

1 **DEPARTMENT OF GOVERNMENT OPERATIONS REVISIONS**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: John D. Johnson

2
3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions related to the Division of Finance and the Division of
6 Purchasing and General Services.

7 **Highlighted Provisions:**

8 This bill:

- 9 ▶ defines terms;
- 10 ▶ removes the requirement that a state agency submit a purchase request for a copy
11 machine to the director of the Division of Purchasing and General Services;
- 12 ▶ modifies provisions on tax refund liens and release of liens;
- 13 ▶ modifies provisions related to the collection of interest and fees by the Office of State
14 Debt Collection;
- 15 ▶ modifies how funds from the Office of State Debt Collection may be used; and
- 16 ▶ amends provisions related to wage garnishments.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **63A-2-105**, as last amended by Laws of Utah 2015, Chapter 98

24 **63A-3-203**, as last amended by Laws of Utah 2022, Chapter 169

25 **63A-3-301**, as last amended by Laws of Utah 2020, Chapter 297

26 **63A-3-303**, as last amended by Laws of Utah 2019, Chapter 84

27 **63A-3-304**, as last amended by Laws of Utah 2019, Chapter 84

28 **63A-3-305**, as last amended by Laws of Utah 2019, Chapter 84
 29 **63A-3-306**, as last amended by Laws of Utah 2019, Chapter 84
 30 **63A-3-307**, as last amended by Laws of Utah 2020, Chapter 297
 31 **63A-3-308**, as last amended by Laws of Utah 2019, Chapter 84
 32 **63A-3-502**, as last amended by Laws of Utah 2023, Chapter 113
 33 **63A-3-505**, as last amended by Laws of Utah 2021, Chapter 260
 34 **63A-3-507**, as last amended by Laws of Utah 2021, Chapters 145, 260
 35 **78A-2-214**, as last amended by Laws of Utah 2021, Chapter 260

36 ENACTS:

37 **63A-3-202.1**, as Utah Code Annotated 1953

38 RENUMBERS AND AMENDS:

39 **63A-3-202.5**, (Renumbered from 63A-3-202, as renumbered and amended by Laws of
 40 Utah 1993, Chapter 212)

41

42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **63A-2-105** is amended to read:

44 **63A-2-105 . Director to approve certain purchases.**

45 (1) A state agency that intends to purchase any mail-related equipment [~~or copy machine~~]

46 shall submit a purchase request to the purchasing director.

47 (2) The purchasing director shall review a request under Subsection (1) to ensure that:

48 (a) the authority to perform those functions has been appropriately delegated to the state
 49 agency under this part;

50 (b) the equipment meets proper specifications; and

51 (c) the benefits from the state agency's purchase of the equipment outweigh the benefits
 52 of having the same functions performed by the division.

53 Section 2. Section **63A-3-202.1** is enacted to read:

54 **63A-3-202.1 . Definitions.**

55 As used in this part, "accounting system" means:

56 (1) a system that integrates into the state's general ledger accounting system;

57 (2) a system used to summarize information that is manually entered into the state's general
 58 ledger accounting system;

59 (3) a system used to collect and maintain:

60 (a) detailed financial information on each individual transaction or event; or

61 (b) information used to present the funds and activities of the state;

62 (4) a system used to determine and demonstrate financial compliance with legal, federal,
 63 audit, and contractual provisions; or

64 (5) a system similar to a system described in Subsections (1) through (4).

65 Section 3. Section **63A-3-202.5**, which is renumbered from Section 63A-3-202 is renumbered
 66 and amended to read:

67 ~~{63A-3-202}~~ **63A-3-202.5** . **Comprehensive state accounting system -- Approval of agency**
 68 **accounting systems -- Cost accounting systems required.**

69 (1) The director of the Division of Finance shall establish a comprehensive state accounting
 70 system.

71 (2) Officers, departments, agencies, and institutions of Utah may create and maintain
 72 accounting systems only with the approval of the director.

73 (3) The director may, with the approval of the executive director, require any department or
 74 institution to install and maintain a cost accounting system that will disclose the unit cost
 75 of material or service produced or performed by a department.

76 Section 4. Section **63A-3-203** is amended to read:

77 **63A-3-203** . **Accounting control over state departments and agencies --**
 78 **Prescription and approval of financial forms and accounting systems.**

79 (1) The director of the Division of Finance shall:

80 (a) exercise accounting control over all state departments and agencies except
 81 institutions of higher education; and

82 (b) prescribe the manner and method of certifying that funds are available and adequate
 83 to meet all contracts and obligations.

84 (2) The director shall audit all claims against the state for which an appropriation is made.

85 (3) (a) The director shall prescribe:

86 (i) all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state
 87 departments and agencies; and

88 (ii) all forms to be used by the division.

