The items on the Agenda are incorporated and considered to be a part of the minutes herein.

Treasurer Henson called the meeting to order. Laura Lapeze called the roll.

**MEMBERS PRESENT:**

Ron Henson, State Treasurer

Afranie Adomako, CPA, as designee for the Commissioner of Administration

Senator Eric LaFleur

Representative Rick Edmonds, as designee for Representative Cameron Henry

Daryl Purpera, Legislative Auditor

**OTHER PERSONS PRESENT:**

Representative Chris Broadwater

Kimberly Robinson, Secretary, Louisiana Department of Revenue

Liz Murrill, Director, Administrative Services, Attorney General’s Office

Stacey Landry, Section Chief, Collections Section, Attorney General’s Office

Blake Canfield, Executive Counsel, Department of Natural Resources

Thomas Enright, First Assistant State Treasurer

Rick McGimsey, Executive Counsel, Commissioner of Administration

Laura Lapeze, CFO, Louisiana State Treasury and Secretary to the Board

Brent Manuel, State Treasury Fiscal Control Manager

John L. Daniel, JP Morgan Chase Bank, Senior Vice President

Cindi Nee, JP Morgan Chase Bank, Client Relationship Manager

Representative Edmonds moved for approval of the minutes for the Special October 29, 2015 meeting, seconded by Afranie Adomako and without objection, the minutes were adopted.

Representative Edmonds moved for approval of the minutes for the June 22, 2017 meeting, seconded by Afranie Adomako and without objection, the minutes were adopted.

Secretary Kimberly Robinson began with the Office of Debt Recovery (ODR) program status. As of June 30, 2017, ninety-eight (98) agencies have participated with ODR. The total debt placed with ODR is $527,918,740, the current inventory of debt is $424,215,226, and the total collected since inception is $91,528,198. The following agencies are working with ODR on authenticating debt to make final: Department of Health (including Medicaid recoveries), Office of Juvenile Justice, Department of Natural Resources, LSU Health Care Service Division, LSU Health Shreveport, LSU Pennington and LSU Shreveport.

Burton “B.J.” Meche, Director of ODR, discussed the program milestones with the passage of Act 399 of the 2013 Regular Legislative Session. ODR entered into two contracts in Phase One: the Vendor Payment Offset Program (VPOP) and the Financial Institution Data Match (FIDM). VPOP allowed ODR to offset federal vender payments and state vender payments through the ISIS accounting program. FIDM allowed ODR to match financial institutions’ deposits to current debt inventory. The debt registry was implemented in March, 2014 which allowed agencies to enter debt within ODR. Mr. Meche noted that the department is still implementing these tools, which includes upgrading technology for a more robust system. A RFP was issued to implement this system as well as for an outside collection agency. In April, 2015 the department contracted their system of record (REVQ) and five outside collection agencies in which debt was sent. After implementation, the department was able to begin bank levies and other collection tools. The flood ceased the process because ODR did not want to take any FEMA money from bank accounts. Secretary Robinson clarified that the department stopped bank levies on tax payers and suspended collection actions in August, 2016. When there is a disaster, the department suspends any collection tools during the period of the disaster. Secretary Robinson stated that they just recently went back live with the bank levies. ODR signed an agreement with Wildlife and Fisheries in January, 2017 to offset hunting and fishing license suspensions.

Collection results for FY 2014-15 was just shy of $100,000 at $96,653. For Fiscal Year 2016-17, it was just shy of $41,000,000 at $40,684,681 with the effect of suspending bank levies and collection activities as a result of the flood. From VPOP, the department has collected $5,039,890. The department has issued over 100,000 bank levies with FIDM and has collected $64,915,706 through the end of FY 2016-17. The Outside Collect Agencies (OCAs) only collected $74,000 but were only supplied with non-Louisiana debtors. The department is doing collections in state. Only the out-of-state accounts are going to the OCAs. Tax Offsets have resulted in $28,185,452 in collections. Tax Offset is an offset of an individual taxpayer’s refund that they will be receiving from the Louisiana Department of Revenue (LDR). The offset is done in advance of the refund.

