and R.S. 46:236.1.4 may be accomplished  
6 with a single data match file. Louisiana domiciled institutions having no branch  
7 offices outside the state, or their processor, shall not be required to process multiple  
8 data match files to comply with this Section.

9 D. A financial institution may, but is not required to, disclose to its  
10 depositors or account holders that the department or the office has the authority to  
11 request and receive certain identifying information provided for in this Section for  
12 state tax and nontax debt collection purposes.

13 E.(1) No financial institution, including its directors, officers, employees,  
14 attorneys, accountants, or other agents, shall incur liability to any person, including  
15 any depositor or other customer, as a result of providing account information to the  
16 department or office in compliance with a request that conforms to the provisions of  
17 this Section.

18 (2) A financial institution, including any of its directors, officers, employees,  
19 attorneys, accountants, or other agents, shall not be civilly or criminally liable to any  
20 person, including any customer, for any disclosure of information made in  
21 accordance with this Section, including any disclosure of account balances.

22 F.(1) Notwithstanding any other law or rule to the contrary, the department  
23 or office shall pay a participation fee to each financial institution that actually  
24 receives a data match request file. The participation fee to a financial institution  
25 shall be for actual costs incurred for conducting the data match and otherwise  
26 complying with the provisions of this Section. Actual costs incurred for complying  
27 with this Section shall be the total cost incurred by the financial institution to process  
28 all data match request files under R.S. 46:236.1.4 and this Section minus the costs  
29 incurred to process data match request files under R.S. 46:236.1.4. In order to

1 receive the participation fee authorized by this Section, the financial institution must  
2 be FDIC insured.

3 (2) Before a financial institution receives a participation fee, the financial  
4 institution must show it has incurred costs under R.S. 46:236.1.4 and this Section.  
5 The department or office may require a financial institution to submit paperwork  
6 such as invoices and other documentation to substantiate the costs that have been  
7 incurred. After actual costs are established by a financial institution under Paragraph  
8 (1) of this Subsection through submitted paperwork, the office shall automatically  
9 remit payment to the financial institution on a quarterly basis without the financial  
10 institution having to resubmit additional paperwork each quarter thereafter.  
11 However, the office may request additional paperwork from a financial institution  
12 on a periodic basis, not to exceed once every two years, to verify their actual costs  
13 in complying with this Section.

14 (3) Notwithstanding any other law or rule to the contrary, if a financial  
15 institution assesses a fee to its customer for processing a state tax or state nontax levy  
16 received from the office or the department, the fee shall be collected by the financial  
17 institution from the proceeds of the customer's account before any account proceeds  
18 are remitted to the office or the department to satisfy the state tax or state nontax  
19 levy.

20 (4) Any fees paid under this Section shall not be comprised of or constitute  
21 any amounts due to a financial institution for its compliance with R.S. 46:236.1.4.  
22 The department or office shall be responsible for the reconciliation and tracking of  
23 data and information regarding the number of sent data match request files, received  
24 completed data match accounts, and amounts paid in accordance with this Section.  
25 The department shall also be responsible for tracking and reporting all statistical  
26 information regarding financial data match activities to the commissioner of  
27 administration or his designee every six months and to report the information to the  
28 Joint Legislative Committee on the Budget every session prior to the last day of each  
29 legislative session.

1           G. The department, office, and their designated vendor for the data match  
2           program, shall keep all information received from financial institutions pursuant to  
3           this Section confidential, and any employee, agent, or representative of the  
4           department, office, and their designated vendor is prohibited from disclosing that  
5           information to any other third party.

6           H. The department or office shall generally conduct the data match program  
7           provided for in this Section on a quarterly basis. However, if the department or  
8           office decides to conduct data match with a particular financial institution less  
9           frequently than every quarter, the department or office shall provide written notice  
10          to the chief operating officer of the financial institution at least ninety days before  
11          the next scheduled quarterly data match date. If the department or office provides  
12          the required notice to change the frequency of data match, the department or office  
13          shall not further change the frequency of data match with that financial institution  
14          for at least one year from the date written notice was provided to the financial  
15          institution originally changing the frequency of the data match schedule. After the  
16          one year period has accrued, any subsequent changes to the frequency of the data  
17          match schedule with a financial institution shall also only be done by the department  
18          or office after providing written notice to the chief operating officer of the financial  
19          institution at least ninety days in advance of the next quarterly data match date.