89 (b) Before approving the forms in Subsection (3)(a), the director shall obtain approval
 90 from the state auditor that the forms will adequately facilitate the post-audit of public
 91 accounts.

92 (4) Before implementation by any state agency, the director of the Division of Finance shall
 93 review and approve any accounting system developed by a state agency.

94 (5) If a state agency does not obtain the approval described in Subsection (4), the director
 95 may:

96 (a) require the state agency to cease all development activity related to the accounting
 97 system; and

98 (b) (i) establish conditions of future development of the accounting system; or
 99 (ii) deny implementation of the accounting system.

100 Section 5. Section **63A-3-301** is amended to read:

101 **63A-3-301 . Definitions.**

102 As used in this part:

103 (1) "Account receivable" or "receivable" means any amount due the state or any other
 104 governmental entity within the state as a result of a judgment, citation, tax, or
 105 administrative order, or for which materials or services have been provided but for
 106 which payment has not been received by the servicing unit.

107 (2) "Debtor" means a party that owes, or is alleged to owe, an account receivable.

108 (3) "Division" means the Division of Finance, created in Section 63A-3-101.

109 (4) "Lien" means the lien described in Section 63A-3-307.

110 [~~(4)~~] (5) "Local agency" means a nonprofit entity organized by participating political
 111 subdivisions to act on behalf of the participating political subdivisions with respect to
 112 the office's efforts to collect accounts receivable of participating political subdivisions
 113 through administrative offsets.

114 [~~(5)~~] (6) "Mail" means United States Postal Service first class mail to the intended
 115 recipient's last known address.

116 [~~(6)~~] (7) "Participating political subdivision" means a political subdivision that has entered
 117 into an agreement with a local agency authorizing the local agency to act on behalf of
 118 the political subdivision with respect to the office's efforts to collect accounts receivable
 119 of the political subdivision through administrative offsets.

120 [~~(7)~~] (8) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

121 Section 6. Section **63A-3-303** is amended to read:

122 **63A-3-303 . Notice to debtor -- Contents -- Joint filers.**

123 (1) [~~When~~] For each instance when the state or any other governmental entity executes, or
 124 intends to execute, on a lien created by Section 63A-3-307, the state or entity to which
 125 the receivable is owed shall send a notice by mail to the debtor at the debtor's last-known
 126 address.

127 (2) The notice required by Subsection (1) shall contain:

128 (a) the date and amount of the receivable;

129 (b) a demand for immediate payment of the amount;

- 130 (c) a statement of the right of the debtor to file a written response to the notice, to
 131 request a hearing within 21 days of the date of the notice, to be represented at the
 132 hearing, and to appeal any decision of the hearing examiner;
- 133 (d) the time within which a written response must be received from the debtor;
- 134 (e) a statement notifying the debtor that the state may obtain an order and execute upon
 135 income tax overpayments or refunds of the debtor if:
- 136 (i) the debtor fails to timely respond to the notice; or
 137 (ii) a hearing is held and the hearing officer decides against the debtor; ~~[and]~~
- 138 (f) the address to which the debtor may send a written request for a hearing[-] ; and
 139 (g) the amount of the tax overpayment, refund, or other funds subject to a lien under this
 140 part, on which the state or governmental entity executes or intends to execute the lien.
- 141 (3) Notwithstanding Subsection (1), if the Office of State Debt Collection has agreed to
 142 collect a receivable, the Office of State Debt Collection may send the notice required by
 143 Subsection (1) instead of the entity to which the receivable is owed.
- 144 (4) Unless otherwise prohibited by law, the state or other governmental entity shall also
 145 send the notice required ~~[by]~~ under this section ~~[shall also be sent to any individuals that~~
 146 ~~are joint filers]~~ to each individual who is a joint filer with a debtor of an affected tax
 147 filing, if the state ~~[agency-]~~ or other governmental entity attempting to levy a debtor's tax
 148 overpayment~~[-or]~~ , refund, or other funds subject to a lien under this part is aware of the
 149 joint filer.

150 Section 7. Section **63A-3-304** is amended to read:

151 **63A-3-304 . Effect of nonpayment or failure to respond.**

- 152 ~~(1)~~ If a written request for a hearing~~[-, or payment of delinquent receivable,]~~ is not received
 153 by the state or other governmental entity within 21 days ~~[from]~~ after the date of the
 154 notice required by Section 63A-3-303, the debtor is in default and the state or other
 155 governmental entity ~~[may]~~:
- 156 ~~[(1)]~~ (a) may levy the debtor's income tax overpayment~~[-or]~~ , refund, or other funds
 157 subject to a lien under this part, that is specified in the notice, up to the amount of the
 158 receivable, plus interest, penalties, and collection costs allowed by law, to apply to
 159 the receivable specified in the notice; and
- 160 ~~[(2)]~~ (b) [collect the balance, including as provided in Section 63A-3-307] is not required
 161 to return to the debtor the income tax overpayment, refund, or other funds subject to a
 162 lien under which the state or other governmental entity levies.
- 163 (2) If a debtor pays a delinquent receivable in full before the state or other governmental

164 entity applies to the delinquent receivable an amount levied under this part, the state or
 165 other governmental entity shall release the levied amount to the debtor, if the levied
 166 amount is being held due to a lien created under Section 63A-3-307.