The department is implementing tools that the department can use in order for the process to function better. This includes creating a web portal for easier access for online debtors to enter into an installment agreement and check outstanding balances, which will go live November, 2017. This will allow debtors to interact electronically with the department and not wait to get someone on the phone to answer questions. ODR has entered into an agreement with Wildlife and Fisheries to suspend hunting and fishing licenses for debt that has been referred to ODR. This has been done with tax debt over the years but will now be done with non-tax debt for debtors that owe over $500. The integration of the ODR and Office of Motor Vehicles (OMV) systems to provide OMV with ODR debt will happen before the end of the fiscal year. This is for debt over $1,000.

ODR is creating an enhancement system that will automatically send out letters with collection amounts for installment agreements. If a debtor enters into an installment agreement and does not pay, the system is set up that the debt automatically goes back into the collection process. The bank levy process has been automated so that levies can be sent out without human interaction. Batch printing notices will cut down on employees necessary to move through this process. Automated payment processing uses scanners so that payments can be processed electronically, which gets the money into the bank faster.

Each agency has different challenges based on the agency’s specific type of debt. ODR is working with agencies to make sure that the debt can be authenticated and that agencies can give that debtor notice. The debtor has the right to appeal before the debt moves into the collection realm. The department has encountered issues with customization of the system and is still working on bugs while working through this process.

Treasurer Henson asked how the driver’s license suspension process works when an individual owes the state money but is not going to pay. Secretary Robinson stated that ODR will send a registered letter to the individual that explains if the debt is not paid, they will suspend their license. If that individual does not enter into an installment agreement, ODR will notify OMV to flag that individual’s license in their system. If the license is suspended, that individual cannot renew their license until the flag is removed. If the police stop that individual, they will receive a fine for driving with a suspended license. There is a hardship provision for individuals that cannot afford to pay the entire amount due.

Representative Broadwater asked if the driver’s license suspension is not a mandatory tool but is optional similar to the hunting and fishing licenses suspensions. Secretary Robinson confirmed that ODR is using existing LDR authority to utilize the collection tools on other agencies’ debt.

With the large number of write offs in the past and with a more aggressive approach now, Representative Broadwater asked if any analysis has been done to see if we are collecting more money than we otherwise would have done if we had not implemented this program. Secretary Robinson stated that the department has started doing some analysis on the process. The largest share of debt collected last year was OMV debt. Other agencies have just started coming online, so they have a smaller percentage of debt. The total liquidation rate is at 18% across all agencies. Without more debt in place and more collections, the department cannot determine the impact they are having. Revenue is working aggressively with the agencies to send ODR their debt. By the end of the fiscal year, the department will have more analysis to show whether this tool created has merit.

Representative Broadwater asked about those agencies not coming online with the system. Secretary Robinson stated that all agencies in the executive branch have signed up. Some agencies are working to authenticate their debt. Local and political subdivisions have taken advantage of the program and are signing up with ODR.

Representative Broadwater asked if all agencies are establishing due process sufficiently to finalize debt and improve the process by certified mail notice. Secretary Robinson stated that the department has improved that process. ODR is working with agencies to make sure their debt is specifically authenticated based upon their statutory program, not just using ODR’s statutes. The debtor must receive the necessary notice. The debtor has the right to challenge any liability before the offset is done.

Treasurer Henson asked if those agencies that are not on board 100% would get a free pass or have to go before the House Appropriations Committee or the Senate Finance Committee. Secretary Robinson stated that no agency gets a free pass. All agencies in the executive branch have signed the placement agreements with ODR. There are no difficulties with agencies participating. Debt placements are higher at the end of the year before going into individual income tax season for refund offsets. Debt level will increase at that time.

Treasurer Henson asked if ODR could send a notification to the Chair of the House Appropriations Committee and the Chair of the Senate Finance Committee to let them know the status of the program and debtors allowing them to ask the agencies when they come before the committees. Secretary Robinson stated that ODR was moved under the Office of Management and Finance under LDR’s undersecretary. To keep agencies informed, LDR’s undersecretary brings up this issue at every Undersecretary Meeting. Agencies can also reach out to the undersecretary if they have any issues with that agency’s particular debt.

Legislative Auditor Daryl Purpera stated that in the last audit cycle the Louisiana Legislative Auditor’s Office (LLA) is looking at these issues. LLA looks at whether the agency has a policy and/or procedure and whether the agency is timely submitting debt to either the Department of Justice or ODR. Mr. Purpera stated that the department has roughly 10 findings and asked if ODR is able to use these reports. Mr. Meche confirmed that this information has been helpful, and agencies are pointing to the reports when they have an issue.

