



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #540

Statewide Debt Collection Positions (Revenue -- Departmentwide)

[LFB 2021-23 Budget Summary: Page 511, #2]

CURRENT LAW

The Department of Revenue (DOR) administers the Statewide Debt Collection (SDC) program for the purpose of collecting debts owed to state agencies, the Courts, the Legislature, state authorities, and local units of government. The program requires DOR to enter into a written agreement to have the Department collect any amount owed to a state agency that is more than 90 days past due, unless: (a) negotiations between the agency and debtor are actively ongoing; (b) the debt is the subject of legal action or administrative proceedings; or (c) the debtor is adhering to an acceptable payment arrangement. Additionally, DOR is authorized (but not required) to enter into similar agreements with courts, the Legislature, authorities, and local units of government.

The Department also administers the Tax Refund Intercept Program (TRIP) for the purpose of offsetting refunds owed a debtor against debts owed by the debtor to state agencies, the courts, the Legislature, state authorities, local units of government, the federal government, federally recognized tribes, and certain ambulance service providers.

Together, TRIP and SDC are provided 31 full-time equivalent (FTE) positions in 2020-21, comprised of 24 debt collector agents (including two lead workers), two supervisors, two business analysts, and three support staff. In addition, between 10 and 14 limited-term employees are typically hired during the months of January through June. Of the FTE positions, 23.0 are permanent and 8.0 are project positions. These individuals perform work for both SDC and TRIP, with about 80% of their time spent on SDC work and 20% of their time spent on TRIP work. This percentage may vary, and some shifting of positions may occur, based on the needs of each program at a given time.

State law authorizes DOR to charge a transaction fee for each debt it collects, under both SDC and TRIP. DOR has set its SDC fee equal to the greater of \$35 or 15% of the debt certified to be collected. The fee is charged to the debtor. Under TRIP, DOR charges the debtor the following amounts per debt it offsets: (a) \$5 for state and municipal debts; (b) \$15 for debts owed the State of Minnesota and its localities; and (c) \$25 for debts owed the IRS and federally recognized tribes. These fees are deposited in DOR's debt collection, program revenue appropriation, and are used to offset its expenses for administering both programs. At the end of each fiscal year, any remaining balance, resulting from fee revenues in excess of program expenses, is deposited in the general fund.

DISCUSSION POINTS

1. The SDC program was created under 2009 Act 28. Prior to the SDC program, agencies utilized the services of private debt collection companies or internal collection staff to collect debts. The Department believed that centralizing state agency debt collection activities in a uniform process administered by DOR would improve the efficiency of state debt collection, and therefore increase resources available to state agencies. The Department has the authority under the SDC program to take certain enforcement actions, which are not available to private collection agencies, such as to administratively attach wages, levy nonwage assets, and seize monies and personal property. Additionally, state law gives DOR the ability to charge collection fees above the amount of debt owed to offset the administrative expenses of collection. In contrast, private debt collection companies are prohibited under state law from collecting any amount in excess of what is owed by a debtor. As a result, state agencies and local units of government utilizing the SDC program can receive the entire outstanding debt, rather than having to remit a portion of the debt to compensate a private collection company.

2. The debt collector agent positions are responsible for collecting debt referred to SDC and TRIP. DOR has the authority under both TRIP and the SDC program to collect debt through offsets of a tax refund or unclaimed property. Beyond these authorities, the Department has several additional tools available to aid in the collection of SDC debt. DOR's preferred option for collecting debt referred to the SDC program is by setting up a voluntary payment arrangement with the debtor to collect payments. This can be done through a payment plan, or by providing an agreed-upon time frame to submit full payment. However, in the event that debt cannot be collected voluntarily, debt collector agents will, most commonly, attach wages through wage certifications or levy a debtor's bank account.

3. The Legislature expanded the SDC program several times during the 2015-17 legislative session. Under 2015 Act 55, an additional 11.0 positions were authorized for the SDC program to address the growing balance of outstanding debts. This expansion increased debt collector positions from seven to 18. Debts referred to the program were further expanded under 2015 Act 355, which authorized restitution payments certified as owed by the Department of Corrections or the Clerk of Circuit Court to be included in SDC agreements. In addition, 2015 Act 59 authorized debts owed to certain ambulance service providers operating under a contract with a municipality or county to be referred to DOR under an SDC agreement.