167 Section 8. Section **63A-3-305** is amended to read:

168 **63A-3-305 . Hearing requested -- Notice to debtor.**

169 (1) If a written response is received by the state or other governmental entity within 21 days
 170 from the date of the notice required by Section 63A-3-303 and a hearing is requested in
 171 the written response, the state or other governmental entity shall:

172 (a) set a hearing date within 28 days of the receipt of the response; and

173 (b) mail written notice of the hearing to the debtor at least 14 days before the date of the
 174 hearing.

175 (2) (a) Notwithstanding Subsection (1), the state or other governmental entity is not
 176 required to set a hearing if the state or governmental entity releases its lien.

177 (b) The state or other governmental entity may release a lien on a specific tax
 178 overpayment, a specific refund, or a specific amount of funds, without the release
 179 affecting subsequent or previous levies or liens under this part.

180 (c) Each instance the state or other governmental entity, in response to a written request
 181 for a hearing from a debtor, releases a lien under this section, the state or other
 182 governmental entity releasing the lien shall, within a reasonable amount of time, send
 183 written notice to the debtor indicating that the lien has been released and to which
 184 year or years the release applies.

185 (3) A written request for hearing received under this part is a request for agency action
 186 under Title 63G, Chapter 4, Administrative Procedures Act.

187 (4) This part does not prevent a debtor from challenging a debt through other lawful means
 188 that may be available to a debtor.

189 (5) A written request under this part is the sole manner to dispute a levy under this part.

190 Section 9. Section **63A-3-306** is amended to read:

191 **63A-3-306 . Hearing examiner -- Procedures -- Adjudicative proceedings.**

192 (1) (a) A hearing requested under this part shall be held before a hearing examiner
 193 designated by the state or other governmental entity setting the hearing.

194 (b) The hearing examiner may not be an officer or employee of the entity in state
 195 government responsible for collecting or administering the account.

196 (2) The state or other governmental entity shall comply with the procedures and
 197 requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative

198 proceedings.

199 (3) If a hearing examiner determines a receivable is owed, in whole or in part:

200 (a) the state or other governmental entity may levy the debtor's income tax overpayment[
 201 ~~or~~], refund, or other funds subject to a lien under this part, as specified in the notice
 202 to the debtor, up to the amount of the receivable determined to be owed, plus interest,
 203 penalties, and collection costs allowed by law and collect the balance, including as
 204 provided in Section 63A-3-307; and

205 (b) the state or other governmental entity may charge the debtor reasonable, actual
 206 collection costs for amounts charged by the hearing examiner for the debtor's hearing.

207 Section 10. Section **63A-3-307** is amended to read:

208 **63A-3-307 . Liens.**

209 (1) The following shall constitute a lien in the amount of the receivable plus interest,
 210 penalties, and collection costs allowed by law against any state income tax overpayment[
 211 ~~or~~], refund, or other funds in possession of the state or other governmental entity, that
 212 are due or to become due the debtor:

213 (a) a judgment, citation, tax, or administrative order issued by any agency, court, or
 214 other authority of the state, or by any political subdivision; [~~or~~]

215 (b) an amount, that has at any point been unpaid for 90 days or more, due the state or
 216 other governmental entity for which materials or services have been provided but for
 217 which payment has not been received by the servicing unit[-] ; or

218 (c) an amount, that:

219 (i) the debtor is statutorily required to pay to the state or other governmental entity;

220 and

221 (ii) has, at any point, been unpaid for at least 90 days.

222 (2) The lien created by this section shall, for the purposes of Section 59-10-529 only, be
 223 considered a judgment.

224 (3) Nothing under Title 63G, Chapter 7, Part 6, Legal Actions Under this Chapter -
 225 Procedures, Requirements, Damages, and Limitations on Judgments, prohibits the state
 226 or other governmental entity from executing on a lien under this section.

227 Section 11. Section **63A-3-308** is amended to read:

228 **63A-3-308 . Judicial review -- Effect on lien.**

229 (1) Agency and judicial review of decisions from hearings conducted under this part are
 230 subject to review in accordance with Title 63G, Chapter 4, Administrative Procedures
 231 Act.

