H.R. 2234, THE DEBT COLLECTION IMPROVEMENT ACT OF 1995

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION, AND TECHNOLOGY

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

H.R. 2234

TO REDUCE DELINQUENCIES AND TO IMPROVE DEBT-COLLECTION ACTIVITIES GOVERNMENTWIDE, AND FOR OTHER PURPOSES

SEPTEMBER 8, 1995

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H.R. 2234, THE DEBT COLLECTION IMPROVEMENT ACT OF 1995

FRIDAY, SEPTEMBER 8, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION, AND TECHNOLOGY,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2154, Rayburn House Office Building, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representatives Horn, Davis, Fox, Scarborough, Owens, and Peterson.

Staff present: J. Russell George, staff director; Mark Brasher and Anna Young, professional staff members; Cheri Tillett, assistant chief clerk, full committee; Cissy Mittleman, professional staff member, full committee; Donald Goldberg, minority assistant to counsel; David McMillen and Matthew Pinkus, minority professional staff; and Elisabeth Campbell, minority staff assistant.

Mr. DAVIS [presiding]. A quorum being present, this hearing of the Subcommittee on Government Management, Information, and Technology will come to order.

I would note that the chairman of the subcommittee, Mr. Horn, is over on the floor of the House right now looking at—as the base closure comes to a vote, the Long Beach Naval Shipyard is in his district. It is of some interest to his congressional district, and he will join us as soon as he can.

Today we're going to focus on governmentwide collection, debt collection practices and examine ways to improve these collections. We have an interesting array of witnesses and I think I'm going to defer any further statement at this time and will enter a statement for the record.

Mr. Peterson, do you have any opening statement?

[The text of H.R. 2234 follows:]

I

104TH CONGRESS
1ST SESSION

H. R. 2234

To reduce delinquencies and to improve debt-collection activities Governmentwide, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

Mr. HORN (for himself, Mrs. MALONEY, Mrs. MORELLA, Mr. HUTCHINSON, Mr. FRANK of Massachusetts, Mr. JACOBS, Mr. FROST, Mr. KASICH, Mr. KLUG, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on the Judiciary, Ways and Means, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To reduce delinquencies and to improve debt-collection activities Governmentwide, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 101. SHORT TITLE.**

4 This Act may be cited as the "Debt Collection Im-
5 provement Act of 1995".

1 **SEC. 102. EFFECTIVE DATE.**

2 (a) Except as provided in subsection (b), the provi-
3 sions of this Act and the amendments made by this Act
4 shall become effective October 1, 1995.

5 (b) The amendments made by title III of this Act
6 shall become effective for levies issued after the date of
7 enactment of this Act.

8 **SEC. 103. TABLE OF CONTENTS.**

TITLE I—GENERAL DEBT COLLECTION INITIATIVES

SUBCHAPTER A—GENERAL OFFSET AUTHORITY

Sec. 201. Enhancement of administrative offset authority.
Sec. 202. House of Representatives as Legislative Agency.
Sec. 203. Exemption from computer matching requirements under the Privacy Act of 1974.
Sec. 204. Technical and conforming amendments.

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Sec. 401. Access to taxpayer identifying numbers.
Sec. 402. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.

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Sec. 502. Governmentwide cross-servicing.
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Sec. 601. Adjusting Federal civil monetary penalties for inflation.

SUBCHAPTER F—GAIN SHARING

Sec. 701. Debt collection improvement account.

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Sec. 801 Offset of tax refund payment by disbursing officials.
Sec. 802 Expanding tax refund offset authority.
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SUBCHAPTER H—DEFINITIONS, DUE PROCESS RIGHTS, AND SEVERABILITY

Sec. 901. Technical amendments to definitions.
Sec. 902. Severability.

SUBCHAPTER I—REPORTING

Sec. 1001. Monitoring and reporting.

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SUBCHAPTER A—PRIVATE ATTORNEYS

Sec. 1101. Expanded use of private attorneys.

SUBCHAPTER B—NONJUDICIAL FORECLOSURE

Sec. 1201. Nonjudicial foreclosure of mortgages.

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Sec. 1301. Provision for continuous levy.
Sec. 1302. Modification of levy exemption.
Sec. 1303. Confidentiality and disclosure of returns and return information.

TITLE I—GENERAL DEBT COLLECTION INITIATIVES

Subchapter A—General Offset Authority

SEC. 201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government, or of a unit of general local government.".

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

1 "(b) Before collecting a claim by administrative off-
2 set, the head of an executive, legislative, or judicial agency
3 must either—
4 "(1) adopt regulations on collecting by adminis-
5 trative offset promulgated by the Department of
6 Justice, the General Accounting Office and/or the
7 Department of the Treasury without change; or
8 "(2) prescribe independent regulations on col-
9 lecting by administrative offset consistent with the
10 regulations promulgated under paragraph (1).";
11 (2) by amending subsection (c)(2) to read as
12 follows:
13 "(2) when a statute explicitly prohibits using
14 administrative 'offset' or 'setoff' to collect the claim
15 or type of claim involved.";
16 (3) by redesignating subsection (c) as sub-
17 section (d); and
18 (4) by inserting after subsection (b) the follow-
19 ing new subsection:
20 "(c)(1)(A) Except as provided in subparagraph (B)
21 or (C), a disbursing official of the Department of the
22 Treasury, the Department of Defense, the United States
23 Postal Service, or any disbursing official of the United
24 States designated by the Secretary of the Treasury, is au-
25 thorized to offset the amount of a payment which a pay-

1 ment certifying agency has certified to the disbursing offi-
2 cial for disbursement by an amount equal to the amount
3 of a claim which a creditor agency has certified to the Sec-
4 retary of the Treasury pursuant to this subsection.

5 "(B) An agency that designates disbursing officials
6 pursuant to section 3321(c) of this title is not required
7 to certify claims arising out of its operations to the Sec-
8 retary of the Treasury before such agency's disbursing of-
9 ficials offset such claims.

10 "(C) Payments certified by the Department of Edu-
11 cation under a program administered by the Secretary of
12 Education under title IV of the Higher Education Act of
13 1965, as amended, shall not be subject to offset under this
14 subsection.

15 "(2) Neither the disbursing official nor the payment
16 certifying agency shall be liable—

17 "(A) for the amount of the offset on the basis
18 that the underlying obligation, represented by the
19 payment before the offset was taken, was not satis-
20 fied; or

21 "(B) for failure to provide timely notice under
22 paragraph (8).

23 "(3)(A) Notwithstanding any other provision of law
24 (including sections 207 and 1631(d)(1) of the Act of Au-
25 gust 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section

1 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and
2 section 14 of the Act of August 29, 1935 (45 U.S.C.
3 231m)), all payments due under the Social Security Act,
4 part B of the Black Lung Benefits Act, or under any law
5 administered by the Railroad Retirement Board, shall be
6 subject to offset under this section.

7 "(B) An amount of $10,000 which a debtor may re-
8 ceive under Federal benefit programs cited under subpara-
9 graph (A) within a 12-month period shall be exempt from
10 offset under this subsection. In applying the $10,000 ex-
11 emption, the disbursing official shall—

12 "(i) apply a prorated amount of the exemption
13 to each periodic benefit payment to be made to debt-
14 or during the applicable 12-month period; and

15 "(ii) consider all benefit payments made during
16 the applicable 12-month period which are exempt
17 from offset under this subsection as part of the
18 $10,000 exemption.

19 For purposes of the preceding sentence, the amount of a
20 periodic benefit payment shall be the amount after any
21 reduction or deduction required under the laws authoriz-
22 ing the program under which such payment is authorized
23 to be made (including any reduction or deduction to re-
24 cover any overpayment under such program).

1 "(C) The Secretary of the Treasury shall exempt
2 means-tested programs when notified by the head of the
3 respective agency. The Secretary may exempt other pay-
4 ments from offset under this subsection upon the written
5 request of the head of a payment certifying agency. A
6 written request for exemption of other payments must pro-
7 vide justification for the exemption under the standards
8 prescribed by the Secretary. Such standards shall give due
9 consideration to whether offset would tend to interfere
10 substantially with or defeat the purposes of the payment
11 certifying agency's program.

12 "(D) The provisions of sections 205(b)(1) and
13 1631(c)(1) of the Social Security Act shall not apply to
14 any offset executed pursuant to this section against bene-
15 fits authorized by either title II or title XVI of the Social
16 Security Act.

17 "(4) The Secretary of the Treasury is authorized to
18 charge a fee sufficient to cover the full cost of implement-
19 ing this subsection. The fee may be collected either by the
20 retention of a portion of amounts collected pursuant to
21 this subsection, or by billing the agency referring or trans-
22 ferring the claim. Fees charged to the agencies shall be
23 based only on actual offsets completed. Fees charged
24 under this subsection concerning delinquent claims may
25 be considered as costs pursuant to section 3717(e) of this

1 title. Fees charged under this subsection shall be deposited
2 into the 'Account' determined by the Secretary of the
3 Treasury in accordance with section 3711(g) of this title,
4 and shall be collected and accounted for in accordance
5 with the provisions of that section.

6 "(5) The Secretary of the Treasury may disclose to
7 a creditor agency the current address of any payee and
8 any data related to certifying and authorizing such pay-
9 ment in accordance with section 552a of title 5, United
10 States Code, even when the payment has been exempt
11 from offset. Where payments are made electronically, the
12 Secretary is authorized to obtain the current address of
13 the debtor/payee from the institution receiving the pay-
14 ment. Upon request by the Secretary, the institution re-
15 ceiving the payment shall report the current address of
16 the debtor/payee to the Secretary.

17 "(6) The Secretary of the Treasury is authorized to
18 prescribe such rules, regulations, and procedures as the
19 Secretary of the Treasury deems necessary to carry out
20 the purposes of this subsection. The Secretary shall con-
21 sult with the heads of affected agencies in the development
22 of such rules, regulations, and procedures.

23 "(7)(A) Any Federal agency that is owed by a named
24 person a past-due legally enforceable non-tax debt that is
25 over 180 days delinquent (other than any past-due sup-

1 port), including non-tax debt administered by a third
2 party acting as an agent for the Federal Government,
3 shall notify the Secretary of the Treasury of all such non-
4 tax debts for purposes of offset under this subsection.
5 "(B) An agency may delay notification under sub-
6 paragraph (A) with respect to a debt that is secured by
7 bond or other instruments in lieu of bond, or for which
8 there is another specific repayment source, in order to
9 allow sufficient time to either collect the debt through nor-
10 mal collection processes (including collection by internal
11 administrative offset) or render a final decision on any
12 protest filed against the claim.
13 "(8) The disbursing official conducting the offset
14 shall notify the payee in writing of—
15 "(A) the occurrence of an offset to satisfy a
16 past-due legally enforceable debt, including a de-
17 scription of the type and amount of the payment
18 otherwise payable to the debtor against which the
19 offset was executed;
20 "(B) the identity of the creditor agency request-
21 ing the offset; and
22 "(C) a contact point within the creditor agency
23 that will handle concerns regarding the offset.".
24 Where the payment to be offset is a periodic benefit pay-
25 ment, the disbursing official shall take reasonable steps,

1 as determined by the Secretary of the Treasury, to provide
2 the notice to the payee not later than the date on which
3 the payee is otherwise scheduled to receive the payment,
4 or as soon as practical thereafter, but no later than the
5 date of the offset. Notwithstanding the preceding sen-
6 tence, the failure of the debtor to receive such notice shall
7 not impair the legality of such offset.

8 "(9) A levy pursuant to the Internal Revenue Code
9 of 1986 shall take precedence over requests for offset re-
10 ceived from other agencies.".

11 (c) Section 3701(a) of title 31, United States Code,
12 is amended by adding at the end the following new para-
13 graph:

14 "(8) 'non-tax claim' means any claim from any
15 agency of the Federal Government other than a
16 claim by the Internal Revenue Service under the In-
17 ternal Revenue Code of 1986.".

18 **SEC. 202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE**
19 **AGENCY.**

20 (a) Section 3701(a) of title 31, United States Code,
21 is amended by adding the following new paragraphs after
22 paragraph (7):

23 "(8) For purposes of subchapters I and II of chapter
24 37 of title 31, United States Code (relating to claims of
25 or against United States Government), the United States

1 House of Representatives shall be considered to be a legis-
2 lative agency (as defined in section 3701(a)(4) of such
3 title), and the Clerk of the House of Representatives shall
4 be deemed to be the head of such legislative agency.
5 "(9) Regulations prescribed by the Clerk of the
6 House of Representatives pursuant to section 3716 of title
7 31, United States Code, shall not become effective until
8 they are approved by the Committee on Rules of the
9 House of Representatives.".

10 **SEC. 203. EXEMPTION FROM COMPUTER MATCHING RE-**
11 **QUIREMENTS UNDER THE PRIVACY ACT OF**
12 **1974.**

13 Section 552a(a) of title 5, United States Code, is
14 amended—
15 (1) in paragraph (2), by inserting "acting in an
16 individual, not a business capacity" after "resi-
17 dence";
18 (2) in paragraph (8)(B)—
19 (A) by striking "or" at the end of clause
20 (vi);
21 (B) by inserting "or" at the end of clause
22 (vii); and
23 (C) by adding after clause (vii) the follow-
24 ing new clause:

"(viii) matches for administrative offset or claims collection pursuant to subsection 3716(c) of title 31, section 5514 of this title, or any other payment intercept or offset program authorized by statute;".

SEC. 204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title, section 6331 of title 26, and" after "Except as provided in";

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A, or pursuant to levies executed under section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331)," after "voucher"; and

(3) in sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting instead "the head of an executive, judicial, or legislative agency".

(b) Subsection 6103(l)(10) of title 26, United States Code, is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the

1 Treasury in connection with such reduction" adding
2 after "6402"; and
3 (2) in subparagraph (B), by adding "and to of-
4 ficers and employees of the Department of the
5 Treasury in connection with such reduction" after
6 "agency".

7 **Subchapter B—Salary Offset Authority**

8 **SEC. 301. ENHANCEMENT OF SALARY OFFSET AUTHORITY.**

9 Section 5514 of title 5, United States Code, is
10 amended—
11 (1) in subsection (a)—
12 (A) by adding at the end of paragraph (1)
13 the following: "All Federal agencies to which
14 debts are owed and are delinquent in repay-
15 ment, shall participate in a computer match at
16 least annually of their delinquent debt records
17 with records of Federal employees to identify
18 those employees who are delinquent in repay-
19 ment of those debts. Matched Federal employee
20 records shall include, but shall not be limited
21 to, active Civil Service employees government-
22 wide, military active duty personnel, military re-
23 servists, United States Postal Service employ-
24 ees, and records of seasonal and temporary em-
25 ployees. The Secretary of the Treasury shall es-

1 tablish and maintain an interagency consortium
2 to implement centralized salary offset computer
3 matching, and promulgate regulations for this
4 program. Agencies that perform centralized sal-
5 ary offset computer matching services under
6 this subsection are authorized to charge a fee
7 sufficient to cover the full cost for such serv-
8 ices.";
9 (B) by redesignating paragraphs (3) and
10 (4) as paragraphs (4) and (5), respectively;
11 (C) by inserting after paragraph (2) the
12 following new paragraph:
13 "(3) The provisions of paragraph (2) shall not
14 apply to routine intra-agency adjustments of pay
15 that are attributable to clerical or administrative er-
16 rors or delays in processing pay documents that
17 have occurred within the four pay periods preceding
18 the adjustment and to any adjustment that amounts
19 to $50 or less, provided that at the time of such ad-
20 justment, or as soon thereafter as practical, the indi-
21 vidual is provided written notice of the nature and
22 the amount of the adjustment and a point of contact
23 for contesting such adjustment."; and
24 (D) by amending paragraph (5)(B) (as re-
25 designated) to read as follows:

"(B) For purposes of this section 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of government, and government corporations.";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) For purposes of this section, the Clerk of the House of Representatives shall be deemed to be the head of the agency. Regulations prescribed by the Clerk of the House of Representatives pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules of the House of Representatives.

"(4) For purposes of this section, the Secretary of the Senate shall be deemed to be the head of the agency. Regulations prescribed by the Secretary of the Senate pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules and Administration of the Senate."; and

1 (3) by adding after subsection (c) the following
2 new subsection:
3 "(d) A levy pursuant to the Internal Revenue Code
4 of 1986 shall take precedence over requests for offset re-
5 ceived from other agencies.".

6 Subchapter C—Taxpayer Identifying
7 Numbers

8 SEC. 401. ACCESS TO TAXPAYER IDENTIFYING NUMBERS;
9 BARRING DELINQUENT DEBTORS FROM
10 CREDIT ASSISTANCE.

11 Section 4 of the Debt Collection Act of 1982 (Public
12 Law 97–365, 96 Stat. 1749, 26 U.S.C. 6103 note) is
13 amended—
14 (1) in subsection (b), by striking "For purposes
15 of this section" and inserting instead "For purposes
16 of subsection (a)"; and
17 (2) by adding at the end thereof the following
18 new subsections:
19 "(c) FEDERAL AGENCIES.—Each Federal agency
20 shall require each person doing business with that agency
21 to furnish to that agency such person's taxpayer identify-
22 ing number.
23 "(1) For purposes of this subsection, a person
24 is considered to be 'doing business' with a Federal
25 agency if the person is—

1 "(A) a lender or servicer in a Federal
2 guaranteed or insured loan program;
3 "(B) an applicant for, or recipient of—
4 "(i) a Federal guaranteed, insured, or
5 direct loan; or
6 "(ii) a Federal license, permit, right-
7 of-way, grant, benefit payment or insur-
8 ance;
9 "(C) a contractor of the agency;
10 "(D) assessed a fine, fee, royalty or pen-
11 alty by that agency;
12 "(E) in a relationship with a Federal agen-
13 cy that may give rise to a receivable due to that
14 agency, such as a partner of a borrower in or
15 a guarantor of a Federal direct or insured loan;
16 and
17 "(F) is a joint holder of any account to
18 which Federal benefit payments are transferred
19 electronically.
20 "(2) Each agency shall disclose to the person
21 required to furnish a taxpayer identifying number
22 under this subsection its intent to use such number
23 for purposes of collecting and reporting on any de-
24 linquent amounts arising out of such persons's rela-
25 tionship with the government.

"(3) For purposes of this subsection:

"(A) The term 'taxpayer identifying number' has the meaning given such term in section 6109 of title 26, United States Code.