4. In response to the increase in debts referred, the program was again expanded under the 2017-19 biennial budget act (2017 Act 59). Act 59 provided 8.0 project positions (7.0 debt collector agents, including 1.0 lead worker, and 1.0 support staff position) to the SDC program. At the time of their authorization, it was estimated that the positions would increase the amounts transferred from DOR's debt collection appropriation to the general fund by \$750,000 on an annual basis. These positions are scheduled to expire on September 30, 2021.

5. In 2017, DOR stated that the authorization of 8.0 project positions, rather than permanent positions, would allow the Department to reexamine the productivity of these positions after four years to determine if the positions are necessary. Now, DOR indicates that the program has grown beyond the Department's prior expectations, making these positions necessary to maintain the current level of debt collection activity under the SDC program. Under current law, project positions cannot exist for more than four years.

6. Under Assembly Bill 68/Senate Bill 111, the Governor recommended providing \$454,200 in 2021-22 and \$614,100 in 2022-23 and 8.00 FTE permanent positions annually to DOR's collection of taxes -- debt collection appropriation to assist in the collection of debts owed to state and local governments. These permanent positions would replace the 8.00 project positions, authorized under Act 59, that are set to expire on September 30, 2021. These positions were removed under standard budget adjustments [see LFB Paper #101].

7. The fiscal year ending balance, new debts referred, and debts collected since 2015-16 can be seen in Table 1. The amount of debts collected includes both agency debts and fees collected by DOR to offset the expenses of the program. Totals for the current fiscal year, through April 2, 2021, are also included. The table shows the number of debt collector agents for the SDC program each year, as well as per-agent collections. The total outstanding balance of debts referred to DOR under the program has grown considerably in recent years. Between 2015-16 and 2019-20, DOR data show that the year-end debt balance increased by nearly 550%, from \$71.3 million to \$462.8 million. Over that same time period, the annual amount of debts collected increased by 216%, from \$20.7 million in 2015-16 to \$65.3 million in 2019-20. Moreover, DOR data demonstrate that annual collections per debt collector agent have increased each year, from \$1.2 million per agent in 2015-16 to \$2.7 million per agent in 2019-20. It should be noted that a portion of debts can be returned to agencies if deemed uncollectible, which reduces the SDC closing balance.

TABLE 1**SDC Balance, Debts Referred, Collections, and Debt Collectors (\$ In Millions)
2015-16 through April 2, 2021**

<u>Fiscal Year</u>	<u>SDC Closing Balance</u>	<u>New Debts Referred</u>	<u>SDC Collections</u>	<u>Debt Collector Agents</u>	<u>SDC Collections per Agent</u>
2015-16	\$71.29	\$41.99	\$20.67	18	\$1.15
2016-17	123.57	83.16	28.01	18	1.56
2017-18	213.49	141.38	43.00	24	1.79
2018-19	372.08	235.89	62.46	24	2.60
2019-20	462.83	172.33	65.32	24	2.72
April 2, 2021	493.43	101.87	47.07	24	TBD

Source: Department of Revenue

8. As shown in Table 1, the amount of debts collected has been less than half of the new debts referred each year, resulting in a growing ending balance of debts. While annual debt collections continue to grow each year, this amount grew at a slower rate in 2019-20. DOR indicates two reasons for this slow-down. First, in response to the COVID-19 recession, DOR reduced its involuntary collection actions to provide relief to vulnerable individuals from April through July of 2020. Collection actions resumed on a limited basis in August, 2020, but are still more limited than the normal level of collection activity. Second, with current resources, DOR states that the SDC program is nearing its capacity in terms of the amount of debts it can collect without creating overflow to tax agents. Without additional staffing for the program, the amount of debt collected annually is expected to soon level off.

9. As the amount of debt referred to DOR has increased, the number of debt collection bills (bills for individual debtors) referred to the Department has also grown. Data from DOR indicate that the average monthly number of new debt collection bills referred per FTE increased from 160 in 2015-16 to 679 in 2019-20, or an increase of approximately 424% on a per-agent basis. As such, DOR reports that its current SDC staffing level is insufficient to meet the growing number of participating agencies and the corresponding growth in overall debt volumes.

10. As shown in the Attachment, the number of agreements with SDC partnering agencies, active debts, amount of debts recovered, and the outstanding balance of debts to be collected have steadily increased since 2015-16. Active debts represent the number of unresolved debts held with DOR by agency type, as of June 30 of each fiscal year. Restitution payments were added to the list of authorized debts to refer in 2016-17, following enactment of 2015 Act 355. The Attachment shows that the largest increase in active debts occurred in 2018-19, following a large increase in court and municipal debts referred to the SDC program (which contributes to the spike in 2018-19 new debts referred in Table 1).