232 (2) The state or other governmental entity may retain in its possession a debtor's tax
233 overpayment[~~or~~] refund, or other funds subject to a lien under this part, while a
234 decision from a hearing conducted under this part is being reviewed by an agency, court,
235 or other authority of the state pursuant to Title 63G, Chapter 4, Administrative
236 Procedures Act.

237 Section 12. Section **63A-3-502** is amended to read:

238 **63A-3-502 . Office of State Debt Collection created -- Duties.**

239 (1) The state and each state agency shall comply with:

240 (a) the requirements of this chapter; and

241 (b) any rules established by the Office of State Debt Collection.

242 (2) There is created the Office of State Debt Collection in the Division of Finance.

243 (3) The office shall:

244 (a) have overall responsibility for collecting and managing state receivables;

245 (b) assist the Division of Finance to develop consistent policies governing the collection
246 and management of state receivables;

247 (c) oversee and monitor state receivables to ensure that state agencies are:

248 (i) implementing all appropriate collection methods;

249 (ii) following established receivables guidelines; and

250 (iii) accounting for and reporting receivables in the appropriate manner;

251 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
252 accounting, reporting, and collecting money owed to the state;

253 (e) provide information, training, and technical assistance to each state agency on
254 various collection-related topics;

255 (f) write an inclusive receivables management and collection manual for use by each
256 state agency;

257 (g) prepare quarterly and annual reports of the state's receivables;

258 (h) create or coordinate a state accounts receivable database;

259 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective
260 accounts receivable program;

261 (j) identify any state agency that is not making satisfactory progress toward

262 implementing collection techniques and improving accounts receivable collections;

263 (k) coordinate information, systems, and procedures between each state agency to
264 maximize the collection of past-due accounts receivable;

265 (l) establish an automated cash receipt process between each state agency;

- 266 (m) assist the Division of Finance to establish procedures for writing off accounts
267 receivable for accounting and collection purposes;
- 268 (n) establish standard time limits after which an agency will delegate responsibility to
269 collect state receivables to the office or the office's designee;
- 270 (o) be a real party in interest for:
- 271 (i) an account receivable referred to the office by any state agency; and
272 (ii) a civil judgment of restitution entered on a civil judgment docket by a court;
- 273 (p) allocate money collected for a judgment entered on the civil judgment docket under
274 Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;
- 275 (q) if a criminal accounts receivable is transferred to the office under Subsection
276 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal
277 accounts receivable;
- 278 (r) provide a debtor online access to the debtor's accounts receivable or criminal
279 accounts receivable in accordance with Section 63A-3-502.5;
- 280 (s) establish a written policy for each of the following:
- 281 (i) the settling of an accounts receivable, including any amount of restitution owed to
282 a victim in a civil judgment of restitution if the victim approves of the settlement;
- 283 (ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if
284 the debtor has a balance on another debt as part of an accounts receivable or
285 criminal accounts receivable;
- 286 (iii) setting a payment deadline for settlement agreements and for obtaining an
287 extension of a settlement agreement deadline; and
- 288 (iv) reducing administrative costs when a settlement has been reached;
- 289 (t) consult with a state agency on whether:
- 290 (i) the office may agree to a settlement for an amount that is less than the debtor's
291 principal amount; and
- 292 (ii) the state agency may retain authority to negotiate a settlement with a debtor; and
- 293 (u) provide the terms and conditions of any payment arrangement that the debtor has
294 made with a state agency or the office when:
- 295 (i) the payment arrangement is created; or
296 (ii) the debtor requests a copy of the terms and conditions.
- 297 (4) The office may:
- 298 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
299 by state agencies;

- 300 (b) collect accounts receivables for higher education entities, if the higher education
301 entity agrees;
- 302 (c) prepare a request for proposal for consulting services to:
- 303 (i) analyze the state's receivable management and collection efforts; and
304 (ii) identify improvements needed to further enhance the state's effectiveness in
305 collecting the state's receivables;
- 306 (d) contract with private or state agencies to collect past-due accounts;
- 307 (e) perform other appropriate and cost-effective coordinating work directly related to
308 collection of state receivables;
- 309 (f) obtain access to records and databases of any state agency that are necessary to the
310 duties of the office by following the procedures and requirements of Section
311 63G-2-206, including the financial declaration form described in Section 77-38b-204;
- 312 (g) at rates authorized by the Legislature or set in statute, assess and collect the following
313 interest and fees~~[related to the collection of receivables under this chapter, and~~
314 establish, by following the procedures and requirements of Section 63J-1-504]:
- 315 (i) a fee to cover the administrative costs of collection on accounts administered by
316 the office;
- 317 (ii) a late penalty fee that may not be more than 10% of the account receivable on
318 accounts administered by the office;
- 319 (iii) an interest charge that is:
- 320 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
321 established by the courts; or
- 322 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for
323 accounts receivable for which no court judgment has been entered; and
- 324 (iv) fees to collect accounts receivable for higher education;
- 325 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
326 the collection of receivables under this chapter;
- 327 (i) make rules that allow accounts receivable to be collected over a reasonable period of
328 time and under certain conditions with credit cards;
- 329 (j) for a case that is referred to the office or in which the office is a judgment creditor,
330 file a motion or other document related to the office or the accounts receivable in that
331 case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil
332 Procedure;
- 333 (k) ensure that judgments for which the office is the judgment creditor are renewed, as