"(B) The term 'person' means an individual, sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association, but with the exception of debtors owing claims resulting from petroleum pricing violations does not include debtors under third party claims of the United States.

"(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Notwithstanding section 552a of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with the Social Security Administration records to verify name, name control, Social Security number, address, and date of birth.".

SEC. 402. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) Title 31, United States Code, is amended by adding after section 3720A the following new section:

1 **"§ 3720B. Barring delinquent Federal debtors from**
2 **obtaining Federal loans or loan guaran-**
3 **tees**

4 "(a) Unless waived by the head of the agency, no per-
5 son may obtain any Federal financial assistance in the
6 form of a loan or a loan guarantee if such person has an
7 outstanding Federal non-tax debt which is in a delinquent
8 status, as determined under the standards prescribed by
9 the Secretary of the Treasury, with a Federal agency. Any
10 such person may obtain additional Federal financial as-
11 sistance only after such delinquency is resolved, pursuant
12 to these standards. This section shall not apply to loans
13 or loan guarantees where a statute specifically permits ex-
14 tension of Federal financial assistance to borrowers in de-
15 linquent status.

16 "(b) The head of the agency may delegate the waiver
17 authority described in subsection (a) to the Chief Finan-
18 cial Officer of the agency. The waiver authority may be
19 redelegated only to the Deputy Chief Financial Officer of
20 the agency.

21 "(c) For purposes of this section, 'person' means an
22 individual; or sole proprietorship, partnership, corpora-
23 tion, non-profit organization, or any other form of busi-
24 ness association.".

25 (b) The table of sections for subchapter II of chapter
26 37 of title 31, United States Code, is amended by inserting

1 after the item relating to section 3720A the following new
2 item:

"3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.".

3 Subchapter D—Expanding Collection Au-
4 thorities and Governmentwide Cross-
5 Servicing

6 SEC. 501. EXPANDING COLLECTION AUTHORITIES UNDER
7 THE DEBT COLLECTION ACT OF 1982.

8 (a) Subsection 8(e) of the Debt Collection Act of
9 1982 (Public Law 97–365, 31 U.S.C. 3701(d) and 5
10 U.S.C. 5514 note) is repealed.

11 (b) Section 5 of the Social Security Domestic Em-
12 ployment Reform Act of 1994 (Public Law 103–387) is
13 repealed.

14 (c) Section 631 of the Tariff Act of 1930 (19 U.S.C.
15 1631), is repealed.

16 (d) Title 31, United States Code, is amended—

17 (1) in section 3701—

18 (A) by amending subsection (a)(4) to read
19 as follows:

20 "(4) 'executive, judicial or legislative agency'
21 means a department, military department, agency,
22 court, court administrative office, or instrumentality
23 in the executive, judicial or legislative branches of

1 government, including government corporations."; 2 and

3 (B) by adding at the end the following new 4 subsection:

5 "(d) Sections 3711(f) and 3716–3719 of this title do 6 not apply to a claim or debt under, or to an amount pay- 7 able under, the Internal Revenue Code of 1986.";

8 (2) by amending section 3711(f) to read as fol- 9 lows:

10 "(f)(1) When trying to collect a claim of the Govern- 11 ment, the head of an executive or legislative agency may 12 disclose to a consumer reporting agency information from 13 a system of records that an individual is responsible for 14 a claim if notice required by section 552a(e)(4) of title 15 5, United States Code, indicates that information in the 16 system may be disclosed to a consumer reporting agency.

17 "(2) The information disclosed to a consumer report- 18 ing agency shall be limited to—

19 "(A) information necessary to establish the 20 identity of the individual, including name, address 21 and taxpayer identifying number;

22 "(B) the amount, status, and history of the 23 claim; and

24 "(C) the agency or program under which the 25 claim arose."; and

(3) in section 3718—

(A) in subsection (a), by striking the first sentence and inserting instead the following: "Under conditions the head of an executive, legislative or judicial agency considers appropriate, the head of an agency may make a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. No head of an agency may enter into a contract to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets."; and

(B) in subsection (d), by inserting ", or to locate or recover assets of," after "owed".

SEC. 502. GOVERNMENTWIDE CROSS-SERVICING.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) At the discretion of the head of an executive, judicial or legislative agency, referral of a non-tax claim may be made to any executive department or agency operating a debt collection center for servicing and collection

1 in accordance with an agreement entered into under para-
2 graph (2). Referral or transfer of a claim may also be
3 made to the Secretary of the Treasury for servicing, collec-
4 tion, compromise, and/or suspension or termination of col-
5 lection action. Non-tax claims referred or transferred
6 under this section shall be serviced, collected, com-
7 promised, and/or collection action suspended or termi-
8 nated in accordance with existing statutory requirements
9 and authorities.

10 "(2) Executive departments and agencies operating
11 debt collection centers are authorized to enter into agree-
12 ments with the heads of executive, judicial, or legislative
13 agencies to service and/or collect nontax claims referred
14 or transferred under this subsection. The heads of other
15 executive departments and agencies are authorized to
16 enter into agreements with the Secretary of the Treasury
17 for servicing or collection of referred or transferred non-
18 tax claims or other Federal agencies operating debt collec-
19 tion centers to obtain debt collection services from those
20 agencies.

21 "(3) Any agency to which non-tax claims are referred
22 or transferred under this subsection is authorized to
23 charge a fee sufficient to cover the full cost of implement-
24 ing this subsection. The agency transferring or referring
25 the non-tax claim shall be charged the fee, and the agency

1 charging the fee shall collect such fee by retaining the
2 amount of the fee from amounts collected pursuant to this
3 subsection. Agencies may agree to pay through a different
4 method, or to fund the activity from another account or
5 from revenue received from section 701. Amounts charged
6 under this subsection concerning delinquent claims may
7 be considered as costs pursuant to section 3717(e) of this
8 title.

9 "(4) Notwithstanding any other law concerning the
10 depositing and collection of Federal payments, including
11 section 3302(b) of this title, agencies collecting fees may
12 retain the fees from amounts collected. Any fee charged
13 pursuant to this subsection shall be deposited into an ac-
14 count to be determined by the executive department or
15 agency operating the debt collection center charging the
16 fee (hereafter referred to in this section as the 'Account').
17 Amounts deposited in the Account shall be available until
18 expended to cover costs associated with the implementa-
19 tion and operation of Governmentwide debt collection ac-
20 tivities. Costs properly chargeable to the Account include,
21 but are not limited to—

22 "(A) the costs of computer hardware and soft-
23 ware, word processing and telecommunications
24 equipment, other equipment, supplies, and furniture;

25 "(B) personnel training and travel costs;

1 "(C) other personnel and administrative costs;
2 "(D) the costs of any contract for identification,
3 billing, or collection services; and
4 "(E) reasonable costs incurred by the Secretary
5 of the Treasury, including but not limited to, serv-
6 ices and utilities provided by the Secretary, and ad-
7 ministration of the Account.
8 "(5) Not later than January 1 of each year, there
9 shall be deposited into the Treasury as miscellaneous re-
10 ceipts, an amount equal to the amount of unobligated bal-
11 ances remaining in the Account at the close of business
12 on September 30 of the preceding year minus any part
13 of such balance that the executive department or agency
14 operating the debt collection center determines is nec-
15 essary to cover or defray the costs under this subsection
16 for the fiscal year in which the deposit is made.
17 "(6)(A) The head of an executive, legislative, or judi-
18 cial agency shall transfer to the Secretary of the Treasury
19 all non-tax claims over 180 days delinquent for additional
20 collection action and/or closeout.
21 "(B) Subparagraph (A) shall not apply—
22 "(i) to claims that—
23 "(I) are in litigation or foreclosure;

1 "(II) are eligible for disposition under the
2 loan sales programs of a Federal department or
3 agency;
4 "(III) have been referred to a private col-
5 lection contractor for collection;
6 "(IV) are being collected under internal
7 offset procedures;
8 "(V) have been referred to the Department
9 of the Treasury, the Department of Defense,
10 the United States Postal Service, or disbursing
11 official of the United States designated by Sec-
12 retary of the Treasury for administrative offset;
13 "(VI) have been retained by an executive
14 agency in a debt collection center; or
15 "(VII) have been referred to another agen-
16 cy for collection;
17 "(ii) to claims which may be collected after the
18 180-day period in accordance with specific statutory
19 authority or procedural guidelines, provided that the
20 head of an executive, legislative, or judicial agency
21 provides notice of such claims to the Secretary of the
22 Treasury; and
23 "(iii) to other specific class of claims as deter-
24 mined by the Secretary of the Treasury at the re-
25 quest of the head of an agency or otherwise.

1 "(C) The head of an executive, legislative, or judicial
2 agency shall transfer to the Secretary of the Treasury all
3 non-tax claims on which the agency has ceased collection
4 activity. The Secretary may exempt specific classes of
5 claims from this requirement, at the request of the head
6 of an agency, or otherwise. The Secretary shall review
7 transferred claims to determine if additional collection ac-
8 tion is warranted. The Secretary may, in accordance with
9 section 6050P of title 26, United States Code, report to
10 the Internal Revenue Service on behalf of the creditor
11 agency any claims that have been discharged within the
12 meaning of such section.
13 "(7) At the end of each calendar year, the head of
14 an executive, legislative, or judicial agency which, regard-
15 ing a claim owed to the agency, is required to report a
16 discharge of indebtedness as income under the 6050P of
17 title 26, United States Code, shall either complete the ap-
18 propriate form 1099 or submit to the Secretary of the
19 Treasury such information as is necessary for the Sec-
20 retary of the Treasury to complete the appropriate form
21 1099. The Secretary of the Treasury shall incorporate this
22 information into the appropriate form and submit the in-
23 formation to the taxpayer and Internal Revenue Service.
24 "(8) To carry out the purposes of this subsection, the
25 Secretary of the Treasury is authorized—

1 "(A) to prescribe such rules, regulations, and
2 procedures as the Secretary deems necessary; and
3 "(B) to designate debt collection centers oper-
4 ated by other Federal agencies.".

5 **SEC. 503. COMPROMISE OF CLAIMS.**

6 Section 11 of the Administrative Dispute Resolution
7 Act (Public Law 101–552, 104 Stat. 2736, 5 U.S.C. 581
8 note) is amended by adding at the end thereof the follow-
9 ing sentence: "This section shall not apply to section 8(b)
10 of this Act.".

11 Subchapter E—Federal Civil Monetary
12 Penalties

13 **SEC. 601. ADJUSTING FEDERAL CIVIL MONETARY PEN-**
14 **ALTIES FOR INFLATION.**

15 (a) The Federal Civil Penalties Inflation Adjustment
16 Act of 1990 (Public Law 101–410, 104 Stat. 890; 28
17 U.S.C. 2461 note) is amended—
18 (1) by amending section 4 to read as follows:
19 "SEC. 4. The head of each agency shall, not later
20 than 180 days after the date of enactment of the Debt
21 Collection Improvement Act of 1995, and at least once
22 every 4 years thereafter, by regulation adjust each civil
23 monetary penalty provided by law within the jurisdiction
24 of the Federal agency, except for any penalty under title
25 26, United States Code, by the inflation adjustment de-

1 scribed under section 5 of this Act and publish each such
2 regulation in the Federal Register.";
3 (2) in section 5(a), by striking "The adjustment
4 described under paragraphs (4) and (5)(A) of sec-
5 tion 4" and inserting "The inflation adjustment";
6 and
7 (3) by adding at the end the following new sec-
8 tion:
9 "SEC. 7. Any increase to a civil monetary penalty re-
10 sulting from this Act shall apply only to violations which
11 occur after the date any such increase takes effect.".
12 (b) The initial adjustment of a civil monetary penalty
13 made pursuant to section 4 of Federal Civil Penalties In-
14 flation Adjustment Act of 1990 (as amended by subsection
15 (a)) may not exceed 10 percent of such penalty.

16 **Subchapter F—Gain Sharing**

17 **SEC. 701. DEBT COLLECTION IMPROVEMENT ACCOUNT.**

18 (a) Title 31, United States Code, is amended by in-
19 serting after section 3720B the following new section:

20 **"§ 3720C. Debt Collection Improvement Account**

21 "(a)(1) There is hereby established in the Treasury
22 a special fund to be known as the 'Debt Collection Im-
23 provement Account' (hereinafter referred to as the 'Ac-
24 count').

1 "(2) The Account shall be maintained and managed
2 by the Secretary of the Treasury, who shall ensure that
3 programs are credited with the amounts described in sub-
4 section (b) and with allocations described in subsection
5 (c).

6 "(b)(1) Not later than 30 days after the end of a
7 fiscal year, an agency other than the Department of Jus-
8 tice is authorized to transfer to the Account a dividend
9 not to exceed one percent of the debt collection improve-
10 ment amount as described in paragraph (3).

11 "(2) Agency transfers to the Account may include
12 collections from—

13 "(A) salary, administrative and tax referral off-
14 sets;

15 "(B) automated levy authority;

16 "(C) the Department of Justice; and

17 "(D) private collection agencies.

18 "(3) For purposes of this section, the term 'debt col-
19 lection improvement amount' means the amount by which
20 the collection of delinquent debt with respect to a particu-
21 lar program during a fiscal year exceeds the delinquent
22 debt baseline for such program for such fiscal year. The
23 Office of Management and Budget shall determine the
24 baseline from which increased collections are measured
25 over the prior fiscal year, taking into account the rec-

1 ommendations made by the Secretary of the Treasury in
2 consultation with creditor agencies.
3 "(c)(1) The Secretary of the Treasury is authorized
4 to make payments from the Account solely to reimburse
5 agencies for qualified expenses. For agencies with fran-
6 chise funds, payments may be credited to subaccounts des-
7 ignated for debt collection.
8 "(2) For purposes of this paragraph, the term 'quali-
9 fied expenses' means expenditures for the improvement of
10 tax administration and agency debt collection and debt re-
11 covery activities including, but not limited to, account
12 servicing (including cross-servicing under section 502 of
13 the Debt Collection Improvement Act of 1955), automatic
14 data processing equipment acquisitions, delinquent debt
15 collection, measures to minimize delinquent debt, asset
16 disposition, and training of personnel involved in credit
17 and debt management.
18 "(3) Payments made to agencies pursuant to para-
19 graph (1) shall be in proportion to their contributions to
20 the Account.
21 "(4)(A) Amounts in the Account shall be available
22 to the Secretary of the Treasury to the extent and in the
23 amounts provided in advance in appropriation Acts, for
24 purposes of this section. Such amounts are authorized to
25 be appropriated without fiscal year limitation.

1 "(B) As soon as practicable after the end of third
2 fiscal year after which appropriations are made pursuant
3 to this section, and every 3 years thereafter, any unappro-
4 priated balance in the account as determined by the Sec-
5 retary of the Treasury in consultation with agencies, shall
6 be transferred to the Treasury general fund as miscellane-
7 ous receipts.

8 "(d) For direct loan and loan guarantee programs
9 subject to title V of the Congressional Budget Act of 1974,
10 amounts credited in accordance with subsection (c) shall
11 be considered administrative costs and shall not be in-
12 cluded in the estimated payments to the Government for
13 the purpose of calculating the cost of such programs.

14 "(e) The Secretary of the Treasury shall prescribe
15 such rules, regulations, and procedures as the Secretary
16 deems necessary or appropriate to carry out the purposes
17 of this section.".

18 (b) The table of sections for subchapter II of chapter
19 37 of title 31, United States Code, is amended by inserting
20 after the item relating to section 3720B the following new
21 item:

"3720C. Debt Collection Improvement Account.".

Subchapter G—Tax Refund Offset Authority

SEC. 801. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The term 'Secretary of the Treasury' may include the disbursing official of the Department of the Treasury.

"(2) The disbursing official of the Department of the Treasury—

"(A) shall notify a taxpayer in writing of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset;

"(B) shall notify the Internal Revenue Service on a weekly basis of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the amount of such offset; and

"(iii) any other information required by regulations; and

1 "(C) shall match payment records with requests
2 for offset by using a name control, taxpayer identify-
3 ing number (as defined in 26 U.S.C. 6109), and any
4 other necessary identifiers.".

5 **SEC. 802. EXPANDING TAX REFUND OFFSET AUTHORITY.**

6 (a) Section 3720A of title 31, United States Code,
7 is amended by adding after subsection (h) the following
8 new subsection:

9 "(i) An agency subject to section 9 of the Act of May
10 18, 1933 (16 U.S.C. 831h) may implement this section
11 at its discretion.".

12 (b) Section 6402(f) of title 26, United States Code,
13 is amended to read as follows:

14 "(f) FEDERAL AGENCY.—For purposes of this sec-
15 tion, the term 'Federal agency' means a department, agen-
16 cy, or instrumentality of the United States, and includes
17 a government corporation (as such term is defined in sec-
18 tion 103 of title 5, United States Code).".

19 **SEC. 803. EXPANDING AUTHORITY TO COLLECT PAST-DUE**
20 **SUPPORT.**

21 (a) Section 3720A(a) of title 31, United States Code,
22 is amended to read as follows:

23 "(a) Any Federal agency that is owed by a named
24 person a past-due, legally enforceable debt (including past-
25 due support and debt administered by a third party acting

1 as an agent for the Federal Government) shall, in accord-
2 ance with regulations issued pursuant to subsections (b)
3 and (d), notify the Secretary of the Treasury at least once
4 a year of the amount of such debt.".

5 (b) Section 664(a) of the Act of August 13, 1935,
6 as amended (42 U.S.C. 664(a)) is amended—

7 (1) in paragraph (1), by adding at the end
8 thereof the following: "This subsection may be im-
9 plemented by the Secretary of the Treasury in ac-
10 cordance with section 3720A of title 31, United
11 States Code."; and

12 (2) in paragraph (2)(A), by adding at the end
13 thereof the following: "This subsection may be im-
14 plemented by the Secretary of the Treasury in ac-
15 cordance with section 3720A of title 31, United
16 States Code.".