20          Section 3. This Act shall become effective upon signature by the governor or, if not  
21 signed by the governor, upon expiration of the time for bills to become law without signature  
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
24 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Broadwater

HB No. 629

**Abstract:** Establishes the office of debt recovery within the Dept. of Revenue which shall aid in the collection of delinquent debts on behalf of state agencies which do not have debt collection contracts with the attorney general's office.

Present law provides for the establishment and organization of the Department of Revenue (DOR) and all of the offices that are part of the department.

Present law provides that if the failure to make any return at the time such return becomes due or the filing of a return without remittance of the full amount due, is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the secretary of DOR, the secretary may remit or waive payment of the whole or any part of the specific penalty provided for such failure; however, when the penalty exceeds \$5,000, it can be waived by the secretary only after approval by the board of tax appeals.

Proposed law deletes authority of the secretary of DOR to waive a penalty in excess of \$5,000 only after approval of the board of tax appeals but adds authority of the secretary to promulgate rules and regulations to establish a voluntary disclosure program and the remittance or waiver of any portion of penalties provided for in present law.

Proposed law retains present law and adds the office of debt recovery, hereinafter "office", within DOR which shall be responsible for the collection of tax payable to DOR and may be responsible for the collection of delinquent debts, accounts, or claims due on behalf of all other state agencies refer delinquent debt to the office for collection.

Proposed law requires all debts owed to the state to be referred to either the attorney general's office or to the office of debt recovery for collection. However, all state agencies which do not have a contract with the attorney general's office for debt collection on or before July 1, 2013, shall refer all delinquent debts to the office for collection when the debt is final and has been delinquent for 60 days. All agencies which do not have collection contracts with the attorney general's office shall begin to refer delinquent debts to the office no later than Jan. 1, 2014. Defines "debt" as any legally collectible, liquidated sum due and owing an agency, or due and owing a person and collectible by any agency, or a judgment, order of the court, or bond forfeiture which is properly certified by the clerk and which orders the payment of a fine or other court ordered penalty. However, debt shall not include any legally collectible, liquidated sum due and owing to an agency pursuant to certain federal programs, state tax debt collected under present law and overpaid unemployment compensation benefits or unpaid contributions or reimbursements pursuant to Louisiana Security Law.

Proposed law requires that all debts be final and authenticated by the state agency prior to being referred to either the office or the attorney general. Further requires the office to comply with all state and federal law applicable to the collection of the debt and for the state to assume all liability for its actions without recourse to the agency or political subdivision owed the debt.

Proposed law permits the office to collect delinquent debts owed to political subdivisions which are not statewide political subdivisions pursuant to a formal agreement with the department.

Proposed law authorizes the secretary to contract with the attorney general's office or a third-party collection contractor for the collection of delinquent debt on behalf of the office; however, any contract entered into by the secretary for the collection of delinquent debt shall be subject to review by the Cash Management Review Board and audit by the Legislative Auditor.

Proposed law provides that if, in the course of collecting delinquent debt, the secretary determines that the office requires the additional assistance of legal counsel, the secretary shall first seek assistance from the Attorney General. If the Attorney General is unable to or declines to offer legal counsel, the secretary may contract with a third-party for such services. However, any contract entered into by the secretary for legal services shall be subject to review by the Cash Management Review Board and audit by the Legislative Auditor.

Proposed law authorizes the office to use a participating agency's or political subdivision's statutory collection authority to collect delinquent debts. The office may also use authority granted in present law regarding offset from income tax refunds or other accounts payable by the state for any delinquent debt transferred by state agencies or political subdivisions. Grants the secretary discretion to determine which collection method or combination of methods is most suitable to collect the delinquent debt.

Proposed law authorizes the office to exercise authority granted pursuant to present law relative to the suspension or denial of drivers' licenses, the suspension, revocation, or denial of hunting or fishing licenses, or to withhold, offset, levy, garnish, or seize payments of progressive slot machine annuities and cash gaming winnings in collecting delinquent debt. Further authorizes the office to suspend, revoke, deny, or request the suspension, revocation, or denial of any license, professional license, or permit issued, granted, or renewed by the state due to a debtor owing the state a delinquent debt.

Proposed law authorizes the department and the office to establish and use an electronic financial institution data match system for comparison of certain account information held by financial institutions with the department and office's databases of state tax and state non-tax debtors against whom an assessment or judgment for debt owed to the state has become final.