- 334 necessary;
- 335 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)
- 336 with private sector vendors under contract with the state to assist state agencies in
- 337 collecting debts owed to the state agencies without changing the classification of any
- 338 private, controlled, or protected record into a public record;
- 339 (m) enter into written agreements with other governmental agencies to obtain and share
- 340 information for the purpose of collecting state accounts receivable; and
- 341 (n) collect accounts receivable for a political subdivision of the state if the political
- 342 subdivision enters into an agreement or contract with the office under Title 11,
- 343 Chapter 13, Interlocal Cooperation Act, for the office to collect the political
- 344 subdivision's accounts receivable.
- 345 (5) The office shall ensure that:
- 346 (a) a record obtained by the office or a private sector vendor under Subsection (4)(l):
- 347 (i) is used only for the limited purpose of collecting accounts receivable; and
- 348 (ii) is subject to federal, state, and local agency records restrictions; and
- 349 (b) any individual employed by, or formerly employed by, the office or a private sector
- 350 vendor as referred to in Subsection (4)(l) is subject to:
- 351 (i) the same duty of confidentiality with respect to the record imposed by law on
- 352 officers and employees of the state agency from which the record was obtained;
- 353 and
- 354 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a
- 355 private, controlled, or protected record.
- 356 (6) (a) The office shall collect a civil accounts receivable or a civil judgment of
- 357 restitution ordered by a court as a result of prosecution for a criminal offense that
- 358 have been transferred to the office under Subsection 77-18-114(1) or (2).
- 359 (b) The office may not assess:
- 360 (i) the interest charge established by the office under Subsection (4) on an account
- 361 receivable subject to the postjudgment interest rate established by Section 15-1-4;
- 362 and
- 363 (ii) an interest charge on a criminal accounts receivable that is transferred to the
- 364 office under Subsection 77-32b-103(2)(a)(ii).
- 365 (7) The office shall require a state agency to:
- 366 (a) transfer collection responsibilities to the office or the office's designee according to
- 367 time limits established by the office;

- 368 (b) make annual progress towards implementing collection techniques and improved
369 accounts receivable collections;
- 370 (c) use the state's accounts receivable system or develop systems that are adequate to
371 properly account for and report the state's receivables;
- 372 (d) develop and implement internal policies and procedures that comply with the
373 collections policies and guidelines established by the office;
- 374 (e) provide internal accounts receivable training to staff involved in the management and
375 collection of receivables as a supplement to statewide training;
- 376 (f) bill for and make initial collection efforts of the state agency's receivables up to the
377 time the accounts must be transferred; and
- 378 (g) submit quarterly receivable reports to the office that identify the age, collection
379 status, and funding source of each receivable.
- 380 (8) All interest, fees, and other amounts authorized to be collected by the office under
381 Subsection (4)(g):
- 382 (a) are penalties that may be charged by the office;
- 383 (b) do not require an order from a court for the office to assess or collect;
- 384 (c) are not compensation for actual pecuniary loss;
- 385 (d) for a civil accounts receivable:
- 386 (i) begin to accrue on the day on which the civil accounts receivable is entered on the
387 civil judgment docket under Subsection 77-18-114(1) or (2); and
- 388 (ii) may be collected as part of the civil accounts receivable;
- 389 (e) for a civil judgment of restitution:
- 390 (i) begin to accrue on the day on which the civil judgment of restitution is entered on
391 the civil judgment docket under Subsection 77-18-114(1); and
- 392 (ii) may be collected as part of the civil judgment of restitution;
- 393 (f) for all other accounts receivable:
- 394 (i) begin to accrue on the day on which the accounts receivable is transferred to the
395 office, even if there is no court order on the day on which the accounts receivable
396 is transferred; and
- 397 (ii) may be collected as part of the accounts receivable; and
- 398 (g) may be waived by:
- 399 (i) the office; or
- 400 (ii) if the interest, fee, or other amount is charged in error, the court.