17 Subchapter H—Definitions, Due Process
18 Rights, and Severability

19 **SEC. 901. TECHNICAL AMENDMENTS TO DEFINITIONS.**

20 Section 3701 of title 31, United States Code, is
21 amended—

22 (1) by amending subsection (a)(1) to read as
23 follows:

24 "(1) 'administrative offset' means withholding
25 money payable by the United States (including

1 money payable by the United States on behalf of a
2 State government) to, or held by the United States
3 for, a person to satisfy a claim.";
4 (2) by amending subsection (a)(4) to read as
5 follows:
6 "(4) 'executive, judicial, or legislative agency'
7 means a department, agency, court, court adminis-
8 trative office, or instrumentality in the executive, ju-
9 dicial, or legislative branches of government, includ-
10 ing government corporations.";
11 (3) by amending subsection (b) to read as fol-
12 lows:
13 "(b)(1) The term 'claim' or 'debt' means any amount
14 of money or property that has been determined by an ap-
15 propriate official of the Federal Government to be owed
16 to the United States by a person, organization, or entity
17 other than another Federal agency. A claim includes, with-
18 out limitation, money owed on account of loans insured
19 or guaranteed by the Government, non-appropriated
20 funds, over-payments, any amount the United States is
21 authorized by statute to collect for the benefit of any per-
22 son, and other amounts of money or property due the Gov-
23 ernment.
24 "(2) For purposes of section 3716 of this title, the
25 term 'claim' also includes an amount of money or property

1 owed by a person to a State, the District of Columbia,
2 American Samoa, the United States Virgin Islands, the
3 Commonwealth of the Northern Mariana Islands, or the
4 Commonwealth of Puerto Rico.";

5 (4) by adding after subsection (d) the following
6 new subsection:

7 "(e) In section 3716 of this title—

8 "(1) 'creditor agency' means any entity owed a
9 claim that seeks to collect that claim through admin-
10 istrative offset; and

11 "(2) 'payment certifying agency' means any
12 Federal department, agency, or instrumentality and
13 government corporation, that has transmitted a
14 voucher to a disbursing official for disbursement.".

15 **SEC. 902. SEVERABILITY.**

16 If any provision of this title, or the amendments made
17 by this title, or the application of any provision to any
18 entity, person, or circumstance is for any reason adjudged
19 by a court of competent jurisdiction to be invalid, the re-
20 mainder of this title, and the amendments made by this
21 title, or its application shall not be affected.

22 **Subchapter I—Reporting**

23 **SEC. 1001. MONITORING AND REPORTING.**

24 (a) The Secretary of the Treasury, in consultation
25 with concerned Federal agencies, is authorized to establish

1 guidelines, including information on outstanding debt, to
2 assist agencies in the performance and monitoring of debt
3 collection activities.

4 (b) Not later than three years after the date of enact-
5 ment of this Act, the Secretary of the Treasury shall re-
6 port to the Congress on collection services provided by
7 Federal agencies or entities collecting debt on behalf of
8 other Federal agencies under the authorities contained in
9 section 3711(g) of title 31, United States Code, as added
10 by section 502 of this Act.

11 (c) Section 3719 of title 31, United States Code, is
12 amended—

13 (1) in subsection (a)—

14 (A) by amending the first sentence to read
15 as follows: "In consultation with the Comptrol-
16 ler General, the Secretary of the Treasury shall
17 prescribe regulations requiring the head of each
18 agency with outstanding non-tax claims to pre-
19 pare and submit to the Secretary at least once
20 a year a report summarizing the status of loans
21 and accounts receivable managed by the head of
22 the agency."; and

23 (B) in paragraph (3), by striking "Direc-
24 tor" and inserting "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting "Secretary".

(d) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to consolidate all reports concerning debt collection into one annual report.

TITLE II—JUSTICE DEBT MANAGEMENT

Subchapter A—Private Attorneys

SEC. 1101. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) Sections 3 and 5 of the Federal Debt Recovery Act (Public Law 99–578, 100 Stat. 3305) are hereby repealed.

Subchapter B—Nonjudicial Foreclosure

SEC. 1201. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28 of the United States Code is amended by adding at the end thereof the following:

"Subchapter E—Nonjudicial Foreclosure

"3401. Definitions.
"3402. Rules of construction.
"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct of sale; postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.

"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

1 **"§ 3401. Definitions**

2 "As used in this subchapter—

3 "(1) 'agency' means—

4 "(A) an executive department as defined in
5 section 101 of title 5, United States Code;

6 "(B) an independent establishment as de-
7 fined in section 104 of title 5, United States
8 Code (except that it shall not include the Gen-
9 eral Accounting Office);

10 "(C) a military department as defined in
11 section 102 of title 5, United States Code; and

12 "(D) a wholly owned government corpora-
13 tion as defined in section 9101(3) of title 31,
14 United States Code.

15 "(2) 'agency head' means the head and any as-
16 sistant head of an agency, and may upon the des-
17 ignation by the head of an agency include the chief
18 official of any principal division of an agency or any
19 other employee of an agency.

20 "(3) 'bona fide purchaser' means a purchaser
21 for value in good faith and without notice of any ad-
22 verse claim who acquires the seller's interest free of
23 any adverse claim.

1 "(4) 'debt instrument' means a note, mortgage
2 bond, guaranty or other instrument creating a debt
3 or other obligation, including any instrument incor-
4 porated by reference therein and any instrument or
5 agreement amending or modifying a debt instru-
6 ment.

7 "(5) 'file' or 'filing' means docketing, indexing,
8 recording, or registering, or any other requirement
9 for perfecting a mortgage or a judgment.

10 "(6) 'foreclosure trustee' means an individual,
11 partnership, association, or corporation, or any em-
12 ployee thereof, including a successor, appointed by
13 the agency head to conduct a foreclosure sale pursu-
14 ant to this subchapter.

15 "(7) 'mortgage' means a deed of trust, deed to
16 secure debt, security agreement, or any other form
17 of instrument under which any interest in real prop-
18 erty, including leaseholds, life estates, reversionary
19 interests, and any other estates under applicable law
20 is conveyed in trust, mortgaged, encumbered,
21 pledged or otherwise rendered subject to a lien, for
22 the purpose of securing the payment of money or the
23 performance of any other obligation.

24 "(8) 'of record' means an interest recorded pur-
25 suant to Federal or State statutes that provide for

1 official recording of deeds, mortgages and judg-
2 ments, and that establish the effect of such records
3 as notice to creditors, purchasers, and other inter-
4 ested persons.

5 "(9) 'owner' means any person who has an
6 ownership interest in property and includes heirs,
7 devisees, executors, administrators, and other per-
8 sonal representatives, and trustees of testamentary
9 trusts if the owner of record is deceased.

10 "(10) 'sale' means a sale conducted pursuant to
11 this subchapter, unless the context requires other-
12 wise.

13 "(11) 'security property' means real property,
14 or any interest in real property including leaseholds,
15 life estates, reversionary interests, and any other es-
16 tates under applicable State law that secure a mort-
17 gage.

18 **"§ 3402. Rules of construction**

19 "(a) IN GENERAL.—If an agency head elects to pro-
20 ceed under this subchapter, this subchapter shall apply
21 and the provisions of this subchapter shall govern in the
22 event of a conflict with any other provision of Federal law
23 or State law.

24 "(b) LIMITATION.—This subchapter shall not be con-
25 strued to supersede or modify the operation of—

1 "(1) the lease-back/buy-back provisions under
2 section 1985 of title 7, United States Code, or regu-
3 lations promulgated thereunder; or
4 "(2) The Multifamily Mortgage Foreclosure Act
5 of 1981 (chapter 38 of title 12, United States Code).
6 "(c) EFFECT ON OTHER LAWS.—This subchapter
7 shall not be construed to curtail or limit the rights of the
8 United States or any of its agencies—
9 "(1) to foreclose a mortgage under any other
10 provision of Federal law or State law; or
11 "(2) to enforce any right under Federal law or
12 State law in lieu of or in addition to foreclosure, in-
13 cluding any right to obtain a monetary judgment.
14 "(d) APPLICATION TO MORTGAGES.—The provisions
15 of this subchapter may be used to foreclose any mortgage,
16 whether executed prior or subsequent to the effective date
17 of this subchapter.
18 **"§ 3403. Election of procedure**
19 "(a) SECURITY PROPERTY SUBJECT TO FORE-
20 CLOSURE.—An agency head may foreclose a mortgage
21 upon the breach of a covenant or condition in a debt in-
22 strument or mortgage for which acceleration or foreclosure
23 is authorized. An agency head may not institute fore-
24 closure proceedings on the mortgage under any other pro-
25 vision of law, or refer such mortgage for litigation, during

1 the pendency of foreclosure proceedings pursuant to this
2 subchapter.
3 "(b) EFFECT OF CANCELLATION OF SALE.—If a
4 foreclosure sale is canceled pursuant to section 3407, the
5 agency head may thereafter foreclose on the security prop-
6 erty in any manner authorized by law.
7 **"§ 3404. Designation of foreclosure trustee**
8 "(a) IN GENERAL.—An agency head shall designate
9 a foreclosure trustee who shall supersede any trustee des-
10 ignated in the mortgage. A foreclosure trustee designated
11 under this section shall have a nonjudicial power of sale
12 pursuant to this subchapter.
13 "(b) DESIGNATION OF FORECLOSURE TRUSTEE.—
14 "(1) An agency head may designate as fore-
15 closure trustee—
16 "(A) an officer or employee of the agency;
17 "(B) an individual who is a resident of the
18 State in which the security property is located;
19 or
20 "(C) a partnership, association, or corpora-
21 tion, provided such entity is authorized to
22 transact business under the laws of the State in
23 which the security property is located.

1 "(2) The agency head is authorized to enter
2 into personal services and other contracts not incon-
3 sistent with this subchapter.
4 "(c) METHOD OF DESIGNATION.—An agency head
5 shall designate the foreclosure trustee in writing. The fore-
6 closure trustee may be designated by name, title, or posi-
7 tion. An agency head may designate one or more fore-
8 closure trustees for the purpose of proceeding with mul-
9 tiple foreclosures or a class of foreclosures.
10 "(d) AVAILABILITY OF DESIGNATION.—An agency
11 head may designate such foreclosure trustees as the agen-
12 cy head deems necessary to carry out the purposes of this
13 subchapter.
14 "(e) MULTIPLE FORECLOSURE TRUSTEES AUTHOR-
15 IZED.—An agency head may designate multiple fore-
16 closure trustees for different tracts of a secured property.
17 "(f) REMOVAL OF FORECLOSURE TRUSTEES; SUC-
18 CESSOR FORECLOSURE TRUSTEES.—An agency head
19 may, with or without cause or notice, remove a foreclosure
20 trustee and designate a successor trustee as provided in
21 this section. The foreclosure sale shall continue without
22 prejudice notwithstanding the removal of the foreclosure
23 trustee and designation of a successor foreclosure trustee.
24 Nothing in this section shall be construed to prohibit a

1 successor foreclosure trustee from postponing the fore-
2 closure sale in accordance with this subchapter.

3 **"§ 3405. Notice of foreclosure sale; statute of limita-**
4 **tions**

5 "(a) IN GENERAL.—

6 "(1) Not earlier than 21 days nor later than
7 ten years after acceleration of a debt instrument or
8 demand on a guaranty, the foreclosure trustee shall
9 serve a notice of foreclosure sale in accordance with
10 this subchapter.

11 "(2) For purposes of computing the time period
12 under paragraph (1), there shall be excluded all pe-
13 riods during which there is in effect—

14 "(A) a judicially imposed stay of fore-
15 closure; or

16 "(B) a stay imposed by section 362 of title
17 11, United States Code.

18 "(3) In the event of partial payment or written
19 acknowledgement of the debt after acceleration of
20 the debt instrument, the right to forecloseure shall
21 be deemed to accrue again at the time of each such
22 payment or acknowledgement.

23 "(b) NOTICE OF FORECLOSURE SALE.—The notice
24 of foreclosure sale shall include the following:

1 "(1) the name, title, and business address of
2 the foreclosure trustee as of the date of the notice;
3 "(2) the names of the original parties to the
4 debt instrument and the mortgage, and any assign-
5 ees of the mortgagor of record;
6 "(3) the street address or location of the secu-
7 rity property, and a generally accepted designation
8 used to describe the security property, or so much
9 thereof as is to be offered for sale, sufficient to iden-
10 tify the property to be sold;
11 "(4) the date of the mortgage, the office in
12 which the mortgage is filed, and the location of the
13 filing of the mortgage;
14 "(5) the default or defaults upon which fore-
15 closure is based, and the date of the acceleration of
16 the debt instrument;
17 "(6) the date, time, and place of the foreclosure
18 sale;
19 "(7) a statement that the foreclosure is being
20 conducted in accordance with this subchapter;
21 "(8) the types of costs, if any, to be paid by the
22 purchaser upon transfer of title; and
23 "(9) the terms and conditions of sale, including
24 the method and time of payment of the foreclosure
25 purchase price.

1 **"§ 3406. Service of notice of foreclosure sale**

2 "(a) RECORD NOTICE.—At least 21 days prior to the
3 date of the foreclosure sale, the notice of foreclosure sale
4 required by section 3405 shall be filed in the manner au-
5 thorized for filing a notice of an action concerning real
6 property according to the law of the State where the secu-
7 rity property is located or, if none, in the manner author-
8 ized by section 3201 of this chapter.

9 "(b) NOTICE BY MAIL.—

10 "(1) At least 21 days prior to the date of the
11 foreclosure sale, the notice set forth in section 3405
12 shall be sent by registered or certified mail, return
13 receipt requested—

14 "(A) to the current owner of record of the
15 security property as the record appears on the
16 date that the notice of foreclosure sale is re-
17 corded pursuant to subsection (a);

18 "(B) to all debtors, including the mortga-
19 gor, assignees of the mortgagor and guarantors
20 of the debt instrument;

21 "(C) to all persons having liens, interests
22 or encumbrances of record upon the security
23 property, as the record appears on the date that
24 the notice of foreclosure sale is recorded pursu-
25 ant to subsection (a); and

1 "(D) to any occupants of the security
2 property. If the names of the occupants of the
3 security property are not known to the agency,
4 or the security property has more than one
5 dwelling unit, the notice shall be posted at the
6 security property.
7 "(2) The notice shall be sent to the debtor at
8 the address, if any, set forth in the debt instrument
9 or mortgage as the place to which notice is to be
10 sent, and if different, to the debtor's last known ad-
11 dress as shown in the mortgage record of the agen-
12 cy. The notice shall be sent to any person other than
13 the debtor to that person's address of record or, if
14 there is no address of record, to any address at
15 which the agency in good faith believes the notice is
16 likely to come to that person's attention.
17 "(3) Notice by mail pursuant to this subsection
18 shall be effective upon mailing.
19 "(c) NOTICE BY PUBLICATION.—The notice of the
20 foreclosure sale shall be published at least once a week
21 for each of three successive weeks prior to the sale in at
22 least one newspaper of general circulation in any county
23 or counties in which the security property is located. If
24 there is no newspaper published at least weekly that has
25 a general circulation in at least one county in which the

1 security property is located, copies of the notice of fore-
2 closure sale shall instead be posted at least 21 days prior
3 to the sale at the courthouse of any county or counties
4 in which the property is located and the place where the
5 sale is to be held.

6 **"§ 3407. Cancellation of foreclosure sale**

7 "(a) IN GENERAL.—At any time prior to the fore-
8 closure sale, the foreclosure trustee shall cancel the sale—

9 "(1) if the debtor or the holder of any subordi-
10 nate interest in the security property tenders the
11 performance due under the debt instrument and
12 mortgage, including any amounts due because of the
13 exercise of the right to accelerate, and the expenses
14 of proceeding to foreclosure incurred to the time of
15 tender; or

16 "(2) if the security property is a dwelling of
17 four units or fewer, and the debtor:

18 "(A) pays or tenders all sums which would
19 have been due at the time of tender in the ab-
20 sence of any acceleration;

21 "(B) performs any other obligation which
22 would have been required in the absence of any
23 acceleration; and

1 "(C) pays or tenders all costs of fore-
2 closure incurred for which payment from the
3 proceeds of the sale would be allowed; or
4 "(3) for any reason approved by the agency
5 head.
6 "(b) LIMITATION.—The debtor may not, without the
7 approval of the agency head, cure the default under sub-
8 section (a)(2) if, within the preceding 12 months, the debt-
9 or has cured a default after being served with a notice
10 of foreclosure sale pursuant to this subchapter.
11 "(c) NOTICE OF CANCELLATION.—The foreclosure
12 trustee shall file a notice of the cancellation in the same
13 place and manner provided for the filing of the notice of
14 foreclosure sale under section 3406(a).
15 **"§ 3408. Stay**
16 "If, prior to the time of sale, foreclosure proceedings
17 under this subchapter are stayed in any manner, including
18 the filing of bankruptcy, no person may thereafter cure
19 the default under the provisions of section 3407(a)(2). If
20 the default is not cured at the time a stay is terminated,
21 the foreclosure trustee shall proceed to sell the security
22 property as provided in this subchapter.
23 **"§ 3409. Conduct of sale; postponement**
24 "(a) SALE PROCEDURES.—Foreclosure sale pursuant
25 to this subchapter shall be at public auction and shall be

1 scheduled to begin at a time between the hours of 9:00
2 a.m. and 4:00 p.m. local time. The foreclosure sale shall
3 be held at the location specified in the notice of foreclosure
4 sale, which shall be a location where real estate foreclosure
5 auctions are customarily held in the county or one of the
6 counties in which the property to be sold is located or at
7 a courthouse therein, or upon the property to be sold. Sale
8 of security property situated in two or more counties may
9 be held in any one of the counties in which any part of
10 the security property is situated. The foreclosure trustee
11 may designate the order in which multiple tracts of secu-
12 rity property are sold.

13 "(b) BIDDING REQUIREMENTS.—Written one-price
14 sealed bids shall be accepted by the foreclosure trustee,
15 if submitted by the agency head or other persons for entry
16 by announcement by the foreclosure trustee at the sale.
17 The sealed bids shall be submitted in accordance with the
18 terms set forth in the notice of foreclosure sale. The agen-
19 cy head or any other person may bid at the foreclosure
20 sale, even if the agency head or other person previously
21 submitted a written one-price bid. The agency head may
22 bid a credit against the debt due without the tender or
23 payment of cash. The foreclosure trustee may serve as
24 auctioneer, or may employ an auctioneer who may be paid
25 from the sale proceeds. If an auctioneer is employed, the

1 foreclosure trustee is not required to attend the sale. The
2 foreclosure trustee or an auctioneer may bid as directed
3 by the agency head.