11. To the extent that DOR's debt collection program enhances revenues for state agencies and local units of government, the program limits the need to provide these entities with

additional expenditure authority. DOR indicates that there is still the possibility for additional debts to be referred, as Milwaukee County Circuit Court has yet to join the SDC program. It is estimated that this entity would increase the current SDC debt balance by more than \$100 million.

12. As noted, DOR charges a collection fee in excess of debts owed to offset the administrative expenses of the SDC program. At the end of each fiscal year, any fees collected in excess of expenses are transferred to the general fund.

13. Table 2 shows SDC fees collected, expenses incurred, and the amount transferred to the general fund since 2015-16. Since the 8.0 project positions were authorized in the 2017-19 biennial budget act, the annual transfer to the general fund increased by \$2.3 million in 2017-18 and \$5.4 million in 2018-19, compared to 2016-17 levels. DOR attributes the slight decline in 2019-20 fees collected to the reduced ability for individuals to pay and DOR reducing involuntary collection activity during the COVID-19 recession.

TABLE 2
SDC Fees Collected, Expenses Incurred, and
Amount Transferred to the General Fund (In Millions)
2015-16 through 2019-20

<u>Fiscal Year</u>	<u>Fees Collected</u>	<u>DOR Expenses</u>	<u>General Fund Transfer</u>
2015-16	\$3.39	\$1.32	\$2.07
2016-17	4.57	1.57	3.00
2017-18	7.23	1.97	5.26
2018-19	10.54	2.15	8.39
2019-20	9.97	1.80	8.17

Source: Department of Revenue

14. It should be noted that the totals shown for fees collected in Table 2 will not match similar data in the Attachment. According to DOR, fee data shown in Table 2 is obtained from reports generated for an August to July fiscal year, while data for the Attachment is obtained from reports generated for a July to June fiscal year.

15. DOR estimates that allowing these eight project positions to expire would: (a) reduce fees collected by DOR by \$2,200,000 in 2021-22 and \$2,900,000 in 2022-23; (b) reduce expenses incurred by \$454,200 PR in 2021-22 and \$614,100 PR in 2022-23; and (c) reduce the year-end transfer to the general fund by an estimated \$1,745,800 in 2021-22 and \$2,285,900 in 2022-23. DOR also estimates a loss of approximately \$14 million in annual debts collected and remitted to agency partners if these positions expire.

16. Given that the SDC program has grown significantly since the 8.0 project positions were authorized in 2017, and that data suggests the positions are necessary to maintain the current

level of debt collection activity, the Committee could decide to provide 8.0 permanent positions to replace the expiring project positions [Alternative 1]. In addition to Alternative 1, the Committee could consider whether to provide additional positions to reduce the growing balance of debts referred to DOR.

17. On September 24, 2019, a request was submitted to the Joint Committee on Finance under s. 16.515/16.505 (2) to convert the 8.0 project positions to permanent positions and to create an additional 15.0 permanent positions for collection of SDC debt. An objection was raised and the request was not approved. DOR stated that it had reached its capacity for collecting debts with the current resources available. Since 2016-17, the balance of outstanding debts referred to the SDC program has grown from \$123.6 million to \$493.8 million at the current staffing level, despite the amount of debt collected per agent increasing each year. The Committee could consider providing 15.0 PR positions, in addition to making the existing 8.0 positions permanent, to reduce the outstanding balance of SDC debts owed to state agencies, municipalities, and other SDC partners [Alternative 2].

18. According to DOR, if the Committee provided an additional 15.0 permanent positions, it could increase staffing in the SDC program by 13.0 debt collector agents, one lead worker, and one supervisor. The Department estimates that increased expenditure authority of \$991,200 in 2021-22 and \$1,203,400 in 2022-23 would support the additional 15 positions, assuming that the positions would begin on October 1, 2021. It is estimated that these additional 15.0 positions would: (a) increase fees collected by DOR by \$2,000,000 in 2021-22 and \$4,000,000 in 2022-23; (b) increase expenses incurred by \$991,200 PR in 2021-22 and \$1,203,400 PR in 2022-23; and (c) increase the year end transfer to the general fund by an estimated \$1,008,800 in 2021-22 and \$2,796,600 in 2022-23. DOR also estimates that the additional debt collector agents would increase debt amounts recovered for participating agencies and municipalities by \$26 million on an annual basis.