Afranie Adomako asked how the debt recovery process was working with the Attorney General’s Office (AG) in terms of placement of the debt as well as collection of the debt. Secretary Robinson stated that ODR’s relationship with the AG is working; however, it is not laid out completely in statute. AG is still receiving debt that was due before 2014 as laid out in statute. ODR still has the collection agency agreement for tax debt in place. Agencies send debt that is not final to the AG. ODR is working through a new cooperative endeavor agreement (CEA) that lays out how they will handle the pieces going forward. The current CEA expired last year, and there were questions about whether the layout of the statue would be changing. The statute written in 2013 had criteria between the ODR and AG as to whether it was a joint partnership or two different entities. Both the AG and ODR were sued in November, 2016 as it relates to the OMV debt. ODR is working through the issues that arose from the lawsuit. The department has recognized that ODR by statute is part of LDR, and the AG’s role is that of support. These relationships are going to be laid out in the CEA.

Secretary Robinson stated that final debt is authenticated by ODR. If agencies need to make their non-final debt final, they go through the AG. If there are appeal rights or need a judgement from a court to make the debt final, agencies will go through the AG. Secretary Robinson stated that ODR has to wait for AG to make the debt final. ODR does not collect on non-final debt unless there is a specific statutory provision that allows for that.

Liz Murrill and Stacey Landry came to the table to discuss the Collections Section in the AG. Ms. Landry discussed the history of this section. This section was created and established in 1976. Clients were primarily educational institutions to try to collect student loans. Over the years the section has grown to over sixty (60) agencies on board in which AG is collecting debt from universities, community colleges, technical schools, or other state agencies including the LDR delinquent tax debt. Statutory authority was provided in the 2005 Legislative Session that authorized the AG to collect on state agency debt under contract.

The types of debt the AG collects that are educational in nature include loans made directly to the university, Perkins loans made directly with the university backed by federal funding, book store loans, fines and fees, housing agreements, and other outstanding receivables. Debts for state agencies include agreements for collections with LDR for delinquent tax debt, damage to property claims for the Louisiana Department of Transportation Development, unpaid toll violations, rental fees for certain agencies, and wage over payments.

The process starts with the placement of the debt from the agencies through significant outreach from the collections section to transfer the debt into the AG. A demand letter is mailed letting the debtor know that the account has been placed at AG. The debtor will have the option to pay it off in full or make installment payments. The office has a full collection staff, twelve collectors, collection supervisors, and 4 attorneys that are on the phone talking to debtors trying to get the debt authenticated. If the debtor does not respond, the attorney assigned to the collections section files suit to litigate judgment. The attorneys look at wages and bank information to execute the judgment.

A key factor that the collections section looks at is the age of the debt. The older the debt, the harder it is to collect that debt. Other factors that impact the collectability of the debt includes the collection tools available in the authentication process, the size of the debt, and the accuracy of the information given by the agencies.

The primary concern is making the best decisions for the agency, the state, and the taxpayers. If the debtor has passed away, incarcerated, has a disability, or any hardship has occurred, the collections section attempts to make the best solution for the state, agency, and debtor. There is a bankruptcy process in place to preserve the claim or whether it will be included in a standard discharge.

Since 2013, there has been an increase in debt inventory, and the average total collection has increased by 25%. This past fiscal year the total debt collected was $17,581,000, which is an average 37% higher than the prior year. Over the last four (4) fiscal years since the 2013 legislation, there has been an average 25% increase in collections.

Representative Broadwater asked Ms. Landry for the total amount of debt being placed with the collections section. Ms. Landry responded that the amount of debt changes every day. Placements and account payouts are made every day. There are adjustments made on the agency level that can change the dollar amount and the number of accounts. The total number of accounts placed with AG is right under 100,000 in inventory or right at $140,000,000 in dollar value. That includes educational debt, revenue debt, state agency debt, and pre-collection billing services debt that is offered to universities for the past fiscal year ending June 30th.