4 "(c) POSTPONEMENT OF SALE.—The foreclosure
5 trustee shall have discretion, prior to or at the time of
6 sale, to postpone the foreclosure sale. The foreclosure
7 trustee may postpone a sale to a later hour the same day
8 by announcing or posting the new time and place of the
9 foreclosure sale at the time and place originally scheduled
10 for the foreclosure sale. The foreclosure trustee may in-
11 stead postpone the foreclosure sale for not fewer than 9
12 nor more than 31 days, by serving notice that the fore-
13 closure sale has been postponed to a specified date, and
14 the notice may include any revisions the foreclosure trust-
15 ee deems appropriate. The notice shall be served by publi-
16 cation, mailing, and posting in accordance with section
17 3406 (b) and (c), except that publication may be made
18 on any of three separate days prior to the new date of
19 the foreclosure sale, and mailing may be made at any time
20 at least 7 days prior to the new date of the foreclosure
21 sale.

22 "(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS
23 TO COMPLY.—The foreclosure trustee may require a bid-
24 der to make a cash deposit before the bid is accepted. The
25 amount or percentage of the cash deposit shall be stated

1 by the foreclosure trustee in the notice of foreclosure sale.
2 A successful bidder at the foreclosure sale who fails to
3 comply with the terms of the sale shall forfeit the cash
4 deposit or, at the election of the foreclosure trustee, shall
5 be liable to the agency on a subsequent sale of the prop-
6 erty for all net losses incurred by the agency as a result
7 of such failure.

8 "(e) EFFECT OF SALE.—Any foreclosure sale held in
9 accordance with this subchapter shall be conclusively pre-
10 sumed to have been conducted in a legal, fair, and com-
11 mercially reasonable manner. The sale price shall be con-
12 clusively presumed to constitute the reasonably equivalent
13 value of the security property.

14 **"§ 3410. Transfer of title and possession**

15 "(a) DEED.—After receipt of the purchase price in
16 accordance with the terms of the sale as provided in the
17 notice of foreclosure sale, the foreclosure trustee shall exe-
18 cute and deliver to the purchaser a deed conveying the
19 security property to the purchaser that grants and conveys
20 title to the security property without warranty or cov-
21 enants to the purchaser. The execution of the foreclosure
22 trustee's deed shall have the effect of conveying all of the
23 right, title, and interest in the security property covered
24 by the mortgage. Notwithstanding any other law to the
25 contrary, the foreclosure trustee's deed shall be a convey-

1 ance of the security property and not a quitclaim. No judi-
2 cial proceeding shall be required ancillary or supple-
3 mentary to the procedures provided in this subchapter to
4 establish the validity of the conveyance.

5 "(b) DEATH OF PURCHASER PRIOR TO CONSUMMA-
6 TION OF SALE.—If a purchaser dies before execution and
7 delivery of the deed conveying the security property to the
8 purchaser, the foreclosure trustee shall execute and deliver
9 the deed to the representative of the purchaser's estate
10 upon payment of the purchase price in accordance with
11 the terms of sale. Such delivery to the representative of
12 the purchaser's estate shall have the same effect as if ac-
13 complished during the lifetime of the purchaser.

14 "(c) PURCHASER CONSIDERED BONA FIDE PUR-
15 CHASER WITHOUT NOTICE.—The purchaser of property
16 under this subchapter shall be presumed to be a bona fide
17 purchaser without notice of defects, if any, in the title con-
18 veyed to the purchaser.

19 "(d) POSSESSION BY PURCHASER; CONTINUING IN-
20 TERESTS.—A purchaser at a foreclosure sale conducted
21 pursuant to this subchapter shall be entitled to possession
22 upon passage of title to the security property, subject to
23 any interest or interests senior to that of the mortgage.
24 The right to possession of any person without an interest
25 senior to the mortgage who is in possession of the property

1 shall terminate immediately upon the passage of title to
2 the security property, and the person shall vacate the secu-
3 rity property immediately. The purchaser shall be entitled
4 to take any steps available under Federal law or State law
5 to obtain possession.

6 "(e) RIGHT OF REDEMPTION; RIGHT OF POSSES-
7 SION.—This subchapter shall preempt all Federal and
8 State rights of redemption, statutory, or common law.
9 Upon conclusion of the public auction of the security prop-
10 erty, no person shall have a right of redemption.

11 "(f) PROHIBITION OF IMPOSITION OF TAX ON CON-
12 VEYANCE BY THE UNITED STATES OR AGENCY THERE-
13 OF.—No tax, or fee in the nature of a tax, for the transfer
14 of title to the security property by the foreclosure trustee's
15 deed shall be imposed upon or collected from the fore-
16 closure trustee or the purchaser by any State or political
17 subdivision thereof.

18 **"§ 3411. Record of foreclosure and sale**

19 "(a) RECITAL REQUIREMENTS.—The foreclosure
20 trustee shall recite in the deed to the purchaser, or in an
21 addendum to the foreclosure trustee's deed, or shall pre-
22 pare an affidavit stating—

23 "(1) the date, time, and place of sale;

1 "(2) the date of the mortgage, the office in
2 which the mortgage is filed, and the location of the
3 filing of the mortgage;
4 "(3) the persons served with the notice of fore-
5 closure sale;
6 "(4) the date and place of filing of the notice
7 of foreclosure sale under section 3406(a);
8 "(5) that the foreclosure was conducted in ac-
9 cordance with the provisions of this subchapter; and
10 "(6) the sale amount.
11 "(b) EFFECT OF RECITALS.—The recitals set forth
12 in subsection (a) shall be prima facie evidence of the truth
13 of such recitals. Compliance with the requirements of sub-
14 section (a) shall create a conclusive presumption of the
15 validity of the sale in favor of bona fide purchasers and
16 encumbrancers for value without notice.
17 "(c) DEED TO BE ACCEPTED FOR FILING.—The
18 register of deeds or other appropriate official of the county
19 or counties where real estate deeds are regularly filed shall
20 accept for filing and shall file the foreclosure trustee's
21 deed and affidavit, if any, and any other instruments sub-
22 mitted for filing in relation to the foreclosure of the secu-
23 rity property under this subchapter.

1 **"§ 3412. Effect of sale**

2 "A sale conducted under this subchapter to a bona
3 fide purchaser shall bar all claims upon the security prop-
4 erty by—

5 "(1) any person to whom the notice of fore-
6 closure sale was mailed as provided in this sub-
7 chapter who claims an interest in the property sub-
8 ordinate to that of the mortgage, and the heir, devi-
9 see, executor, administrator, successor, or assignee
10 claiming under any such person;

11 "(2) any person claiming any interest in the
12 property subordinate to that of the mortgage, if such
13 person had actual knowledge of the sale;

14 "(3) any person so claiming, whose assignment,
15 mortgage, or other conveyance was not filed in the
16 proper place for filing, or whose judgment or decree
17 was not filed in the proper place for filing, prior to
18 the date of filing of the notice of foreclosure sale as
19 required by section 3406(a), and the heir, devisee,
20 executor, administrator, successor, or assignee of
21 such a person; or

22 "(4) any other person claiming under a statu-
23 tory lien or encumbrance not required to be filed
24 and attaching to the title or interest of any person
25 designated in any of the foregoing subsections of
26 this section.

1 **"§ 3413. Disposition of sale proceeds**

2 "(a) DISTRIBUTION OF SALE PROCEEDS.—The fore-
3 closure trustee shall distribute the proceeds of the fore-
4 closure sale in the following order—

5 "(1)(A) to pay the commission of the fore-
6 closure trustee, other than an agency employee, the
7 greater of—

8 "(i) the sum of—

9 "(I) 3 percent of the first $1,000 col-
10 lected, plus

11 "(II) 1.5 percent on the excess of any
12 sum collected over $1,000; or

13 "(ii) $250; and

14 "(B) the amounts described in subparagraph
15 (A)(i) shall be computed on the gross proceeds of all
16 security property sold at a single sale;

17 "(2) to pay the expense of any auctioneer em-
18 ployed by the foreclosure trustee, if any, except that
19 the commission payable to the foreclosure trustee
20 pursuant to paragraph (1) shall be reduced by the
21 amount paid to an auctioneer, unless the agency
22 head determines that such reduction would adversely
23 affect the ability of the agency head to retain quali-
24 fied foreclosure trustees or auctioneers;

25 "(3) to pay for the costs of foreclosure, includ-
26 ing—

1 "(A) reasonable and necessary advertising
2 costs and postage incurred in giving notice pur-
3 suant to section 3406;
4 "(B) mileage for posting notices and for
5 the foreclosure trustee's or auctioneer's attend-
6 ance at the sale at the rate provided in section
7 1921 of title 28, United States Code, for mile-
8 age by the most reasonable road distance;
9 "(C) reasonable and necessary costs actu-
10 ally incurred in connection with any search of
11 title and lien records; and
12 "(D) necessary costs incurred by the fore-
13 closure trustee to file documents;
14 "(4) to pay valid real property tax liens or as-
15 sessments, if required by the notice of foreclosure
16 sale;
17 "(5) to pay any liens senior to the mortgage, if
18 required by the notice of foreclosure sale;
19 "(6) to pay service charges and advancements
20 for taxes, assessments, and property insurance pre-
21 miums; and
22 "(7) to pay late charges and other administra-
23 tive costs and the principal and interest balances se-
24 cured by the mortgage, including expenditures for
25 the necessary protection, preservation, and repair of

1 the security property as authorized under the debt
2 instrument or mortgage and interest thereon if pro-
3 vided for in the debt instrument or mortgage, pursu-
4 ant to the agency's procedure.
5 "(b) INSUFFICIENT PROCEEDS.—In the event there
6 are no proceeds of sale or the proceeds are insufficient
7 to pay the costs and expenses set forth in subsection (a),
8 the agency head shall pay such costs and expenses as au-
9 thorized by applicable law.
10 "(c) SURPLUS MONIES.—
11 "(1) After making the payments required by
12 subsection (a), the foreclosure trustee shall—
13 "(A) distribute any surplus to pay liens in
14 the order of priority under Federal law or the
15 law of the State where the security property is
16 located; and
17 "(B) pay to the person who was the owner
18 of record on the date the notice of foreclosure
19 sale was filed the balance, if any, after any pay-
20 ments made pursuant to paragraph (1).
21 "(2) If the person to whom such surplus is to
22 be paid cannot be located, or if the surplus available
23 is insufficient to pay all claimants and the claimants
24 cannot agree on the distribution of the surplus, that
25 portion of the sale proceeds may be deposited by the

1 foreclosure trustee with an appropriate official au-
2 thorized under law to receive funds under such cir-
3 cumstances. If such a procedure for the deposit of
4 disputed funds is not available, and the foreclosure
5 trustee files a bill of interpleader or is sued as a
6 stakeholder to determine entitlement to such funds,
7 the foreclosure trustee's necessary costs in taking or
8 defending such action shall be deducted first from
9 the disputed funds.

10 **"§ 3414. Deficiency judgment**

11 "(a) IN GENERAL.—If after deducting the disburse-
12 ments described in section 3413, the price at which the
13 security property is sold at a foreclosure sale is insufficient
14 to pay the unpaid balance of the debt secured by the secu-
15 rity property, counsel for the United States may com-
16 mence an action or actions against any or all debtors to
17 recover the deficiency, unless specifically prohibited by the
18 mortgage. The United States is also entitled to recover
19 any amount authorized by section 3011 and costs of the
20 action.

21 "(b) LIMITATION.—Any action commenced to recover
22 the deficiency shall be brought within 6 years of the last
23 sale of security property.

24 "(c) CREDITS.—The amount payable by a private
25 mortgage guaranty insurer shall be credited to the account

of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

TITLE III—IRS LEVY AUTHORITY

Subchapter A—Amendments To The Internal Revenue Code of 1986

SEC. 1301. PROVISION FOR CONTINUOUS LEVY.

Section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) CONTINUING LEVY ON NON-MEANS TESTED FEDERAL PAYMENTS.—The effect of a levy on non-means tested Federal payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such levy shall attach up to 15 percent of any salary or pension payment due to the taxpayer. For the purposes of this subsection, the term 'non-means tested Federal payment' refers to a Federal payment for which eligibility is not based on the income and/or assets of a payee.".

1 **SEC. 1302. MODIFICATION OF LEVY EXEMPTION.**

2 Section 6334 of the Internal Revenue Code of 1986
3 (26 U.S.C. 6334) is amended by adding at the end the
4 following new subsection:

5 "(f) LEVY ALLOWED ON CERTAIN NON-MEANS
6 TESTED FEDERAL PAYMENTS.—Non-means tested
7 amounts—

8 "(1) described in subsections (a)(7) and (a)(9)
9 of this section; and

10 "(2) annuity or pension payments under the
11 Railroad Retirement Act and benefits under the
12 Railroad Unemployment Insurance Act described in
13 subsection (a)(6) of this section,

14 shall not be exempt from levy if the Secretary approves
15 the levy of such property.".

16 **SEC. 1303. CONFIDENTIALITY AND DISCLOSURE OF RE-**
17 **TURNS AND RETURN INFORMATION.**

18 (a) Section 6103 of the Internal Revenue Code of
19 1986 (26 U.S.C. 6103) is amended by adding at the end
20 of subsection (k) the following new paragraph:

21 "(8) LEVIES ON CERTAIN GOVERNMENT PAY-
22 MENTS.—

23 "(A) DISCLOSURE OF RETURN INFORMA-
24 TION IN LEVIES ON FINANCIAL MANAGEMENT
25 SERVICE.—The Secretary may disclose to offi-
26 cers and employees of the Financial Manage-

1 ment Service return information, including tax-
2 payer identity information, the amount of any
3 unpaid liability under this title (including pen-
4 alties and interest), and the type of tax and tax
5 period to which such unpaid liability relates, in
6 serving a notice of levy, or release of such levy,
7 with respect to any applicable government pay-
8 ment.

9 "(B) RESTRICTION ON USE OF DISCLOSED
10 INFORMATION.—Return information disclosed
11 under subparagraph (A) may be used by offi-
12 cers and employees of the Financial Manage-
13 ment Service only for the purpose of, and to the
14 extent necessary in, transferring levied funds in
15 satisfaction of the levy, maintaining appropriate
16 agency records in regard to such levy or the re-
17 lease thereof, notifying the taxpayer and the
18 agency certifying such payment that the levy
19 has been honored, or in the defense of any liti-
20 gation ensuing from the honor of such levy.

21 "(C) APPLICABLE GOVERNMENT PAY-
22 MENT.—For purposes of this paragraph, the
23 term 'applicable government payment' means
24 any non-means tested Federal payment, as de-
25 fined in section 6331(h) certified to the Finan-

1 cial Management Service for disbursement and
2 any other payment certified to the Financial
3 Management Service for disbursement and
4 which the Commissioner designates by pub-
5 lished notice.".
6 (b) Section 6301(p) of the Internal Revenue Code of
7 1986 (26 U.S.C. 6301(p)), is amended—
8 (1) in paragraph (3)(A), by inserting "(8)"
9 after "(6),"; and
10 (2) in paragraph (4), by inserting "(k)(8),"
11 after "(j) (1) or (2),".
12 (c) Section 552a(a)(8)(B) of title 5, United States
13 Code, is amended by adding at the end the following new
14 clause:
15 "(ix) matches performed incident to a
16 levy described in section 6103(k)(8) of the
17 Internal Revenue Code of 1986.".

○

Mr. PETERSON. I want to commend you for calling the hearing and if anybody has any statements, if you would just ask unanimous consent that they could be made a part of the record.

Mr. DAVIS. Without objection, so ordered.

[The prepared statements of Hon. Stephen Horn and Hon. Carolyn B. Maloney follow:]

Opening Statement of Chairman Stephen Horn

Subcommittee on Government Management, Information and Technology

September 8, 1995

A quorum being present, this hearing of the Subcommittee on Government Management, Information and Technology will come to order. Today we will focus on Government-wide debt collection practices and examine ways to improve these collections.

As the Government works toward balancing the budget, we must begin to collect delinquent debts owed to the United States. We have about $50 billion in delinquent non-tax debts and nearly $70 billion in tax debt. This $120 billion figure is staggering -- it amounts to over one-half of the annual Federal deficit. In addition, the Federal Government writes off -- or gives up collecting -- on about $10 billion per year. To put these numbers into perspective, during the course of this hearing, approximately 35 million dollars in Federal loans will become delinquent.

These figures are large, but they do not tell the whole scandalous story According to the General Accounting Office, one deadbeat convinced an agency to forgive a Federal loan of $428,000. Two months later, he received a new loan of $132,000. Within two years, he stopped payment on the second loan. This occurs frequently, and it is sheer abuse and waste.

Who foots the bill for the deadbeats? Honest taxpayers and conscientious debtors who repay their debts are the ones who pay the cost -- in higher taxes and higher program costs. Each dollar of delinquent debt we collect is a dollar saved. The bill we consider today will:

Offset payments against debts. If the Government is owed money by a delinquent debtor, payments owed to that debtor by the Federal Government should be

reduced to pay the debt owed.

This legislation will establish agency incentives to collect debt. Agencies could retain some portion of increased collections. Funds would be usable after reappropriation to pay for improvements in debt collection.

This legislation will also mandate direct deposit for disbursements. For people with bank accounts, disbursements would be made electronically to reduce fraud, lost checks, and crime associated with checks sent by mail. Our aim is to foster better financial management by an improved audit trail and an easier way of intercepting payments.

Agencies will be empowered to attach the wages of delinquent debtors. It is about time the executive branch "got tough" with deadbeats who owe money to a number of departments and agencies. Currently, only the Department of Education has the authority to attach wages. The bill would expand this existing authority to other Federal agencies and improve its administration.

The Treasury will be able to collect unpaid child support by offsetting Federal payments. Unpaid child support is a national disgrace. Under the present inept non-system, there is at least $30 billion owed to single parents and their children. Currently only tax refunds and unemployment insurance payments can be offset for payment of child support. The bill would allow all Federal payments to be offset for that purpose.

Private attorneys will now be able to supplement overworked US Attorneys in each judicial district. Mr. Gerald Stern, Special Counsel of the Department of Justice for Financial Institution Fraud has provided testimony on this matter. Mr. Stern endorses the bill and we would like to include his testimony in the hearing record. Without objection, his testimony will be inserted at the end of the Administration testimony, in panel II.