401 Section 13. Section **63A-3-505** is amended to read:

402 **63A-3-505 . State Debt Collection Fund.**

- 403 (1) There is created an expendable special revenue fund entitled the "State Debt Collection
404 Fund."
- 405 (2) The fund consists of:
- 406 (a) all amounts appropriated to the fund under this chapter;
- 407 (b) fees and interest [~~established by the office under~~] described in Subsection 63A-3-502
408 (4)(g); and
- 409 (c) except as otherwise provided by law, all postjudgment interest collected by the office
410 or the state, except postjudgment interest on a civil judgment of restitution.
- 411 (3) Money in this fund shall be overseen by the office and may be used to pay for:
- 412 (a) the costs of the office in the performance of the office's duties[~~under this chapter~~];
- 413 (b) a civil judgment of restitution for which debt is owed;
- 414 (c) interest accrued that is associated with the debt;
- 415 (d) principal on the debt to the state agencies or other entities that placed the receivable
416 for collection; [~~and~~]
- 417 (e) other legal obligations including those ordered by a court[~~;~~] : and
- 418 (f) deputy court clerks who work exclusively on debt collection activities.
- 419 (4) (a) The fund may collect interest.
- 420 (b) All interest earned from the fund shall be deposited [~~in~~] into the General Fund.
- 421 (5) The office shall ensure that money remaining in the fund at the end of the fiscal year
422 that is not committed under the priorities established under Subsection (3) is deposited
423 into the General Fund.

424 Section 14. Section **63A-3-507** is amended to read:

425 **63A-3-507 . Administrative garnishment order.**

- 426 (1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue
427 an administrative garnishment order against the debtor's personal property, including
428 wages, in the possession of a party other than the debtor in the same manner and with
429 the same effect as if the order was a writ of garnishment issued by a court with
430 jurisdiction.
- 431 (2) The office may issue the administrative garnishment order if:
- 432 (a) the order is signed by the director or the director's designee; and
- 433 (b) the underlying debt is for:
- 434 (i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or
- 435 (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court,

436 based on an administrative order for payment issued by an agency of the state.

437 (3) An administrative garnishment order issued in accordance with this section is subject to
438 the procedures and due process protections provided by Rule 64D, Utah Rules of Civil
439 Procedure, except as provided by Section 70C-7-103.

440 (4) An administrative garnishment order issued by the office shall:

441 (a) contain a statement that includes:

442 (i) if known:

443 (A) the nature, location, account number, and estimated value of the property; and

444 (B) the name, address, and phone number of the person holding the property;

445 (ii) whether any of the property consists of earnings;

446 (iii) the amount of the judgment and the amount due on the judgment; and

447 (iv) the name, address, and phone number of any person known to the plaintiff to
448 claim an interest in the property;

449 (b) identify the defendant, including the defendant's name and last known address;

450 (c) notify the defendant of the defendant's right to reply to answers and request a hearing
451 as provided by Rule 64D, Utah Rules of Civil Procedure; and

452 (d) state where the garnishee may deliver property.

453 (5) The office may, in the office's discretion, include in an administrative garnishment order:

454 (a) the last four digits of the defendant's Social Security number;

455 (b) the last four digits of the defendant's driver license number;

456 (c) the state in which the defendant's driver license was issued;

457 (d) one or more interrogatories inquiring:

458 (i) whether the garnishee is indebted to the defendant and, if so, the nature of the
459 indebtedness;

460 (ii) whether the garnishee possesses or controls any property of the defendant and, if
461 so, the nature, location, and estimated value of the property;

462 (iii) whether the garnishee knows of any property of the defendant in the possession
463 or under the control of another and, if so:

464 (A) the nature, location, and estimated value of the property; and

465 (B) the name, address, and telephone number of the person who has possession or
466 control of the property;

467 (iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim
468 against the plaintiff or the defendant, whether the claim is against the plaintiff or
469 the defendant, and the amount deducted;