19. The Committee could consider whether the amount of debts referred may diminish in future years. Although the amount of new debts referred continues to exceed the amount of debts collected, the amount of new debt referred to the SDC program declined in 2019-20 compared to 2018-19, and year-to-date debts referred indicate that new debts referred in 2021-20 may be slightly lower than the prior year. The Committee could provide an additional 15.0 project positions to be authorized for a four-year period, rather than permanent positions, if the Committee wished to review whether the current pace of debts referred remains [Alternative 3].

20. Finally, the Committee could decide to take no action, allowing the 8.0 project positions to expire on September 30, 2021 [Alternative 4]. Compared to current program activity, it is estimated that the amounts of debts collected would be reduced by \$14 million annually, and the transfer to the general fund would be reduced by \$2,285,900 annually. However, the fiscal impact of the reduced expenditure authority and lower transfer to the general fund has been accounted for under base estimates for departmental revenues and standard budget adjustments, so this alternative would not impact revenues or expenditures under the bill.

ALTERNATIVES

1. Provide \$454,200 PR in 2021-22 and \$614,100 PR in 2022-23 and 8.0 PR permanent positions annually to DOR's collection of taxes -- debt collection appropriation. Estimate increased PR-REV of \$2,200,000 in 2021-22 and \$2,900,000 in 2022-23. Increase the estimated year-end general fund transfer by \$1,745,800 in 2021-22 and \$2,285,900 in 2022-23.

ALT 1	Revenue	Change to Base Funding	Positions
PR		\$1,068,300	8.00
PR-Rev	\$5,100,000		
GPR-Rev	\$4,031,700		

2. Provide \$1,445,400 in 2021-22 and \$1,817,500 in 2022-23 and 23.0 PR permanent positions annually to DOR's collection of taxes -- debt collection appropriation. Estimate increased PR-REV of \$4,200,000 in 2021-22 and \$6,900,000 in 2022-23. Increase the estimated year-end general fund transfer by \$2,754,600 in 2021-22 and \$5,082,500 in 2022-23.

ALT 2	Revenue	Change to Base Funding	Positions
PR		\$3,262,900	23.00
PR-Rev	\$11,100,000		
GPR-Rev	\$7,837,100		

3. Provide \$1,445,400 in 2021-22 and \$1,817,500 in 2022-23 and 23.0 PR positions annually (8.0 permanent positions and 15.0 project positions) to DOR's collection of taxes -- debt collection appropriation. Specify that the end date of the project positions would be September 30, 2025. Estimate increased PR-REV of \$4,200,000 in 2021-22 and \$6,900,000 in 2022-23. Increase the estimated year-end general fund transfer by \$2,754,600 in 2021-22 and \$5,082,500 in 2022-23.

ALT 3	Revenue	Change to Base Funding	Positions
PR		\$3,262,900	23.00
PR-Rev	\$11,100,000		
GPR-Rev	\$7,837,100		