Before we begin, I acknowledge the role played by the Ranking Minority Member, Representative Maloney, who has been most helpful on this issue. I regret her being unable to join us today, but I look forward to working with her and her staff to fashion effective legislation to collect delinquent Federal debts.

CAROLYN B. MALONEY
14TH DISTRICT, NEW YORK

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COMMITTEES
BANKING AND FINANCIAL SERVICES

GOVERNMENT REFORM AND OVERSIGHT

Congress of the United States
House of Representatives
Washington, DC 20515-3214

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September 8, 1995

REP. CAROLYN B. MALONEY -- OPENING STATEMENT

H.R. 2234, THE DEBT COLLECTION IMPROVEMENT ACT OF 1995

Thank you Mr. Chairman.

I am pleased that you are holding this hearing on the Administration's Debt Collection Improvement Act of 1995 which I have cosponsored, and I commend you and your staff on your hard work in bringing this critical issue before the Subcommittee. I also commend the Administration's efforts in developing this comprehensive debt collection bill which we will be talking about today. They have worked long and hard on this reform as part of Vice-President Gore's Reinventing government initiative, and deserve a lot of credit.

Collecting delinquent debt has been very important to me since my work in the New York City Council; where I pushed for the centralization of debt management and the improvement of collection tools. When I came to Congress, I quickly realized that debt collection could be vastly improved at the Federal level as well. I recently conducted a survey of 100 Federal government agencies which revealed that a mismatched hodgepodge of collection methods and procedures have hindered our ability to collect $55 billion in non-tax delinquent debt. These debts range from unpaid student and farm loans to defaulted housing loans to oil pollution cost fees.

On July 31, I released a report on the results of my survey. I would like to include a copy of this report in the record. According to my report, the Federal government is owed approximately $117 billion in outstanding Federal revenues--more than half of this year's budget deficit. At the same time that Congress is passing a Federal budget that cuts the AmeriCorps program, school lunches, Medicare, food stamps, student loans, and other important programs, dead beats are getting off free.

The public knows that the IRS often shows us no mercy when it thinks it is owed taxes by individual Americans. Why should we let other deadbeats off the hook? We cannot simply defund programs which help many Americans survive, while ignoring the fact that the money is already out there to pay for some of them. Paying your bills is painful. No one likes to do it. But there are too many people in this country who aren't paying bills owed to the American people.

The Administration has delivered to this Committee a very well thought out bill and is timely. As collection rates continue to decrease, our cumulative delinquent debt continues to increase. This trend calls for a legislative remedy and the Administration has responded. I would like to take the Administration's bill and expand on its efforts. As such, I have made a few suggestions which I have spelled out in a letter to you. I ask that this also be made part of the record.

I look forward to working with you and the rest of the Committee on the Debt Collection Act of 1995. I believe that this bill can save Federal dollars. At the same time, it represents a positive bipartisan alternative to the wanton cuts in important programs that have characterized this Congress.

PRINTED ON RECYCLED PAPER

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September 8, 1995

The Honorable Stephen Horn
Chairman
Government Management, Information and Technology
2157 Rayburn HOB
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Horn:

Thank you for very much for your decision to hold a hearing on debt collection. This issue is very important to me, and I commend you and your staff's hard work in bringing this critical issue to the Committee's attention.

I believe the Administration's bill is a good start, but like you, I would like to make some changes to the bill. As such, I am taking this opportunity to present you with my suggested enhancements, which are listed below.

A) Substantially simplify the cross-servicing section by eliminating all exceptions to the requirement that agencies must refer debts over 180 days delinquent to Treasury for collection except for claims in litigation or foreclosure and other specific classes of claims as determined by the Secretary of the Treasury. I have seen strong evidence through state pilot programs that the mandatory centralizing of debt to one dedicated agency increases collection rates dramatically. This provision would still allow agencies to participate in gainsharing. OMB estimates that this provision will save $1.1 billion over 5 years in scored funding.

B) Establish Treasury as responsible for policy direction and operational oversight of government-wide credit management and debt collection activities. Debt collection is essentially a financial function that belongs in a central regulatory agency whose responsibility is managing the Government's funds. For most agencies, serving the American people through programs established to fulfill certain social objectives is the primary purpose -- not debt collection. No savings from this provision is anticipated.

C) Delete the bill's requirement for annual salary offset matching. Under the bill, participation in the Administrative Offset program would result in a daily screening of Federal payments for the purposes of determining what payments are available for recovery on delinquent debt. This screening, in effect, incorporates a daily match for salary offset as well, since salary payments are also centrally disbursed. An annual match solely for the purpose of salary offset would be redundant and unnecessary.

D) Expand the use of taxpayer identifying numbers (TINs) to require agencies to provide TINs on files certified to disbursing officers for payment. Agencies are not currently required to provide TINs even though payment files include fields for such information. Any automated administrative offset program that involves matching payment files against delinquent debtor files will rely on comparing the TIN and name to determine if the payee is a delinquent debtor. This provision will likely save $630 million in net revenue.

I have also had the opportunity to review some of your suggested changes. You present some very good ideas which I could easily support. However, I have some reservations regarding a few of your suggestions and I hope that we can work these out so that this bill can pass with broad bipartisan support. My concerns include expanding the Social Security offset provision, requiring electronic funds transfers to facilitate offsets, requiring the Internal Revenue Service to use private collection agencies, selling collateralized and uncollaterized delinquent debt, and requiring the Social Security Administration, the Department of Labor and the Department of Health and Human Services to release workplace name and address information for purposes of locating debtors and their employees.

Again, thank you for your time and effort in holding a hearing and in helping move a comprehensive debt collection bill through this committee. Improving debt collection is good government, the kind that the American people likes to hear about.

Sincerely,

Carolyn Maloney

CAROLYN B. MALONEY
Member of Congress

CBM/mag

DELINQUENT NON-TAX RECEIVABLES

Hon. Carolyn B. Maloney

This report discusses the results of a survey sent out on May 26, 1995 by Congresswoman Carolyn Maloney to 100 Federal Departments, agencies and commissions. The survey's purpose was to assess the total amount of delinquent non-tax receivables owed to the Government of the United States. Improving Federal debt collection has taken on renewed importance because of Congressional efforts to reduce the deficit and streamline government.

According to Maloney's survey, a small percentage of individuals, businesses and organizations owe the U.S. Government approximately **$ 55 billion**. When delinquent Federal income taxes are added, the total delinquent receivables rise to $ 117 billion. In Fiscal Year (FY) 1994 alone, an additional **$ 14.2 billion** in delinquent non-tax receivables was added to the total.

Since 1984, Federal agencies have aggressively pursued the collection of receivables. However, Government delinquency rates are continuing to rise. The Department of Treasury reported a 2.2 percent rise in delinquency rates over the last 5 years. Actual non-tax delinquent debt rose even more dramatically, climbing from $ 44.3 billion in the second quarter FY 1994 to $ 51.0 billion in second quarter FY 1995, a 15 percent increase. At the same time, total cumulative non-tax collections decreased by 14.5 percent from $ 46.3 billion to $39.5 billion.

These results clearly show that the U.S. Government needs to do more to get its money. Although collecting debt has proven difficult due to the complexity and nature of Federal programs, many departments and agencies believe they can do better. However, they lack the necessary tools to collect their debt. By lessening debt collection restrictions, expanding collection incentives and centralizing collection efforts, Federal agencies could greatly improve their collection rates.

Outlined below is an agency-by-agency description of survey results. The majority of non-tax debt comes from the Department of Education, the Department of Agriculture, the Department of Health and Humans Services, the Department of Housing and Urban Development, the Department of Veterans Affairs and the Department of Energy. This list is limited to only those agencies which reported more than $ 100 million in delinquent receivables, although the complete list is included in the table.

DEPARTMENT OF AGRICULTURE

As of September 30, 1994, the USDA was owed $12.3 billion in delinquent debt. These delinquencies consist mostly of farm loans, food stamp overpayments, unpaid insurance premiums, overpaid indemnities, utility loans, defaulted loan guarantees, defaulted direct credits, and operations to support programs for agricultural commodities. The USDA wrote-off an average of $ 3.2 billion per year in debt over the last five years. During that same period, USDA's delinquency rates ranged from 10 percent to 14 percent. The estimated uncollectible percent of total receivables at the end of FY 1994 was 24 percent.

DEPARTMENT OF DEFENSE

The Department of Defense has a broad array of delinquent receivables ranging from education and hospital debts to travel, excess leave and damaged government property reimbursements. The total delinquent debt amount comes to $ 2.3 billion including $ 203 million from the Army, $ 141 million from the Navy, $ 683 million from the Air Force, $ 420 million from the Defense Business Operations Fund and $ 586 million from the Defense Security Assistance Agency. The Department has written-off over $ 1 billion in debt over the past five years and considers $ 250 million of current debt uncollectible.

DEPARTMENT OF EDUCATION

The Education Department reported having over $ 20 billion in delinquent receivables. The great majority, 93 percent, are student loans, and the remaining 7 percent consists of amounts arising from program reviews, audits, and college housing loans. Even though the Department wrote-off over $ 2.5 billion in student loans over the past five fiscal years, collection efforts generally continue after the write-off procedure. So far, the majority of debt collected comes from gross guaranty agencies which collected over $ 1 billion last year. Of that amount, the Federal government received $ 750 million because the guaranty agencies retain 27 percent as their collection fee.

DEPARTMENT OF ENERGY

The Energy Department's delinquent receivables are quite unique. The predominate source (98%) of delinquent receivables stem from companies who overcharged customers during the days of oil price controls in the 1970's. These companies were penalized with petroleum pricing violations, but are presently in or on the verge of bankruptcy. They have no money to pay the penalty principal let alone the interest that has been accruing since before 1982. At the moment, approximately 50 companies have delinquent debt from these violations. The Energy Department is now revising their policy in order to expedite the evaluation of delinquent debt for write-off.

The Energy Department determines to terminate collection action and write-off delinquent receivables on a case-by-case basis. It estimates the non-collectible delinquent debt at $ 2.68 billion or 92 percent of total delinquent debt. Substantially all of this amount has been referred to the Department of Justice for disposition. The Energy Department has written-off over $ 1.4 billion during the last five years of which almost 99 percent of this amount derives from petroleum pricing violations.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The Department of Health and Human Services (HHS) consists primarily of the Public Health Service, the Social Security Administration, the Health Care Financing Administration, and the Administration for Children and Family. The total delinquent receivables owed to HHS through agency programs is $ 3.3 billion of which $ 302 million is interest, $ 259 million is for the Health Professionals Guaranteed Student Loan Fund and $ 2.6 billion is for the Medicare Trust Fund. HHS' written-off receivables have grown from $ 332 million in FY 1991 to $ 628 million in FY 1994. As of March 31, HHS estimates $2.35 billion in debt is uncollectible which is 21.7 percent of total receivables.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Department of Housing and Urban Development (HUD) reported $3.3 billion in delinquent receivables. The largest sources of delinquent receivables are direct loans, defaulted guaranteed loans, and non credit loans. All of these relate to Federal housing and community development programs. The direct loans derived from the revolving fund liquidation (Section 312 loan rehabilitation program) and elderly and handicapped housing programs. Likewise, the defaulted guaranteed loans derived from the Federal Housing Administration's Single Family, Multifamily and Title I programs, and most of the non credit loans came from mortgage-backed securities (Ginnie Mae). Altogether, HUD has written-off $4.2 billion in delinquent debt over the last 5 years. HUD's delinquency rates have increased from 13.03 percent in FY 1990 to 14.85 percent in FY 1994, and it considers 26 percent of outstanding receivables uncollectible.

DEPARTMENT OF THE INTERIOR

The Department of Interior's delinquent non-tax receivables total $ 388 million and primarily stem from audit findings, enforcement of laws and regulations and loans. 43 percent of this debt is derived from the audits of rents and royalties due for oil, gas, coal, and other minerals extracted from Federally owned lands. Another 19 percent resulted from the issuance of civil penalties which arise from miners' failure to abate or correct mine reclamation violations and from failure to pay established fees on coal tonnage produced.

The Interior Department has a relatively high delinquent receivables to net receivables ratio - 62 percent. It has written-off $ 166.1 million in debt over the last 5 years and consider $ 123.3 million, or 32 percent, non-collectible. The Department states that the high incidence of delinquency is caused by the nature of their debts. However, one third of their delinquent debt is backed by surety and is therefore not subject to loss.

DEPARTMENT OF LABOR

The Labor Department listed $ 155 million in delinquent receivables. The specific sources of debt include audit disallowances owed primarily by non-Federal units of government ($ 88 million); overpayments to beneficiaries and third party liability claims ($ 16 million); and civil monetary penalty assessments ($ 51 million). The Department writes-off over $ 20 million per year. As of the close of FY 1994, the Department reported $ 296.5 million in receivables outstanding, with an allowance for uncollectibles of $ 136.4 million or 46 percent.

The Department ranks second to Treasury among Federal agencies with respect to civil monetary penalties assessed and collected. The Labor Department states that debt collection activities are often interwoven with programmatic operations, and understandably are considered of lesser importance than the program's primary mission. Furthermore, the fact that most collections are returned to Treasury as "miscellaneous receipts" serves as a disincentive to the expenditure of increased levels of appropriated funds to effect marginal improvements in collections.

DEPARTMENT OF TRANSPORTATION

The Department of Transportation (DOT) reported $ 360 million in delinquent receivables. The specific sources of debt are defaulted direct and guaranteed loans, grantee audit disallowances, oil pollution cost recovery and civil penalty assessments, overpayments, Freedom of Information requests, user fees and charges, fines and foreign governments. DOT's delinquency rates are due primarily to defaulted guaranteed loans in the Maritime Administration's shipbuilding program. When a shipbuilder defaults to the primary lender, DOT pays the primary lender and then begins collection efforts from the shipbuilder. DOT considers $ 309 million uncollectible, the majority of which are defaulted guaranteed loans. DOT has made progress in the last three years writing-off uncollectible receivables. The balance has dropped from $ 890 million in FY 1992 to $ 360 million in FY 1994. $ 725 million has been written-off over the last five years.

DEPARTMENT OF THE TREASURY

The Treasury Department is owed $ 377 million in delinquent non-tax receivables. The sources of debt include mostly fines, fees and penalties relating to their programmatic jurisdiction including U.S. Customs Service duties and Financial Management Service loans. The amount collected on delinquent debt primarily came from litigation - $ 162 million in FY 1994. Treasury has also written off $ 77 million over five years and considers $ 67 million non-collectible.

ENVIRONMENTAL PROTECTION AGENCY

The Environmental Protection Agency (EPA) reported $ 464 million in delinquent non-tax receivables. However, this amount does contain some receivables that are not truly delinquent. Of those that are truly delinquent, the largest receivables are for fines and penalties involving protracted legal actions. These delinquent receivables include enforcement and clean up fines and penalties, direct loans for the clean up of asbestos in schools, cost recoveries for clean up of toxic sites, toxic substance user fees, vendor overpayments and unused airplane tickets.

Over the last five years, the EPA has written-off over $ 4 million. However, the agency considers a much larger amount non-collectible - $284,839,704. It attributes the large number to appeals and litigation that mostly result from Superfund cases.

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import (Ex-Im) Bank programs have so far generated $ 1,5 billion in delinquent receivables as of June 5, 1995. The vast majority of these delinquent receivables consist of the principal, interest and fees relating to Ex-Im's direct loan program.

Most of Ex-Im's loans are made directly to foreign governments or to foreign entities in which the repayment of the debt is guaranteed by the government. The Bank does not write-off sovereign debt, unless there is action on the part of the U.S. Government to provide debt relief to a particular country. For loans to private institutions or individuals, the decision to write-off a delinquent loan is made on a case by case basis. Ex-Im pursues the collection of delinquent debt through its Claims and Recoveries Division which in the case of private obligors, works with attorneys operating in the country of the obligor. Last year, Ex-Im collected over $65 million in delinquent debt.

SMALL BUSINESS ADMINISTRATION

The individuals, businesses and organizations involved in Small Business Administration (SBA) programs currently owe the SBA nearly $ 2 billion in delinquent receivables. The specific sources of delinquent receivables include overpayments, guarantee fixed fees, SBIC user fees, accrued and deferred interest, loans, judgements, notes, undisbursed expenditures and legal costs capitalized on judgements.

The SBA has written-off on average half a billion per year over the last five years. Overall, the SBA considers $ 2.6 billion non-collectible which is 27.77 percent of their gross collectibles. Of the almost $ 148 million referred for IRS offset, collection agency, and Federal salary offset collection, only $ 3 6 million was collected in 1994.

DEPARTMENT OF VETERANS AFFAIRS

The Department of Veterans Affairs delinquent receivables balance is $ 3.14 billion. This total includes $ 1.56 billion in defaulted loan guaranty debt, $ 270 million in vendor loan debt, $ 599 million in compensation and pension debt, $ 551 million in medical care cost recovery debt, and $ 102 million in education debt. About 50 percent of VA's collections for delinquent receivables result from the billing of medical insurance carriers. 31 percent is collected through administrative offsets, salary offsets, litigation, private collection agencies, and tax refund offsets. The remaining 19 percent come from voluntary payments. Over $ 3.3 billion has been written-off over the last 4 years.

CONCLUSION

The U.S. Government is owed over $ 50 billion in delinquent non-tax receivables. In other words, individuals, businesses and organizations are late in paying one in every five non-tax dollars owed to our government. Many of these individuals and business are quite capable of paying, but they simply don't. Some even have debt that is decades old. Something must be done. Enhanced collection efforts will help achieve deficit reduction without resorting to wholesale reductions in important Federal programs or tax increases.

The total non-tax delinquent debt is rising rapidly at the same time that collections are decreasing. Presently, many agencies and programs vary widely in collection procedures and reporting methods. Others are bogged down in burdensome regulations or litigation. But with administrative and legislative change, the obstacles to Federal agency debt collection can be overcome. In discussions with Treasury officials, Maloney agreed with three areas where legislation could enhance debt collection:

1) **Improving collection tools.**
   Federal agencies could be provided with better collections tools. For example, one mechanism would prevent paying government benefits to people or organizations who have delinquent debt.

2) **Eliminating some federal agency collection regulations and restrictions.**
   By expanding the use of contractors, private attorneys, private debt collectors and by allowing Federal agencies to collect debt for one another, debt collection rates could dramatically improve. Streamlining the judicial foreclosure system could also help.