- 470 (v) the date and manner of the garnishee's service of papers upon the defendant and
471 any third party;
- 472 (vi) the dates on which any previously served writs of continuing garnishment were
473 served; and
- 474 (vii) any other relevant information, including the defendant's position, rate of pay,
475 method of compensation, pay period, and computation of the amount of the
476 defendant's disposable earnings.
- 477 (6) (a) A garnishee who acts in accordance with this section and the administrative
478 garnishment issued by the office is released from liability unless an answer to an
479 interrogatory is successfully controverted.
- 480 (b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an
481 administrative garnishment issued by the office without a court or final
482 administrative order directing otherwise, the garnishee is liable to the office for an
483 amount determined by the court.
- 484 (c) The amount for which a garnishee is liable under Subsection (6)(b) includes:
- 485 (i) (A) the value of the judgment; or
486 (B) the value of the property, if the garnishee shows that the value of the property
487 is less than the value of the judgment;
- 488 (ii) reasonable costs; and
- 489 (iii) attorney fees incurred by the parties as a result of the garnishee's failure.
- 490 (d) If the garnishee shows that the steps taken to secure the property were reasonable,
491 the court may excuse the garnishee's liability in whole or in part.
- 492 (7) (a) If the office has reason to believe that a garnishee has failed to comply with the
493 requirements of this section in the garnishee's response to a garnishment order issued
494 under this section, the office may submit a motion to the court requesting the court to
495 issue an order against the garnishee requiring the garnishee to appear and show cause
496 why the garnishee should not be held liable under this section.
- 497 (b) The office shall attach to a motion under Subsection (7)(a) a statement that the office
498 has in good faith conferred or attempted to confer with the garnishee in an effort to
499 settle the issue without court action.
- 500 (8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a
501 negotiable instrument if the instrument is not in the possession or control of the
502 garnishee at the time of service of the administrative garnishment order.
- 503 (9) (a) A person indebted to the defendant may pay to the office the amount of the debt

- 504 or an amount to satisfy the administrative garnishment.
- 505 (b) The office's receipt of an amount described in Subsection (9)(a) discharges the
506 debtor for the amount paid.
- 507 (10) A garnishee may deduct from the property any liquidated claim against the defendant.
- 508 (11) (a) If a debt to the garnishee is secured by property, the office:
- 509 (i) is not required to apply the property to the debt when the office issues the
510 administrative garnishment order; and
- 511 (ii) may obtain a court order authorizing the office to buy the debt and requiring the
512 garnishee to deliver the property.
- 513 (b) Notwithstanding Subsection (11)(a)(i):
- 514 (i) the administrative garnishment order remains in effect; and
- 515 (ii) the office may apply the property to the debt.
- 516 (c) The office or a third party may perform an obligation of the defendant and require
517 the garnishee to deliver the property upon completion of performance or, if
518 performance is refused, upon tender of performance if:
- 519 (i) the obligation is secured by property; and
- 520 (ii) (A) the obligation does not require the personal performance of the defendant;
521 and
- 522 (B) a third party may perform the obligation.
- 523 (12) (a) The office may issue a continuing garnishment order against a nonexempt
524 periodic payment.
- 525 (b) This section is subject to the Utah Exemptions Act.
- 526 (c) A continuing garnishment order issued in accordance with this section applies to
527 payments to, or for the benefit of, the defendant from the date of service upon the
528 garnishee until the earliest of the following:
- 529 (i) the last periodic payment;
- 530 (ii) the judgment upon which the administrative garnishment order is issued is stayed,
531 vacated, or satisfied in full; or
- 532 (iii) the office releases the order.
- 533 (d) No later than seven days after the last day of each payment period, the garnishee
534 shall with respect to that period:
- 535 (i) answer each interrogatory;
- 536 (ii) serve an answer to each interrogatory on the office, the defendant, and any other
537 person who has a recorded interest in the property; and

- 538 (iii) deliver the property to the office.
- 539 (e) If the office issues a continuing garnishment order during the term of a writ of
540 continuing garnishment issued by the district court, the order issued by the office:
- 541 (i) is tolled when a writ of garnishment or other income withholding is already in
542 effect and is withholding greater than or equal to the maximum portion of
543 disposable earnings described in Subsection (13);
- 544 (ii) is collected in the amount of the difference between the maximum portion of
545 disposable earnings described in Subsection (13) and the amount being garnished
546 by an existing writ of continuing garnishment if the maximum portion of
547 disposable earnings exceed the existing writ of garnishment or other income
548 withholding; and
- 549 (iii) shall take priority upon the termination of the current term of existing writs.
- 550 (13) The maximum portion of disposable earnings of an individual subject to seizure in
551 accordance with this section is the lesser of:
- 552 (a) 25% of the defendant's disposable earnings for any other judgment; or
- 553 (b) the amount by which the defendant's disposable earnings for a pay period exceeds
554 the number of weeks in that pay period multiplied by 30 times the federal minimum
555 wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.
- 556 (14) (a) In accordance with the requirements of this Subsection (14), the office may, at
557 its discretion, determine a dollar amount that a garnishee is to withhold from earnings
558 and deliver to the office in a continuing administrative garnishment order issued
559 under this section.
- 560 (b) The office may determine the dollar amount that a garnishee is to withhold from
561 earnings under Subsection (14)(a) if the dollar amount determined by the office:
- 562 (i) does not exceed the maximum amount allowed under Subsection (13); and
- 563 (ii) is based on:
- 564 (A) earnings information received by the office directly from the Utah Department
565 of Workforce Services; or
- 566 (B) previous garnishments issued to the garnishee by the office where payments
567 were received at a consistent dollar amount.
- 568 (c) The earnings information or previous garnishments relied on by the office under
569 Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:
- 570 (i) for one debtor;
- 571 (ii) from the same employer;