4. Take no action.

Prepared by: Sydney Emmerich
Attachment

ATTACHMENT

**SDC Participants and Collections
2015-16 through 2020-21**

<u>SDC Participant</u>	<u>Number of Agreements</u>	<u>Active Debts</u>	<u>Fiscal Year Ending Balance</u>	<u>Debts Recovered</u>	<u>Collection Fee</u>	<u>Total SDC Collections</u>
Fiscal Year 2015-16						
Local Agency	91	5,024	\$4,953,772	\$893,745	\$231,320	\$1,125,065
Local Agency (Utility)	24	2,346	1,126,117	264,964	56,392	321,356
Court	7	6,283	5,483,952	196,976	63,251	260,227
Municipal Court	49	12,968	5,667,786	927,464	215,652	1,143,116
State Agency	25	3,220	13,327,330	1,171,665	261,549	1,433,214
Technical College	11	8,909	11,366,489	3,337,037	724,341	4,061,378
UW System	<u>20</u>	<u>10,325</u>	<u>29,362,721</u>	<u>10,481,167</u>	<u>1,843,344</u>	<u>12,324,511</u>
Total	227	49,075	\$71,288,167	\$17,273,018	\$3,395,849	\$20,668,867
Fiscal Year 2016-17						
Local Agency	127	8,490	\$8,613,470	\$1,410,423	\$322,745	\$1,700,596
Local Agency (Utility)	24	2,224	1,216,635	335,754	63,367	423,562
Court	23	41,567	26,435,738	2,290,303	567,869	2,856,599
Municipal Court	103	49,115	21,721,971	3,015,655	805,281	3,829,066
State Agency	24	3,441	16,262,032	1,266,101	314,241	1,580,342
Technical College	11	10,655	13,011,990	4,587,058	892,008	5,479,066
UW System	26	11,569	35,629,795	10,531,553	1,597,235	12,128,788
Restitution	<u>8</u>	<u>177</u>	<u>680,514</u>	<u>5,526</u>	<u>4,715</u>	<u>11,814</u>
Total	346	127,238	\$123,572,145	\$23,442,373	\$4,567,460	\$28,009,833
Fiscal Year 2017-18						
Local Agency	177	12,730	\$17,143,158	\$2,317,023	\$538,326	\$2,855,350
Local Agency (Utility)	23	2,633	1,179,071	336,041	64,487	400,528
Court	32	100,808	70,723,562	7,254,932	1,669,449	8,924,380
Municipal Court	147	115,728	48,728,311	8,090,088	2,032,597	10,122,685
State Agency	24	3,835	21,035,692	1,512,564	283,630	1,796,193
Technical College	12	10,926	12,796,370	4,854,088	840,951	5,695,039
UW System	27	11,104	34,632,313	11,338,583	1,677,865	13,016,448
Restitution	<u>12</u>	<u>1,198</u>	<u>7,251,032</u>	<u>101,306</u>	<u>85,790</u>	<u>187,097</u>
Total	454	258,962	\$213,489,509	\$35,804,626	\$7,193,095	\$42,997,720
Fiscal Year 2018-19						
Local Agency	185	17,727	\$19,551,571	\$2,956,527	\$621,195	\$3,577,722
Local Agency (Utility)	29	2,876	1,419,711	363,382	67,610	430,992
Court	50	224,010	155,840,744	17,114,833	3,711,560	20,826,393
Municipal Court	168	177,897	75,852,729	12,563,465	2,811,052	15,374,517
State Agency	25	4,398	39,535,048	1,787,127	311,466	2,098,593
Technical College	13	14,387	16,444,735	5,121,391	918,751	6,040,141
UW System	31	12,063	39,615,642	11,131,977	1,724,690	12,856,667
Restitution	43	6,041	23,069,447	730,613	390,350	1,120,963
Housing Authority	<u>20</u>	<u>373</u>	<u>754,261</u>	<u>111,757</u>	<u>24,970</u>	<u>136,727</u>
Total	564	459,772	\$372,083,888	\$51,881,072	\$10,581,643	\$62,462,715

<u>SDC Participant</u>	<u>Number of Agreements</u>	<u>Active Debts</u>	<u>Fiscal Year Ending Balance</u>	<u>Debts Recovered</u>	<u>Collection Fee</u>	<u>Total SDC Collections</u>
Fiscal Year 2019-20						
Local Agency	218	23,090	\$26,865,596	\$3,263,721	\$736,143	\$3,999,864
Local Agency (Utility)	32	2,859	1,438,899	314,480	58,416	372,896
Court	58	289,030	205,521,738	18,840,626	3,569,949	22,410,575
Municipal Court	178	223,408	96,182,119	13,003,075	2,821,991	15,825,066
State Agency	27	4,479	39,506,977	1,310,683	302,616	1,613,299
Technical College	14	14,827	16,325,343	5,598,197	1,022,399	6,620,596
UW System	33	12,937	42,532,791	11,194,563	1,619,032	12,813,595
Restitution	56	8,211	33,618,917	1,167,074	352,229	1,519,303
Housing Authority	<u>21</u>	<u>364</u>	<u>832,965</u>	<u>120,368</u>	<u>28,112</u>	<u>148,480</u>
Total	637	579,205	\$462,825,345	\$54,812,788	\$10,510,886	\$65,323,674
YTD 2020-21 through 3/31/2021						
Local Agency	222	24,379	\$28,611,587	\$2,368,716	\$457,216	\$2,825,932
Local Agency (Utility)	30	3,177	1,704,648	267,314	\$55,995	323,309
Court	59	320,359	231,679,120	14,862,466	\$2,701,831	17,564,297
Municipal Court	183	249,020	106,255,858	9,445,197	\$1,989,644	11,434,841
State Agency	23	3,899	34,473,141	1,037,373	\$222,779	1,260,152
Technical College	14	12,934	13,979,236	3,032,643	\$454,663	3,487,306
UW System	33	10,573	34,642,690	7,716,307	\$941,504	8,657,810
Restitution	57	9,308	41,149,818	1,046,422	\$368,988	1,415,410
Housing Authority	<u>21</u>	<u>338</u>	<u>938,460</u>	<u>80,389</u>	<u>18,160</u>	<u>98,549</u>
Total YTD	642	633,987	\$493,434,557	\$39,856,828	\$7,210,779	\$47,067,606

Source: Department of Revenue