Proposed law requires the department to charge the debtor a fee not to exceed 25% of the total delinquent debt liability. Fees collected according to the provisions of proposed law shall be retained by the office after the debt is collected and shall be divided equally between the office and the Attorney General after all of the expenses incurred in the initial establishment of the office and initial establishment of debt collection in the Attorney General's office are paid. Requires monies collected by the office for delinquent debt to be deposited into the Debt Recovery Fund within 30 days after the end of the month in which the monies were collected.

Proposed law authorizes state agencies to transmit data to the office deemed necessary to aid in the collection efforts of the office. Requires the secretary to establish and maintain centralized electronic debt registry to compile the information provided by state agencies and participating political subdivisions. The data compiled in the registry shall be available for cross-referencing and for the identification of debtors necessary for the collection of delinquent debt; however, all data, records, and files utilized for debt collection shall be deemed confidential and privileged, and no person shall divulge or disclose any information obtained from such records and files except in the administration and enforcement of these provisions.

Proposed law provides that compilation of tax data in the electronic registry by the department shall not be a violation of present law relative to confidentiality of tax records, and any information or data gathered by the department and the office may be used for purposes of collecting tax and non-tax debt.

Proposed law requires the department to promulgate rules and regulations in accordance with the APA to implement the provisions of proposed law. Further provides that any rule promulgated by the department shall be construed in favor of the secretary.

Proposed law authorizes the secretary to enter into reciprocal collection and offset of indebtedness agreements with the federal government.

Proposed law requires the office to evaluate and recommend any uncollectible debt for sale or securitization in accordance with present law after the office exercises and employs its collection methods and tools.

Proposed law requires that the operations of the office be subject to annual review by the Cash Management Board.

Proposed law establishes the "Debt Recovery Fund", hereinafter fund, as a special treasury fund. After satisfying the requirements of present constitution relative to the Bond Security and Redemption Fund, the state treasurer shall annually deposit into the fund an amount equal to the monies collected pursuant to proposed law for the collection of delinquent debt. Further requires that monies in the fund be appropriated by the legislature and utilized solely as provided for in proposed law. A portion of the monies in the fund shall be appropriated to any state agency which referred its delinquent debt to the office of debt recovery for collection to be used solely for purposes of federal reimbursements. However, in no case shall the amount of monies appropriated to any state agency exceed the actual amount of delinquent debt monies collected by the office on behalf of the state agency.

Proposed law requires a financial institution or its processor to provide to the department or the office, the name, record address, social security number or other taxpayer identification number, any other identifying information, and an average daily account balance for the most recent 30 day period, for each calendar quarter for each account owner who maintains an account at such institution and who the office purports is a tax or non-tax debtor.

Proposed law provides that if a financial institution or its processor has a current data match system developed or used to comply with the child support data match system, the financial institution or its processor may use that system to comply with the provisions of proposed law.

Proposed law provides that for La. domiciled financial institutions having no branch offices outside the state, the office or its data match vendor shall ensure that compliance with proposed law and present law may be accomplished with a single data match file. Louisiana domiciled institutions having no branch offices outside the state, or their processor, shall not be required to process multiple data match files.

Proposed law provides that a financial institution may, but is not required to, disclose to its depositors or account holders that the department or the office has the authority to request and receive certain identifying information for state tax and non-tax debt collection purposes.

Proposed law prohibits a financial institution, including its directors, officers, employees, or other agents, from incurring liability to any person as a result of providing account information to the department or office in compliance with a request that conforms to the provisions of proposed law. Further prohibits a financial institution, including any of its directors, officers, employees, or other agents, from incurring civil or criminal liability for any disclosure of information made in accordance with proposed law.

Proposed law requires the department or office to pay a participation fee to each financial institution that actually receives a data match request file. The participation fee shall be for

actual costs incurred for conducting the data match. However, in order to receive the participation fee, the financial institution must be FDIC insured and the financial institution must show it has incurred costs under present law and proposed law. The department or office may require a financial institution to submit paperwork such as invoices and other documentation to substantiate the costs that have been incurred. After actual costs are established by a financial institution, the office shall automatically remit payment to the financial institution on a quarterly basis without the financial institution having to resubmit additional paperwork each quarter thereafter.