- 572 (iii) for two or more consecutive quarters; and
573 (iv) received within the last six months.
- 574 (15) (a) A garnishee who provides the calculation for withholdings on a defendant's
575 wages in the garnishee's initial response to an interrogatory in an administrative
576 garnishment order under this section is not required to provide the calculation for
577 withholdings after the garnishee's initial response if:
- 578 (i) the garnishee's accounting system automates the amount of defendant's wages to
579 be paid under the garnishment; and
 - 580 (ii) the defendant's wages do not vary by more than five percent from the amount
581 disclosed in the garnishee's initial response.
- 582 (b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a
583 garnishee shall provide, for the last pay period or other pay period specified by the
584 office or defendant, a calculation of the defendant's wages and withholdings and the
585 amount garnished.
- 586 (16) (a) A garnishee under an administrative garnishment order under this section is
587 entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount
588 of:
- 589 (i) \$10 per garnishment order, for a noncontinuing garnishment order; and
 - 590 (ii) \$25, as a one-time fee, for a continuing garnishment order.
- 591 (b) A garnishee may deduct the amount of the garnishee fee from the amount to be
592 remitted to the office under the administrative garnishment order, if the amount to be
593 remitted exceeds the amount of the fee.
- 594 (c) If the amount to be remitted to the office under an administrative garnishment order
595 does not exceed the amount of the garnishee fee:
- 596 (i) the garnishee shall notify the office that the amount to be remitted does not exceed
597 the amount of the garnishee fee; and
 - 598 (ii) (A) the garnishee under a noncontinuing garnishment order shall return the
599 administrative garnishment order to the office, and the office shall pay the
600 garnishee the garnishee fee; or
 - 601 (B) the garnishee under a continuing garnishment order shall delay remitting to
602 the office until the amount to be remitted exceeds the garnishee fee.
- 603 (d) If, upon receiving the administrative garnishment order, the garnishee does not
604 possess or control any property, including money or wages, in which the defendant
605 has an interest:

- 606 (i) the garnishee under a continuing or noncontinuing garnishment order shall, except
607 as provided in Subsection (16)(d)(ii), return the administrative garnishment order
608 to the office, and the office shall pay the garnishee the applicable garnishee fee; or
609 (ii) if the garnishee under a continuing garnishment order believes that the garnishee
610 will, within 90 days after issuance of the continuing garnishment order, come into
611 possession or control of property in which the defendant owns an interest, the
612 garnishee may retain the garnishment order and deduct the garnishee fee for a
613 continuing garnishment once the amount to be remitted exceeds the garnishee fee.

614 (17) Section 78A-2-216 does not apply to an administrative garnishment order issued under
615 this section.

616 (18) An administrative garnishment instituted in accordance with this section shall continue
617 to operate and require that a person withhold the nonexempt portion of earnings at each
618 succeeding earning disbursement interval until the total amount due in the garnishment
619 is withheld or the garnishment is released in writing by the court or office.

620 (19) If the office issues an administrative garnishment order under this section to collect an
621 amount owed on a civil accounts receivable or a civil judgment of restitution, the
622 administrative garnishment order shall be construed as a continuation of the criminal
623 action for which the civil accounts receivable or civil judgment of restitution arises if the
624 amount owed is from a fine, fee, or restitution for the criminal action.

625 Section 15. Section **78A-2-214** is amended to read:

626 **78A-2-214 . Collection of accounts receivable.**

627 (1) As used in this section:

- 628 (a) "Accounts receivable" means any amount due the state from an entity for which
629 payment has not been received by the state agency that is servicing the debt.
630 (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments,
631 fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to
632 victims, third party claims, sale of goods, sale of services, claims, and damages.

633 (2) If a defendant is sentenced before July 1, 2021, and the Department of Corrections, or
634 the Office of State Debt Collection, is not responsible for collecting an accounts
635 receivable for the defendant, the district court shall collect the accounts receivable for
636 the defendant.

637 (3) (a) In the juvenile court, money collected by the court from past-due accounts
638 receivable may be used to offset system, administrative, legal, and other costs of
639 collection.

640 (b) The juvenile court shall allocate money collected above the cost of collection on a
641 pro rata basis to the various revenue types that generated the accounts receivable.
642 (4) The interest charge [~~established by the Office of State Debt Collection under~~] described
643 in Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject
644 to the postjudgment interest rate established by Section 15-1-4.
645 Section 16. **Effective date.**
646 This bill takes effect on May 1, 2024.