3) **Giving incentives to agencies to collect debt.**
   Many agencies could improve debt collection through gainsharing programs. For example, Federal agencies doing a good job of debt collection could would be given dividends.

4) **Centralizing collection efforts.**
   Agencies could benefit from mechanisms to improve sharing of information and resources between agencies in their respective collection efforts.

DELINQUENT NON-TAX RECEIVABLES

AGENCY	Delinquent Receivables ($ million)	Method of Payment for Delinquent Receivables: Tax Refund Offsets ($ thousand)	Private Collection Agencies ($ thousand)	Litigation ($ thousand)	Salary Offsets ($ thousand)	Administ. Offsets ($ thousand)	Delinquent Debt Written Off: 1994 ($ thousand)	1993 ($ thousand)	1992 ($ thousand)	1991 ($ thousand)	1990 ($ thousand)	Non-Collectible Receivables: 1994 ($ thousand)	%
Administrative Office of U.S. Courts	0.14	na	na	na	na	na	0.00	0.00	0.00	0.00	0.00	0.00	0
Commodity Futures Trading Commission	3.39	3.61	0.00	12.10	0.00	0.00	393.00	776.00	1272.00	891.00	567.00	3474.00	10
Commission on Civil Rights	0.00	0.00	0.00	0.00	1.01	4.33	0.00	0.00	0.00	0.00	0.00	na	10
Consumer Product Safety Commission	0.02	0.00	0.00	0.00	0.00	0.00	0.00	5.10	1.57	1.33	0.70	2.20	3
Corporation for National Service	5.61	0.00	0.00	0.00	0.00	0.00	0.00	71.11	197.65	1652.98	0.00	978.61	10
Environmental Protection Agency	464.72	2.60	109.60	427807.38	698.31	6761.21	769.98	1465.13	633.16	984.38	0.00	284839.70	34
Equal Employment Opportunity Comm.	0.16	4.04	na	0.89	13.92	3.73	90.43	2.95	29.37	26.97	9.30	42.61	27
Export-Import Bank of the U.S.	1543.40	na	na	na	na	na	100700.00	0.00	0.00	230600.00	100.00	2468800.00	33
Farm Credit Administration	0.00	0.00	0.00	0.00	0.00	0.00	10.00	14.24	0.00	0.00	0.00	0.00	0
Federal Communications Commission	0.21	0.28	0.00	71.00	6.00	0.00	521.58	17.52	0.00	0.31	0.00	na	na
Federal Deposit Insurance Corporation	13.38	na	na	na	na	na	0.00	3658.65	349.54	9081.03	999.29	10996.17	82
Federal Emergency Management Agency	25.83	160.85	0.00	424.28	51.91	0.00	100.58	1159.40	153.46	942.93	2833.90	na	na
Federal Housing Finance Board	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.34	100
Federal Maritime Commission	0.27	na	na	na	na	na	0.00	0.18	1549.87	0.12	0.00	0.00	0
Federal Trade Commission	0.69	na	na	523.29	na	na	0.00	0.00	0.00	0.00	0.00	na	na
General Services Administration	24.10	0.00	163.30	124.56	1.50	2982.67	7146.08	1461.49	4939.33	9673.70	na	25300.06	31
Inter-American Foundation	0.00	0.00	0.00	4.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.02	100
International Trade Commission	0.06	0.00	0.00	0.00	0.00	0.00	62.50	0.00	0.00	0.00	0.00	62.50	100
Interstate Commerce Commission	0.39	0.00	0.00	0.00	0.00	0.00	45.81	1.10	7.48	5.81	0.00	99.95	3
James Madison Memorial Foundation	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0
Merit Systems Protection Board	0.00	0.60	0.00	0.00	3.99	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0
National Aeronautics and Space Admin.	0.82	0.00	0.00	0.00	0.00	0.00	3.87	60.26	24.32	29.75	69.55	38.22	<1
National Archives and Records Admin.	0.30	0.00	5.56	na	na	na	17.93	22.53	21.69	29.05	na	29.45	10
National Credit Union Administration	0.18	0.00	0.00	0.00	0.00	0.00	0.18	0.01	0.00	0.00	0.04	0.00	0
National Endowment for the Humanities	0.07	0.00	0.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	70.11	100
National Endowment of the Arts	0.16	0.00	0.00	0.00	0.00	0.00	137.64	92.63	0.00	6.98	0.00	161.79	96
National Labor Relations Board	0.02	0.00	0.00	0.00	4.38	13.10	0.00	2.02	1.19	75.48	na	1.46	2
National Science Foundation	0.12	2.16	0.00	0.00	1.54	0.00	2.14	179.33	7.22	2.58	8.11	115.00	94
National Transportation Safety Board	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.80	20
Nuclear Regulatory Commission	5.30	0.00	1372.03	0.00	0.00	0.00	539.35	1072.98	195.02	18.69	32.46	937.00	na
Office of Personnel Management	65.00	45.28	100.00	36.00	0.00	1655.00	4300.00	3800.00	4000.00	7800.00	2200.00	43847.00	43
Peace Corps	0.21	0.00	0.00	0.00	0.00	0.00	na	na	na	na	na	8.70	na
Pension Benefit Guaranty Corporation	28.90	0.00	718.00	0.00	0.00	0.00	9800.00	0.00	0.00	0.00	0.00	9900.00	34
Railroad Retirement Board	27.98	213.21	17.04	137.56	7.22	9.93	14979.12	10145.86	2121.35	2235.13	1308.95	27672.65	31
Securities and Exchange Commission	81.03	24.65	2.39	0.00	0.00	0.00	na	na	na	33.73	22.78	1727.28	na
Small Business Administration	1925.49	1804.57	1752.34	0.00	88.40	0.00	436837.72	551641.22	547875.40	511227.52	584009.39	2581854.14	28

Soldier's and Airmen's Home	0.05	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10.00	na
U.S. Agency for International Dev.	0.35	0.00	0.00	0.00	0.08	0.62	3.99	0.31	0.01	0.01	0.07	2.42	1
U.S. Department of Agriculture	12300.00	33800.00	62.49	76800.00	206.63	15200.00	2500000.00	3100000.00	2500000.00	4700000.00	3300000.00	7200000.00	59
U.S. Department of Commerce	62.00	na	na	na	na	na	17000.00	61000.00	135000.00	40000.00	11000.00	17000.00	27
U.S. Department of Defense	2300.50	26717.81	1556.64	87.47	7330.34	17202.09	na	na	na	na	na	254114.51	20
U.S. Department of Education	20466.95	594000.00	165000.00	12000.00	2000.00	0.00	408000.00	348000.00	445503.05	932603.46	432754.55	na	66
U.S. Department of Energy	2916.00	12.63	187.77	738.66	54.50	1475.56	58493.11	339567.81	38971.49	161944.29	837859.96	2679000.00	92
U.S. Department of HHS	3321.82	5500.99	146247.32	5217.08	20.88	1678.21	627947.16	384701.74	363080.06	332290.72	na	2346546.85	22
U.S. Department of HUD	3270.72	18524.78	187.36	2450.74	728.12	5113.44	678000.00	778000.00	703000.00	931000.00	1150000.00	5638724.70	26
U.S. Department of the Interior	388.00	75.11	47.32	303.00	261.00	95.00	31800.00	39300.00	16500.00	47600.00	30900.00	123300.00	32
U.S. Department of Labor	155.10	118.90	na	758.37	na	2538.29	23000.00	24000.00	27800.00	na	na	136400.00	46
U.S. Department of State	6.80	800.00	400.00	50.00	14.00	0.00	0.00	0.00	0.00	0.00	0.00	5451.32	80
U.S. Department of Transportation	360.40	230.00	52.00	11647.00	67.00	534.00	274900.00	3400.00	370500.00	78200.00	0.00	308700.00	86
U.S. Department of the Treasury	377.00	330.03	52.24	161588.97	33.72	0.00	22576.26	30966.96	13071.03	3789.97	6711.97	67394.00	2
U.S. Department of Veterans Affairs	3141.90	10420.96	14908.26	35023.12	14711.22	231397.43	677560.42	884202.22	963886.08	813413.79	na	2630468.00	84
U.S. Information Agency	0.39	4.67	0.00	0.00	0.00	0.00	260.09	242.32	240.55	306.82	na	na	na
TOTALS	53,285.94	692,797.73	332,942.16	735,805.47	26,305.67	286,664.61	5,895,998.94	6,569,031.07	6,140,931.89	8,816,468.53	6,361,388.02	26,868,071.56	

[1] The figures above have been directly copied from the Federal agency survey responses.

The Washington Post

MONDAY, JULY 31, 1995

THE FEDERAL PAGE

Lawmakers Pursue Money Owed to U.S.

Two Representatives Draft Bill to Ease Budget Pressure by Reclaiming $50 Billion Past Due

By Kenneth J. Cooper
Washington Post Staff Writer

Lawmakers have begun to explore another way to ease pressure on the federal budget besides cutting popular programs and raising taxes: collecting more of the money owed to the government.

And a lot is owed, not counting overdue taxes, to a U.S. government well-known as the world's biggest borrower. Deadbeats ranging from former college students and military veterans to foreign governments and domestic shipbuilders lag behind on payments totaling between $50 billion and $55 billion, according to a survey of 100 federal agencies conducted earlier this year by Rep. Carolyn B. Maloney (D-N.Y.).

"I believe we certainly could collect a good deal more and improve the management of these agencies," Maloney said.

The more than $50 billion in overdue debts, largely defaulted loans, compares with $67 billion in delinquent back taxes owed to the government.

Maloney and Rep. Steve Horn (R-Calif.) working from proposals by the Clinton administration based on its reinventing government plan, are drafting legislation that would upgrade collection procedures and give agencies stronger financial incentives to round up money they are due.

Horn plans to hold hearings in September on debt collection as chairman of the Government Reform and Oversight subcommittee on government management, information and technology. He also believes agencies can recover a larger amount of past-due payments.

Administration officials calculate that debt at $49 billion and estimate less than one-fifth can be collected using current procedures. Because $35 billion has been overdue more than one year, the Office of Management and Budget (OMB) assumes only 5 percent of that amount or $1.7 billion, will be paid. OMB spokesman Lawrence Haas said. OMB considers half the remaining $11 billion likely to be paid, bringing the total collectible up to $8.7 billion.

> *"I believe we certainly could collect a good deal more."*
>
> — Rep. Carolyn B. Maloney (D-N.Y.)

Some sources of delinquent debt are well known — defaulted student loans and $2.6 billion in Medicare overpayments to health care providers, for example. The Education Department, due $20.5 billion, nearly all for college student loans, is owed more than any other agency.

The Agriculture Department ranks second with outstanding bills of $12.3 billion. About half is owed for farm loans, and another $2.6 billion is overdue for defaulted loans on agricultural trade deals. Less than $1 billion is owed in food stamps, the massive welfare program that serves one of 10 Americans.

Other overdue debts are more exotic. The Energy Department holds some of the oldest debts: $2.5 billion in penalties and interest that about 50 oil concerns owe for violating price controls during the 1970s. By now, interest charges account for most of the outstanding sum.

Military veterans who defaulted on low-interest home mortgages owe the Department of Veterans Affairs about $1.6 billion. Foreign governments and overseas firms have fallen behind in repaying $1.5 billion in loans from the Export-Import Bank.

Shipbuilders have defaulted on $300 million in loans made by the Maritime Administration. Transportation Department officials estimate that little ultimately can be recovered despite extensive ongoing litigation.

The Interior Department has $165 million in outstanding rents and royalties from private companies for extracting oil, gas, coal and hard-rock minerals from federal lands.

Maloney, now in her second term, would like to duplicate tactics she employed in the late 1980s as a member of the New York City Council. When she attempted a similar debt survey of New York agencies, many were slow to identify the totals overdue. Later, she summoned embarrassed agency officials before a city council committee to explain why they were not doing a better job of making deadbeats pay.

Given conservative Republican resistance to expanding powers of federal law enforcement agencies, one tactic that former New York mayor David Dinkins (D) adopted in 1990 is unlikely to win congressional approval at the federal level. The city's sheriff sent armed deputies to demand immediate payments, seize cash register receipts and padlock businesses that did not comply, aggressive practices that increased collections but became controversial.

The Horn-Maloney bill would deduct overdue funds from tax refunds and other federal payments to debtors, expand the use of private collection firms, allow federal agencies to keep a portion of what they collect and ease regulations that hamper collection efforts.

OMB officials estimated that such changes could help recover $1 billion that the administration now considers uncollectible over five years.

"We're very interested in helping the administration collect some of the debt owed the federal government," a Horn aide said. "I think this is something where the Republican Congress and Democratic administration could work together."

Maloney said she undertook the survey because she wants minority House Democrats to offer "positive ways to improve government" and find alternative ways to fund national service, nutrition, preschool and other people-helping programs that the party has long favored.

"I know these numbers look boring, but if we manage [debt collection] better, it could be very exciting," she said. "I think it's very liberal. If you run your government better, you have more money for AmeriCorps, for school lunches."

CABINET AND INDEPENDENT AGENCIES OWED THE MOST IN OVERDUE PAYMENTS

Debt in Billions of Dollars
Major sources in italics

1	**Education** *Student loans*	$20.5
2	**Agriculture** *Farm, agriculture trade loans*	12.3
3	**Health and Human Services** *Medicare overpayments*	3.3
4	**Housing and Urban Development** *Housing loans*	3.3
5	**Veterans Affairs** *Housing loans*	3.1
6	**Energy** *Oil pricing penalties*	2.9
7	**Defense** *Loans to foreign countries*	2.3
8	**Small Business Administration** *Small business loans*	1.9
9	**Export-Import Bank** *Loans to foreign countries*	1.5
10	**Environmental Protection Agency** *Waste cleanup penalties*	.5

SOURCE: Agency Responses to 1995 Survey of Rep. Carolyn B. Maloney (D-N.Y.)

— Staff Graphic by The Washington Post

Mr. DAVIS. And we have the distinguished chairman of the Appropriations Subcommittee, Mr. Lightfoot here, the gentleman from Iowa. And Jim, if you would be happy to lead off, we're happy to have you here today and we want to get the meeting going because I know you have some other things to do.

Thank you.

STATEMENT OF HON. JIM LIGHTFOOT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. LIGHTFOOT. Thank you, Mr. Chairman, and I appreciate the opportunity to testify before your subcommittee this morning.

We would like to talk to you a little bit this morning on behalf of H.R. 1698, legislation which I have introduced to expand Electronic Funds Transfer for Federal payments.

H.R. 1698 contributes to our legislative agenda to reduce Federal spending and balance the budget. Under my legislation, recurring Federal payments, such as Federal salaries and pensions, would be issued by a direct deposit program called Electronic Funds Transfer instead of using paper checks.

There are a lot of advantages in doing this. According to the Department of the Treasury's Financial Management Service, the Federal Government's primary disburser, it costs the Federal Government or the U.S. taxpayer 43 cents to issue and mail a paper check. By contrast, an Electronic Funds Transfer costs less than 2 cents. That's a pretty sizable savings when you consider the millions of transfers that are made each year.

We figure a 41 cent saving, estimated net savings from the expanded use of electronic fund transfers would be approximately $66 million over 5 years by doing something as simple as moving to the electronic transfer. I think it makes a lot of common sense, it makes a lot of fiscal sense and quite frankly, there are some safety factors involved with it, as well.

Under H.R. 1698, each recipient would designate one or more financial institutions or authorized payment agents to receive the Federal payments and provide the Federal agency with authorization for the EFTS. By making it mandatory, financial institutions would be more outgoing in marketing traditional banking services to the unbanked because direct deposit allows more control over account activity. Based on a pilot program conducted by FMS in Texas, the estimated cost of maintaining these accounts is approximately $3 per month.

Under my legislation, this cost would be paid by the recipient and not the government. And this cost is more than competitive compared with standard check cashing fees. Besides the cost savings, the use of EFT's will diminish the opportunity for theft, for fraud, and other crimes as well as being a faster and a more effective means of payment delivery. The testimony of the Deputy Commissioner will illuminate this further.

I have introduced H.R. 1698 with bipartisan support. It also has the support of the administration and Citizens Against Government Waste. The extensive use of electronic transfer technology will reduce Federal spending, and provide a more efficient and effective level of customer service to the American people. And that's

certainly the goal of this new Congress, a leaner, less expensive, a more effective government for the people.

Mr. Chairman, it's a relatively simple bill. It's only two small pages. But those two small pages could save us $66 million over 5 years. I'd be happy to answer any questions. I appreciate the opportunity to discuss this with you this morning.

Mr. DAVIS. Thank you very much.

Let me just ask a couple questions. We had a situation in my district just a couple of months ago where about 500 Federal retirement checks were lost in the mail and that meant 500 calls to my office, plus their neighbors called, plus their aunts and uncles called and a lot of calls going back and forth. I understand your legislation, and that's not likely to happen, is it?

Mr. LIGHTFOOT. No. That's one of the advantages I think of the electronic transfer is that the fact that it's a simple link between the government and that individual's bank account and so you eliminate, No. 1, the potential for the checks to be lost.

No. 2, if they're lost, you also eliminate the potential for some individual who may be less than honest to pick that check up and cash it, then you have to go through all the problem of hashing that out. And beyond the cost savings, I think the potential to eliminate fraud and the potential to eliminate the kinds of problems that you just illustrated will add a great deal of savings as well.

It costs a lot of money to track those 500 checks down and get them back to the people they belong to. So that's certainly a side benefit of electronic transfer.

Mr. DAVIS. Do you know how agencies are doing it, trying to increase the percentage of direct deposit users within the different agencies, how that's coming?

Mr. LIGHTFOOT. Well, if you look at the figures, and the commissioner I think is going to address that more fully in his testimony, the Veterans Administration is at the bottom of the list, Federal employees are at the top and the other agencies are in-between in terms of percentage of payroll checks, for example that are deposited.

With anything that is somewhat new, quote unquote, I think you're going to have to do a good public relations job with people who, for example, the veterans, who are accustomed to getting the paper check in the mail. That's just a habit. And to introduce them to doing it a new way will take some PR work on behalf of the various agencies to do it, but it certainly behooves each of the agencies to promote this particular idea and again I don't want to get into the commissioner's testimony but I believe on Federal employees' payroll checks we're up in the 80 percent or better category.