Proposed law provides that if a financial institution assesses a fee to its customer for processing a state tax or state non-tax levy received from the office or the department, the fee shall be collected by the financial institution from the proceeds of the customer's account before any account proceeds are remitted to the office or the department to satisfy the state tax or state non-tax levy.

Proposed law provides that any fees paid according to the provisions of proposed law shall not be comprised of or constitute any amounts due to a financial institution for its compliance with present law. The department or office shall be responsible for the reconciliation and tracking of data and information regarding the number of sent data match request files, received completed data match accounts, and amounts paid. The department shall also be responsible for tracking and reporting all statistical information regarding financial data match activities to the Commissioner of Administration or his designee every six months and to report the information to the Joint Legislative Committee on the Budget every session prior to the last day of each legislative session.

Proposed law requires the department, office, and their designated vendor for the data match program, to keep all information received from financial institutions confidential, and any employee, agent or representative of the department, office, and their designated vendor is prohibited from disclosing that information to any other third party.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 36:451(C) and R.S. 47:1603(A); Adds R.S. 36:458(H) and R.S. 47:1676, 1676.1, and 1677)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Added authorization for the office to exercise authority pursuant to present law relative to the suspension or denial of drivers' licenses, the suspension, revocation, or denial of hunting or fishing licenses, or to withhold, offset, levy, garnish, or seize payments of progressive slot machine annuities and cash gaming winnings in collecting delinquent debt.
2. Added authorization for the office to withhold, offset, levy, or garnish gaming winnings in collecting delinquent debt.
3. Added federal or state taxpayer identification numbers to the information a referring agency must certify before send the delinquent debt to the office or the attorney general for collection.
4. Required the office to evaluate and recommend any uncollectible debt for sale or securitization after the office exercises its collection methods and tools.

House Floor Amendments to the engrossed bill.

1. Deletes requirement for the secretary of the Dept. of Revenue to waive penalties which exceed \$5,000 receive approval of the board of tax appeals.
2. Adds authority for the secretary of the Dept. of Revenue to promulgates rules in accordance with the APA including the establishment of a voluntary disclosure program and the remittance or waiver of any portion of penalties provided by present law.
3. Changes the date in which state agencies have to enter into contracts with the Attorney General's office for debt collection in order to avoid sending delinquent debt to the office of debt collection from January 1, 2013 to July 1, 2013.
4. Adds provision that the term "debt" shall not include legally collectible liquidated sum due and owing pursuant to certain federal programs, state tax debt, or sums due on account of overpayment of certain unemployment compensation.
5. Adds requirement that contracts entered into by the secretary for the collection of delinquent debt on behalf of the state shall be subject to review by the Cash Management Review Board and subject to audit by the Legislative Auditor.
6. Adds provision that if the secretary determines the office requires the assistance of additional legal counsel, the secretary shall first seek assistance from the the Attorney General. If the Attorney General declines to offer assistance, the secretary may contract with a third-party for such services. However, the contract shall be subject to review by the Cash Management Review Board and subject to audit by the Legislative Auditor.
7. Establishes the "Debt Recovery Fund", as a special treasury fund for the deposit of monies collected pursuant to proposed law for the collection of delinquent debt. Further requires that a portion of the monies in the fund be appropriated to any state agency which referred its delinquent debt to the office for collection to be used solely for purposes of federal reimbursements.
8. Provides that compilation of tax data in the electronic registry by the department shall not be a violation of present law relative to confidentiality of tax records, and any information or data gathered by the department and the office may be used for purposes of collecting tax and non-tax debt.
9. Authorizes the establishment of an electronic financial institution data match system for comparison of certain account information held by financial institutions with the databases of the department and the office of state tax and non-tax debtors.
10. Adds provision that a financial institution may, but is not required to, disclose to its depositors or account holders that the department or the office has the authority to request and receive certain identifying information for state tax and non-tax debt collection purposes.
11. Adds prohibition that a financial institution, including its directors, officers, employees, or other agents, incur liability to any person as a result of providing account information to the department or office in compliance with a request that conforms to the provisions of proposed law. Further prohibits a financial institution, including any of its directors, officers, employees, or other agents, from incurring civil or criminal liability for any disclosure of information made in accordance with proposed law.

12. Adds requirement that the department or office to pay a participation fee to each financial institution that actually receives a data match request file. The participation fee shall be for actual costs incurred for conducting the data match.