Representative Broadwater asked Ms. Murrill the status of getting agencies to improve their processes. Ms. Murrill stated that the agency has to communicate with AG in advance. AG recently worked with the Governor's Office of Homeland Security and Emergency Preparedness, which was establishing an agreement with ODR. AG provided advice on the front end on the agreement itself on how their process meets due process. AG encouraged the use of certified mail.

Ms. Murrill clarified an earlier statement made by Secretary Robinson. The debt AG collects is from previous contracts they had with universities and agencies that were grandfathered in, not pre-2013 debt that is going away. There have been no discussions on a new CEA with ODR. There has been no debt transferred from ODR to AG to be made final.

Treasurer Henson asked if the absence of the approved CEA is seen as an impediment. Ms. Murrill stated that she does not see it as an impediment in carrying out the collection process. The CEA contemplated revenue sharing issues discussed in the original legislation. Representative Broadwater stated that the legislation tried to create a system with individuals working at two different locations with different tasks to perform using a common batch of data. The agreement was that the department performing the task would have some of the revenue to pay for the labor they used. Treasurer Henson asked Ms. Murrill to revisit the CEA if needed.

Mr. Purpera asked Ms. Landry and Ms. Murrill about a finding of a university having debt 365 days old before sending letters. If the university does not receive a response after 45 days, then the department reports it to AG. He asked if that was to long of a time to wait on the payment. He asked if that is sufficient and does that work for the department.

Ms. Landry stated that outreach with agencies strongly encourages collection efforts by the agency within 60 days after the last day to register for class. Universities put holds on transcripts, registrations, etc. for students who return. That is an excellent tool for the collection office instead of sending letters saying it is going to AG. Some agencies do pre-collecting or billing for up to a year. The collections section lets the agency know that it is not the best option because debt is getting old and students venture off.

Mr. Adomako asked about the debt that is not collected and do the departments have some of the same tools ODR has. Does the section use a tool called skip trace? Ms. Landry stated that the collections section and collectors in the agency are constantly using skip trace. They are looking for addresses, new phone numbers, even wages that are reported to the Workforce Commission. Some are not found and uncollected and that would be a business decision to see if it is worth a fine. AG uses an exhaustive list of tools available to the AG as well as the use of collectors in the agency.

The next item discussed was Agenda Item 5 for the Department of Natural Resources' request for the establishment of an escrow fund in state treasury. Mr. Blake Canfield, Executive Counsel for the Department of Natural Resources, stated the escrow account ordered by a judge in Bankruptcy Court to be used to plug abandoned wells by Shoreline Energy and 5 or 6 companies that entered into voluntary Chapter 11 bankruptcy. During the hearing the judge was told that the pulling of the wells could be a cost in excess of $49,000,000. 130 oil and gas wells were abandoned by Shoreline. The court order was to place $2,062,500 in an escrow account to be spent to plug abandoned or restore wells. Additional money could come in later by creditors in the amount of $300,000-$350,000. The reason for the escrow account is to make sure that the money is spent just on the wells associated with Shoreline. The Office of Conservation estimates the time to plug the abandoned wells could take a year to two years.

Treasurer Henson questioned what the process was to take money out of this escrow account. Mr. Canfield explained that the money is spent through the Oilfield Site Restoration Fund and then reimbursed from the escrow account. He was not sure if the money could be spent directly from the escrow account.

Senator LaFleur moved for approval of the escrow account request, seconded by Afranie Adomako, and without objection, item 5 was approved.

The next item discussed was Agenda Item 7 for the implementation of Act 361 of the 2017 Regular Legislative Session. Ms. Lapeze presented a draft of the two reports required in the Act, one due monthly and one due quarterly. The monthly reports sent to the Cash Management Review Board will be consolidated and presented to the board and JLCB. The quarterly reports contain self-generated fee activity in the escrow account. The quarterly reports sent to the Cash Management Review Board will be consolidated and presented to the board and JLCB.

The development of the policy manual by OSRAP was the last discussion. Mr. Adomako stated that OSRAP is in the infancy stage of developing the policy and procedures manual. Act 361 provides a number of requirements that will be included in the policy and procedures manual. The deadline will be at the end of December, 2017 unless required earlier.

Treasurer Henson commented if the report on escrows are inadequate in any way they can be corrected. The board agreed.

Having no further business to discuss, Treasurer Henson adjourned the meeting.