Mr. DAVIS. When I was head of the county government out in Fairfax County, we just mandated that everybody have direct deposit. There was a little grumbling but everybody got used to it. They got used to it. I know your time is short. Other Members may have questions. I want to give them an opportunity.

The gentleman from New York, Mr. Owens, has come in. If you would like to make any opening statement, you would be privileged to, otherwise if you have any questions for Mr. Lightfoot.

Mr. OWENS. Mr. Chairman, I have no opening statement. I have no questions.

Mr. DAVIS. Thank you very much. Mr. Peterson.

Jim, thank you very much.

Mr. LIGHTFOOT. Thank you.

Mr. DAVIS. I appreciate your testimony. I hope we can move it along. I will say from my experience in local government, this makes a lot of sense. It is really not new technology at all.

Mr. LIGHTFOOT. No.

Mr. DAVIS. It has been around a long time. Originally there were some safeguarding issues that I think can be addressed adequately with this. I appreciate your initiative in bringing this legislation forward and I hope we can approve it.

Mr. LIGHTFOOT. Thank you. I think, as you mentioned, what has happened in the private sector with the safeguards as you say, this is not new. We're in essence trying to bring the government into the 21st century, which is not a bad idea.

Mr. DAVIS. We are still trying to bring it into the 20th century in some parts.

Mr. LIGHTFOOT. Well, that's true.

Thank you.

Mr. DAVIS. Thank you very much. Mr. Gordon, who was also slated on the first panel, the gentleman from Tennessee, is not able to be present due to a scheduling conflict. We will enter his testimony into the record without objection.

[The prepared statement of Hon. Bart Gordon follows:]

BART GORDON
6TH DISTRICT, TENNESSEE
COMMERCE COMMITTEE
SCIENCE COMMITTEE
(ON LEAVE)

Congress of the United States
House of Representatives

Testimony by Rep. Bart Gordon
Subcommittee on Government Management,
Information and Technology
September 8, 1995

I want to thank this Committee and Chairman Steve Horn for inviting me to testify today on legislation that I am cosponsoring with the Chairman. I have been working on the issue of federal debt collection for many years and I am gratified that this legislation is beginning to move on a strong, bipartisan basis.

I first became involved in the collection issues because of my work on reforming student loans. In town meetings across my district, middle class parents bemoaned the way their children were not eligible for subsidized student loans. As I researched the subject, I was shocked at what I found. In 1980, we had a $3 billion student loan program with a 10% default rate. In 1990 we had a $7 billion student loan program with a 54% default rate. We were actually spending more money paying off bad student loans in 1990 than we were spending on the entire program in 1980. There were literally billions of dollars to be saved in the student loan program that would not harm a single student enrolled in the program. In fact, by lowering the default rate and making sure the government collected the money it was owed, we could actually make more money available to students who would otherwise be denied.

The reforms we have made to the student loan program, including tightening the eligibility standards for schools who participate in the program and giving the government greater powers to collect on loans, have saved over $1 billion per year. The legislation this committee is examining will expand those efforts to recover other government debts.

This legislation will have a profound effect on debt collection. Among its provisions, this bill will

* Require the various agencies to send all debt to the Treasury for Administrative offset;

* Require greater coordination between the agencies so that bad debtors can be tracked down;

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* Require direct deposit technology to be utilized to collect debts;

* Allow agencies to garnish the wages of delinquent debtors;

* Require agencies to use private collection agencies;

* Allow agencies to, as an incentive to collect debts, keep a portion of increased collections.

We all agree, Democrats and Republicans, that budget cuts must be made and that some of those cuts will be painful. While we should not overestimate the savings that can result from better debt collection, the Office of Management and Budget reported last year that there are over $106 billion worth of delinquent loans owed to the government. These changes will mitigate some of the pain that comes with budget cutting. Every delinquent dollar we can collect from a farm, education or veterans loan program is another dollar available to reduce the deficit or provide taxpayer services.

Many Members from both sides of the aisle oppose across-the-board cuts because a program that wastes 10% of its funds will simply be wasting 10% of a smaller amount. We can make dramatic savings if we merely attack that 10% waste. Legislation like ours, that will give the government greater tools to collect debts, will go a long way to attack waste without attacking those who need help.

Mr. DAVIS. I would like at this time to call the second panel.

The second panel we have John Koskinen, the Deputy Director for Management, Office of Management and Budget; George Muñoz, the Chief Financial Officer/Assistant Secretary for Management, Department of the Treasury; Anthony Williams, the Chief Financial Officer, Department of Agriculture; Michael Smokovich, the Deputy Commissioner, Financial Management Services, Department of the Treasury; and Jeff Steinhoff, the Director of Planning and Reporting of the GAO.

I need to swear you in. As you know, it is the policy of this committee to swear in all witnesses and if you all would simply remain standing and raise your right hand.

[Witnesses sworn.]

Mr. DAVIS. Thank you, be seated.

We can proceed in the—unless you have agreed to another procedure as to who goes first, we can go in the order I called you.

Mr. Koskinen, you can go first.

STATEMENTS OF JOHN KOSKINEN, DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET; GEORGE MUÑOZ, CHIEF FINANCIAL OFFICER/ASSISTANT SECRETARY FOR MANAGEMENT, DEPARTMENT OF THE TREASURY; ANTHONY WILLIAMS, CHIEF FINANCIAL OFFICER, DEPARTMENT OF AGRICULTURE ACCOMPANIED BY TED DAVID, DEPUTY CHIEF FINANCIAL OFFICER, AND RAY GONZALEZ, DEBT MANAGEMENT COORDINATOR, USDA; MICHAEL SMOKOVICH, DEPUTY COMMISSIONER, FINANCIAL MANAGEMENT SERVICES, DEPARTMENT OF THE TREASURY; AND JEFF STEINHOFF, DIRECTOR OF PLANNING AND REPORTING OF THE GAO, ACCOMPANIED BY GREGORY HOLLOWAY

Mr. KOSKINEN. Thank you, Mr. Chairman, distinguished members of the Subcommittee on Government Management, Information, and Technology.

I would like to submit my full statement to the record and give a summary of it here, if that would be acceptable.

Good morning, Mr. Chairman.

Mr. HORN [presiding]. Proceed.

Mr. KOSKINEN. Thank you.

Thank you for the opportunity to testify in support of the Debt Collection Improvement Act of 1995, H.R. 2234, which is of particular interest to this committee.

The administration is very appreciative of your leadership, Mr. Chairman, and your efforts to hold this hearing and to sponsor H.R. 2234 and also the efforts of the ranking member, especially for her survey and report on agencies' debt collection practices and their sponsorship of H.R. 2234.

This bill is an opportunity for the Congress and the administration to create a new governmentwide debt management program. Once enacted, it gives us the tools we need to make government work better and cost less.

By taking a business-like approach to debt collection and by taking advantage of modern information technology, we can improve annual collection of delinquent debt and lower the deficit. This bill

is the result of a lot of hard work by the Chief Financial Officers' Council and the President's Council on Integrity and Efficiency whose members also appreciate this committee's contributions to effective financial management.

Additionally, the Federal Credit Policy Working Group which I also chair, should be recognized for its roll in advising on the proposals which are included in H.R. 2234. There are literally hundreds of Federal programs which generate receivables.

Most Federal receivables are generated through delinquent taxes and through Federal loan programs. In our most recent report to the Congress on credit management and debt collection, we reported $321 billion in Federal receivables. Of the total receivables, $67 billion is in the category of delinquent taxes and $49 billion is in the category of delinquent loans and other claims.

From 1993 to 1994, delinquencies have grown by nearly 8 percent. In the last 5 years, delinquency for nontax debt has grown by more than $9 million or nearly 25 percent. A diverse population owes money to the Federal Government. Popular loan programs are directed to help farmers, veterans, small business owners, students, homeowners and disaster victims.

The Federal Government offers credit to certain groups that cannot obtain credit on satisfactory terms in the private sector; thus, it is assuming a significant risk of nonpayment. For loans that are collectible, we must be persistent and sometimes fairly aggressive.

For people who can repay their debts, we should not allow them to avoid repaying their obligations simply because of excuses such as, "I forgot to mail the check" or "I forgot that it was a loan" or moving without leaving a forwarding address. Otherwise honest, hard-working taxpayers are paying for those who choose not to pay. The cost to the taxpayer and to the integrity of the Federal assistance program should not be underestimated. Debt collection is a Clinton administration priority. This bill is the most important debt collection legislation since 1982.

H.R. 2234 treats delinquent debtors consistently. It is fair to the people who pay their bills owed to the Federal Government on time. The Federal Government must manage its receivables efficiently and effectively.

Toward that end, this administration's performance goals for improved debt collection are to effectively design and administer loan programs, to avoid unnecessary losses, process payments and collections in a timely manner and wherever possible through electronic means, and efficiently collect overdue debt owed to the government through the use of proven tools such as payment offset and the use of private collection agencies.

During the last 2 years, there have been three major studies that address our goals to improve debt collection. The National Performance Review looked at this matter, and H.R. 2234, the act you are introducing, Mr. Chairman, addresses the three specific actions recommended in the Vice President's report, creating a government that works better and costs less and its companion report on improving financial management.

The act gives agencies the flexibility to use some of the money they collect from delinquent debt to pay for further debt collection efforts and to keep a portion of the increased collections. The act

eliminates restrictions that prevent Federal agencies from using private collection agencies to collect debt and expands the authority of the Justice Department to contract for private attorney support.

Finally, the act bars delinquent debtors from obtaining Federal loans, thereby strengthening the governmentwide credit alert system used by Federal agencies to ensure that potential borrowers who apply for a Federal direct or guaranteed loan have resolved non-tax debts prior to getting a new loan. The act also eliminates costly litigation to foreclose federally held mortgages by establishing a nonjudicial foreclosure procedure. Nonjudicial foreclosure is cost effective, conserves scarce resources and promotes the economic objectives of Federal loan programs.

The President's Council on Integrity and Efficiency reviewed these matters and H.R. 2234 addresses many of the key recommendations in the Inspectors' General report including, "the success of existing offset programs, especially the IRS tax refund offset and Federal salary offset, demonstrate the potential for a governmentwide administrative offset initiative."

Matching an offset of some portion of the $1 trillion in annual disbursments from Treasury could reduce the potential for one Federal agency making payment to a debtor while another Federal agency expends resources to collect a delinquent debt from the same debtor. The PCIE report made several recommendations concerning fast follow-up on delinquent debt accounts within 6 months or 180 days.

The third survey was done by the Department of the Treasury and Mr. Muñoz will describe that report. In conclusion, our preliminary 5-year scoreable and nonscoreable savings estimates from H.R. 2234 total $1.334 billion from 1996 through 2000.

Preventing delinquent debt avoids some of the pain of special collections. This bill once enacted gives agencies the incentive to develop better financial management programs. For example, gainsharing dollars, when invested in systems for on-line prescreening of loan applications for serious delinquencies, avoids agencies making loans that will likely default.

Although we do not count the savings due to prevention, we believe that these tools can turn around the trend in increasing delinquent debt. We look forward to working closely with the committee and its staff on the passage and enactment of H.R. 2234. If any of our interagency groups can assist the committee, please do not hesitate to call on their expertise.

Thank you for your support of an improved Federal debt collection program and thank you to the members of this committee for sponsoring the Debt Collection Improvement Act of 1995.

[The prepared statement of Mr. Koskinen follows:]

Office of Management and Budget
Statement of John Koskinen
Deputy Director for Management
before the
House Committee on Government Reform and Oversight
Subcommittee on Government Management,
Information and Technology

September 8, 1995

Mr. Chairman and Distinguished Members of the Subcommittee on Government Management, Information and Technology:

Thank you for the opportunity to testify in support of the Debt Collection Improvement Act of 1995 (H.R. 2234) which is of particular interest to this Committee. The Administration is very appreciative of the leadership and efforts of Chairman Horn to hold this hearing and to sponsor H.R. 2234; and also the efforts of the ranking member, especially for her survey and report on agencies' debt collection practices and her sponsorship of H.R. 2234.

This bill is an opportunity for the Congress and the Administration to create a new Government-wide debt management program. Once enacted, it gives us the tools we need to make government work better and cost less. By taking a businesslike approach to debt collection and by taking advantage of modern information technology, we can improve annual collection of delinquent debt and lower the deficit.

This bill is the result of a lot of hard work by the Chief Financial Officers' Council and the President's Council on Integrity and Efficiency whose members are very appreciative of this Committee's contributions to effective Federal financial management.

Additionally, the Federal Credit Policy Working Group, which I also chair should be recognized for its role in advising on the proposals which are included in H.R. 2234. The Federal Credit Policy Working Group membership includes the major credit assistance and debt collection agencies. This group is composed of senior policy and career staff from the Department of Agriculture, Department of Education, Department of Housing and Urban Development, Department of Veterans' Affairs, the Small Business Administration, Department of Justice, and Department of Treasury.

Scope of Receivables

There are literally hundreds of Federal programs which generate receivables. Most Federal receivables are generated through delinquent taxes and through Federal loan programs. In our most recent report to the Congress on credit management and debt collection, we reported $321 billion in Federal receivables. Of total receivables, $67 billion is in the category of delinquent taxes and $49 billion is in the category of delinquent loans and other claims. From 1993 to 1994, delinquencies have grown by nearly 8 percent. In the last five years, delinquencies for non-tax debt have grown by more than $9 billion or nearly 25 percent.

Loan programs generate the most receivables due to the Federal government. By year-end fiscal 1994, total Federal credit assistance was $892 billion consisting of $198 billion in direct loans and $694 billion in loan guarantees.

A diverse population owes money to the Federal government. Popular loan programs are directed to help farmers, veterans, small business owners, students, homeowners, and disaster victims. The Federal government offers credit to certain groups that cannot obtain credit on satisfactory terms in the private sector, thus it is assuming a significant risk of non-repayment.

A general rule of thumb used in the debt collection business, notwithstanding economic conditions, is that 90 percent of borrowers pay their bills on time. About 7 percent pay late, and about 3 percent will become seriously delinquent. At the end of 1995, OMB reported to Congress that total delinquency for non-tax accounts was slightly more than 5.2 percent of the total portfolio of guarantees and receivables.

Big lenders expect some level of default due to sickness, death, bankruptcy, long term unemployment, or recent divorce. Often these accounts must be written off as an asset due to non-collectibility. After an agency takes due diligence steps to determine collectibility, write-off and reporting to the IRS as income may be required. Last fiscal year, agencies wrote off more than $8 billion in receivables.

For loans that are collectible, we must be persistent, and sometimes fairly aggressive. For people who can repay, we should not let them just get away with not repaying their obligations because of short memory ("I forgot to mail the check." Or "I forgot it was a loan."), or moving without a forwarding address. Otherwise honest, hard working tax payers are paying for those who choose not to pay. The cost to the tax payer and to the integrity of Federal assistance programs should not be underestimated.

Goals

Debt collection is a Clinton Administration priority. This bill is the most important debt collection legislation since 1982. H.R.2234 treats delinquent debtors consistently. It is fair to the people who pay their bills owed to the Federal government on time.

The Federal Government must manage its receivables efficiently and effectively. Toward that end, this Administration's performance goals for improved debt collection are to:

- Effectively design and administer loan programs to avoid unnecessary loses;
- Process payments and collections in a timely manner and, wherever possible, through electronic means;
- Efficiently collect overdue debt owed to the government through the use of proven tools such as payment offset and the use of private collection agencies.

The Debt Collection Act of 1982 and the Deficit Reduction Act of 1984 provided the Federal Government special collections tools such as reporting delinquent debt to credit bureaus, Federal salary offset, and the ability to pay private collection contractors from debt collection proceeds. These tools have been successful in collecting billions of dollars. Still, we know that agencies don't always have the systems and the resources to make debt collection a long-term, top priority. We also know that the workload is increasing due to the increasing level of loan-making. For example, SBA's loan portfolio has increased by nearly 70 percent from $19 billion to $32 billion in the last four fiscal years. During the same period, FTE resources have decreased by almost 10 percent.

During the last two years there have been three major studies that address our goals to improve debt collection. In order of completion, the studies carried out by the executive branch were: (1) the Vice President's National Performance Review, (2) the President's Council on Integrity and Efficiency (PCIE) "Coordinated Follow up Review of Guaranteed Loans -- Implementation of Credit Management Initiatives," and (3) a Treasury Department survey of 800 debt collection specialists. With the advice and support of the Federal Credit Policy Working Group, the Department of Treasury and the Department of Justice were able to incorporate the recommendations of these studies into H.R. 2234.

National Performance Review

H.R. 2234, The Debt Collection Improvement Act addresses the three specific actions recommended in the Vice President's Report, "Creating a Government that Works Better and Costs Less," and its companion report on improving financial management by

- Giving agencies the flexibility to use some of the money they collect from delinquent debt to pay for further debt collection efforts, and to keep a portion of the increased collections;

- Eliminating restrictions that prevent federal agencies from using private collection agencies to collect debt; and, expanding authority of Justice to contract for private attorney support;

- Barring delinquent debtors from obtaining Federal loan strengthens the government-wide credit alert system used by federal agencies to ensure that potential borrowers applying for a federal direct or guaranteed loan have resolved non-tax debts prior to getting a new loan;

- Eliminating costly litigation to foreclose Federally held mortgages by establishing a nonjudicial foreclosure procedure. Nonjudicial foreclosure is cost-effective, conserves scarce resources and promotes the economic objectives of Federal loan programs.

President's Council on Integrity and Efficiency Review

H.R. 2234 addresses many of the key recommendations of the Inspector General's PCIE report including: " The success of existing offset programs, especially the IRS tax refund offset and Federal salary offset, demonstrate the potential for a government wide administrative offset initiative. Matching and offset of some portion of the $1 trillion in annual disbursements from Treasury could reduce the potential for one Federal agency making payment to a debtor while another Federal agency expends resources to collect a delinquent debt from the same debtor."

The PCIE report made several recommendations concerning fast follow up on delinquent accounts within six months or 180 days of delinquency. There is no question that the older the account, the more expensive and the less likely collections. As of the end of 1994, more than $35 billion of the $49 billion or 70 percent of delinquent non-tax accounts were more than one year past due. In line with the PCIE thinking, the administrative offset provisions of H.R. 2234 would be triggered for claims that are more than 180 days overdue. Once an account is more than 180 days overdue, unless there is collateral securing the loan, there is little chance of collection without the use of special collection tools authorized in H.R. 2234.

The Treasury Survey

In January 1995, the Financial Management Service of the Treasury Department reported in "Breaking the Barriers to Improved Debt Collection," that agency debt collection specialists believe that performance can be substantially improved. Specifically, debt collection specialists asked for enhanced resource support of debt collection, and improved information sharing and

communication within and among agencies. Treasury's plan to provide systems and cross-serving support is in effect a new government wide debt collection program.

Improved Systems

We know that centralized debt collection systems can pay off. The success of the tax refund offset program is one example. Another example is the Department of Justice's Central Intake Facility for managing delinquent claims referred to Justice for litigation and enforcement. In 1990, the Department of Justice implemented a centralized debt collection program through a central intake facility. Its advantages are better workload scheduling, more accurate case tracking and reporting, standardization of cases referred to Justice as well as increased communication and coordination with Federal agencies. By 1994, the Justice Department's total cash collections increased by more than $1.32 billion to a total of $1.8 billion. For the record, this system is financed out of a special authority, which allows Justice to retain up to 3 percent of civil collection for re-investment in its debt collection program.

This bill creates the necessary administrative incentives for Treasury and other major debt collection agencies to invest in systems that support improved electronic payments and collection of tax and non-tax delinquent debt. The Department of the Treasury is a leader in modern payments and collections technology. Treasury's role in the new government-wide debt collection program will be to design and manage a debt collection systems network which links debt collection information resources to improve collections and insures compliance with Privacy Act and tax information disclosure requirements.

Conclusions

Preliminary five-year scorable and non-scorable saving from H.R. 2234 total $1.334 billion from 1996 through 2000.

OMB scoring conventions under the Budget Enforcement Act allow for scoring proposals that directly affect the cost of the program and prohibit scoring proposals that have an indirect effect to the cost of the program. Changes in legislation that have a direct effect of how a program is managed can be scored for PAYGO purposes, i.e., requiring a Federal Salary Offset Program. Direct savings can either be counted toward deficit reduction or be reinvested in other programs or activities. Changes in legislation that have an indirect effect on how a program is managed cannot be scored for PAYGO purposes. However, OMB has developed estimates of the savings that would be counted toward deficit reduction only. An example of indirect savings in H.R. 2234 is allowing SSA the authority to pay private collection contractors out of proceeds.

For direct saving which can be scored according to the Budget Enforcement Act, the Office of Management and Budget estimates three year PAYGO savings of $812 million from 1996 through 1998. For five years, total direct savings total $1.05 billion.

For indirect savings which may be counted toward deficit reduction if realized, OMB estimates another $173 million for three years and $284 million for five years through 2000.

Preventing delinquent debt avoids some of the pain of special collections. This bill, once enacted, gives agencies the incentives to develop better financial management systems. For example, gainsharing dollars when invested in systems for on-line pre-screening of loan applicants for serious delinquencies avoids agencies making loans that will likely default. Although we do not count the savings due to prevention, we believe that these tools can turn around the trend in increasing delinquent debt.

We look forward to working closely with the Committee and its staff on the passage and enactment of H.R. 2234. If any of our interagency groups can assist the Committee, please don't hesitate to call on their expertise. Thank you for your support of an improved Federal debt collection program, and thank you to the members of this Committee for sponsoring the Debt Collection Improvement Act of 1995. In addition, if the Committee has any questions for the Department of Justice, we will be happy to coordinate written responses to these questions.

Mr. HORN. Thank you for your very helpful testimony in that. I take it you can stay till the end of the panel.

Mr. KOSKINEN. Yes.

Mr. HORN. So we can question you all at once. I'm sorry for the delay. Usually I open these hearings precisely but they happened to have the base closure legislation on the floor and I had to speak on that subject since Long Beach has been damaged more by base closure than 46 of the 50 States, so I had a few things to say on the subject.

But I thank Mr. Davis in particular for opening the hearing and getting it underway. I will put in at this time the two opening statements, my own as chairman and the ranking minority member, Mrs. Maloney, the gentlewoman from New York, as if they were read at the beginning of the hearing transcript. Then we will proceed with the other witnesses on this panel. Mr. Muñoz, the Chief Financial Officer, Assistant Secretary for Management, Department of the Treasury is next. Welcome.

Mr. MUÑOZ. Good morning, Mr. Chairman, and distinguished members of the subcommittee. I'm pleased to be here and have this opportunity to discuss the administration's program to improve debt collection within the Federal Government.

If I may, I would like to dispense with reading my entire statement and limit my remarks to the highlights of the program and the anticipated benefits which would result from enactment of H.R. 2234, the Debt Collection Improvement Act of 1995.

We appreciate the leadership you and the ranking minority member have shown on this legislation. The purpose and vision of our program is to protect the financial interest of the American taxpayer and to treat delinquent debtors fairly while collecting what is rightfully owed to the Federal Government.

Since September 1993, Department of the Treasury officials have talked to over 800 Federal employees involved in collecting delinquent debt about the barriers they face in doing their jobs effectively and about ways to remove those barriers. Overwhelmingly, they support initiatives that will improve their ability to share information with each other, to standardize and centralize debt management functions and to strengthen debt collection regulations.

In January of this year, the Financial Management Service of the Treasury Department documented in its "Breaking the Barriers to Improved Debt Collection Report" that agency debt collection specialists throughout the Federal Government believe that debt collection performance can be substantially improved. Specifically, debt collection specialists asked for enhanced resource support of debt collection and improved information sharing and communication within and among agencies.

Treasury's plan to provide systems and cross-servicing support is in effect a new governmentwide debt collection program. We know that centralized debt collection systems can pay off. The success of the tax refund offset program is one example.

Another example is the Department of Justice Central Intake Facility for managing delinquent claims referred to Justice for litigation and enforcement. In 1993, the Department of Justice implemented a centralized debt collection program through a central intake facility and a computer link up of 94 judicial districts.

Its advantages are better workload scheduling, accurate case tracking and reporting, and compliance with the Privacy Act. In 1994, 1 year later, the Justice Department's total cash collection increased by more than $850 million over collections of $948 from the preceding year. This represents a near doubling of collections in 1 year. For the record, this system was financed out of a special authority which allows Justice to retain up to 3 percent of collections for reinvestment in its debt collection program.

Consequently, as a result of previous successes in centralized debt collection and the work of Treasury Department and agency officials, an expanded program is being created to strengthen and enhance debt collection within the government. The legislation you are considering, H.R. 2234, the Debt Collection Improvement Act of 1995, would greatly enhance the administration's ability to implement this program.

This bill creates the necessary administrative incentives for Treasury and other major debt collection agencies to invest in systems that support improved electronic payments and collection of taxed and untaxed delinquent debt. The Department of the Treasury is a leader in modern payment and collection technologies.

Treasury's role in the new governmentwide debt collection program will be to design and manage a debt collection system network which links debt collection information resources to improved collections while maintaining and ensuring compliance with Privacy Act and tax information disclosure requirements.

Mr. Chairman, our goals in creating this program are simple: First, we wish to treat our debtors fairly and consistently with due regard to their due process rights; second, we wish to reduce the monetary losses resulting from inadequate collection of debts owed to the Federal Government; third, we wish to maximize the amounts we collect and minimize our costs of collection; fourth, we wish to ensure that the public knows what we are doing and of its obligations to repay government debts; fifth, we wish to avoid needless litigation; next, we wish to ensure that our employees are properly trained to do their jobs and to ensure that the task of collecting debt is assigned to those who are properly trained; and last we wish to avail ourselves of private-sector resources.

Mr. Chairman, every Federal agency has a responsibility to implement effective debt collection programs, streamline the debt collection process, be able to share information where appropriate and use modern business practices and technology. Treasury has been working, through partnerships established with the Chief Financial Officers' Council, the Office of Management and Budget, the Federal Credit Policy Working Group and the Inspector General community to develop its debt collection program and will continue to work through these partnerships as well as other interagency partnerships to implement its program.

There exists a strong desire by the Federal agencies to improve Federal debt collection. For example, the Chief Financial Officers' Council has listed improved debt collection as one of its top seven priorities for this year. Our partnerships will help us implement an effective governmentwide program to improve debt collection.

Through knowledge and experience, Treasury is in a unique position to lead this new effort toward more efficient debt collection.

The Department of the Treasury, under a memoranda of understanding with the Office of Management and Budget, is the lead agency in credit management and debt collection in the Federal Government.

Treasury has, among other things, issued standards for managing Federal receivables, managed the governmentwide debt collection contract, and has implemented the Federal Tax Refund Offset Program which has resulted in collections of over $5 billion to date in delinquent and untaxed debt. Treasury's program intends to take advantage of existing debt collection tools by improving and expanding their use, more effectively using the efficient debt collection centers existing in the Federal Government, and establishing a centralized offset program at the disbursement level so that the government may effectively collect on its delinquent debts from government payments that would otherwise be disbursed to the debtor. None of these proposals require costly investments to implement and all of these proposals will result in savings to the government.

The implementation of this program and the passage of this legislation you're sponsoring will clearly help us do more with less.

Mr. HORN. Can you close it out now?

Mr. MUÑOZ. We strongly support H.R. 2234, the Debt Collection Improvement Act of 1994 because it will assist us in implementing improvements to the governmentwide debt collection.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Muñoz follows:]

Department of the Treasury

Statement of George Munoz
Assistant Secretary (Management)/
Chief Financial Officer
before the
House Committee on Government Reform and Oversight
Subcommittee on Government Management,
Information and Technology

September 8, 1995

Mr. Chairman and Distinguished Members of the Subcommittee:

Good morning. I am pleased to be here and have this opportunity to discuss the Administration's program to improve debt collection within the Federal Government. I would like to discuss some of the key points of the program and the anticipated benefits which would result from enactment of H.R. 2234, the "Debt Collection Improvement Act of 1995." We appreciate the leadership you and the Ranking Minority Member have shown on this legislation.

Program Purpose and Vision

The purpose and vision of our program is to protect the financial interests of the American taxpayer, and to treat delinquent debtors fairly while collecting what is rightfully owed to the Federal Government.

Background

Since September 1993, Department of the Treasury officials have talked to over 800 Federal employees involved in collecting delinquent debt about the barriers they face in doing their jobs effectively and about ways to remove those barriers. Overwhelmingly, they support initiatives that will improve their ability to share information with each other, to standardize and centralize debt management functions, and to strengthen debt collection regulations.

In January 1995, the Financial Management Service of the Treasury Department documented in its "Breaking the Barriers to Improved Debt Collection" report that agency debt collection specialists throughout the Federal Government believe that debt collection performance can be substantially improved. Specifically, debt collection specialists asked for enhanced resource support of debt collection, and improved information sharing and communication within and among agencies. Treasury's plan to provide systems and cross-servicing support is in effect a new governmentwide debt collection program.

We know that centralized debt collection systems can pay off. The success of the tax refund offset program is one example. Another example is the Department of Justice's Central Intake Facility for managing delinquent claims referred to Justice for litigation and enforcement. In 1993, the Department of Justice implemented a centralized debt collection program through a central intake facility and a computer link up of 94 judicial districts. Its advantages are better workload scheduling, accurate case tracking and reporting, and compliance with the Privacy Act. In 1994, one year later, the Justice Department's total cash collection increased by more than $850 million over collections of $948 from the preceding year. This represents a near doubling of collections in one year. For the record, this system was financed out of a special authority, which allows Justice to retain up to 3 percent of collections for re-investment in its debt collection program.

Consequently, as a result of previous successes in centralized debt collection and the work of Treasury Department and agency officials, an expanded program is being created to strengthen and enhance debt collection within the Government. The legislation you are considering, H.R. 2234, the "Debt Collection Improvement Act of 1995," would greatly enhance the Administration's ability to implement this program.

This bill creates the necessary administrative incentives for Treasury and other major debt collection agencies to invest in systems that support improved electronic payments and collection of tax and non-tax delinquent debt. The Department of the Treasury is a leader in modern payment and collections technologies. Treasury's role in the new governmentwide debt collection program will be to design and manage a debt collection systems network which links debt collection information resources to improve collections, while maintaining and insuring compliance with Privacy Act and tax information disclosure requirements.

Goals

Mr. Chairman, our goals in creating this program are simple:

1. we wish to treat our debtors fairly and consistently, with due regard to their due process rights;

2. we wish to reduce the monetary losses resulting from inadequate collection of debts owed to the Federal Government;

3. we wish to maximize the amount we collect and minimize our costs of collection;

4. we wish to ensure that the public knows what we are doing and of its obligation to repay Government debts;

5. we wish to avoid needless litigation;

6. we wish to ensure that our employees are properly trained to do their jobs, and to ensure that the task of collecting debt is assigned to those who are properly trained; and

7. we wish to avail ourselves of private sector resources.

Every Federal agency has the responsibility to: (1) implement effective debt collection programs; (2) streamline the debt collection processes; (3) be able to share information where appropriate; and (4) use modern business practices and technology. We strongly believe that our program will enhance each agency's ability to meet these responsibilities.

Treasury's Program

Treasury has been working through partnerships established with the Chief Financial Officer's Council, the Office of Management and Budget, the Federal Credit Policy Working Group and the Inspector General community to develop its debt collection program and will continue to work through these partnerships, as well as other inter-agency partnerships, to implement its program. There exists a strong desire by the Federal agencies to improve Federal debt collection. For example, the Chief Financial Officer's Council has listed improved debt collection as one of its top seven priorities for this year. Our partnerships will help us implement an effective governmentwide program to improve debt collection.

Through knowledge and experience, Treasury is in a unique position to lead this new effort toward more efficient debt collection. The Department of the Treasury, under Memoranda of Understanding with the Office of Management and Budget, is the lead agency in credit management and debt collection in the Federal Government. Treasury has, among other things, issued standards for managing Federal receivables, managed the governmentwide debt collection contract, and has implemented the Federal tax refund offset program, which has resulted in collections of over $5 billion to date in delinquent non-tax debt.

Over the years Treasury has provided staff support to agencies and OMB by:

1. establishing standards, guidelines and procedures on debt collection;

2. developing and facilitating the use of various debt collection tools;

3. providing training for Federal debt collectors;

4. sponsoring pilot projects, including systems redesign, within agencies to improve debt collection; and

5. collecting quarterly financial data on agency receivables and debt collection practices.

Our new program, which has Treasury involved in operational debt collection tasks, represents

the most effective way Treasury can improve governmentwide debt collection in the current environment of limited resources.

Treasury's program intends to take advantage of existing debt collection tools by improving and expanding their use, more effectively using the efficient debt collection centers existing in the Federal Government, and establishing a centralized offset program at the disbursement level so that the Government may effectively collect on its delinquent debts from Government payments that would otherwise be disbursed to the debtor. None of these proposals require costly investments to implement, and all of these proposals will result in savings to the Government. The implementation of this program, and the passage of the legislation you are sponsoring, will clearly help us to do more with less.

Cross-Servicing

We believe that agencies can assist each other in applying adequate debt collection procedures to delinquent Federal debts. Some agencies have developed sophisticated and efficient "debt collection centers" while other agencies do not have sufficient resources to collect their delinquent debts effectively. Cross-servicing provides a solution. Under cross-servicing, agencies will have the option of utilizing the debt collection services of the more efficient debt collecting agencies of the Federal Government. We envision a consortium of debt collection centers within the Federal Government, efficiently providing services for agencies with limited debt collection resources. The Department of the Treasury will act as the key coordinating point in the consortium, and will provide collection services not otherwise available through other agencies. This consortium will tap into the capabilities of private sector collection agencies to enhance its debt collection operations.

Cross-servicing will result in more consistent treatment of debtors. Employees in debt collection centers are trained and experienced in debt collection procedures and will assure that debts are aggressively pursued while adequate due process rights are provided to debtors. The Federal Government, our taxpayers and our debtors will be assured a more consistent debt collection process which will be driven by the ability of the debtor to repay the amount owed, and not whether a particular agency has the experience or resources to pursue the debt.

Treasury Offset Program

Another centralized debt collection service which is a key component of Treasury's program is centralized offset. Statistical matches have shown that the Federal Government routinely makes payments to persons and other entities indebted to the Federal Government. Centralized offset would take advantage of Treasury's role as the chief disbursing agent for the Federal Government. By matching Treasury's payment certification records against delinquent debtor records, we will be able to identify payments which are intended to be made to delinquent debtors, and use those payments to reduce the outstanding indebtedness the debtor/payee owes to the Federal Government, where appropriate.

The Treasury Offset Program (TOP) will provide numerous benefits for Federal debt collection. First, TOP will consolidate several current programs which emphasize specific types of payments, such as tax refund offset and salary offset, and will encompass payments which are currently not part of a governmentwide offset program such as vendor payments. H.R. 2234, would provide clear authority for Treasury to conduct this centralized program, and would expand the types of payments available for offset, including certain Federal benefit payments such as Social Security and Railroad Retirement payments.

Secondly, TOP will centralize the offset process for the various types of debts which the Government collects by offsets. TOP will provide a mechanism for collecting (1) non-tax Federal debts, and, through legislative changes contained in H.R, 2234, (2) tax debts subject to continuous levy, and (3) debts administered by States in which the Federal Government has a financial interest.

TOP will also serve as a method for locating delinquent debtors, since payment records generally contain very current address information. This will enable creditor agencies to locate the debtors and pursue debt collection, compromise the debt or cease debt collection activity, where appropriate.

Finally, for those payments which are not disbursed by Treasury (such as payments of the Department of Defense and the Postal Service), the Treasury Offset Program will provide for matching of delinquent debtor records with the payment certifying records of those non-Treasury disbursing agencies, and authority to offset those payments.

Thus, TOP will provide a basic process where all appropriate payments can be matched against all appropriate debts for the purpose of offset.

Debtors will be protected from having payments offset where it would not be appropriate. For example, benefit payments issued by the Department of Veterans Affairs would be exempt from offset, and the first $10,000 of all benefit payments made during any twelve month period would be statutorily exempt from offset. In addition, TOP, as administered by Treasury, will provide for an exemption from offset where the debtor demonstrates that taking the payment by offset would result in hardship. TOP will be administered in a manner which will provide debtors with exemptions for cases of financial hardship, but at the same time will assure that those who can pay their lawful debts do so.

Due Process Rights of Debtors

We are very concerned that the due process rights of our debtors be protected under Treasury's Debt Collection Program and we have assured that those rights will be protected. In providing for cross-servicing arrangements between agencies, our program provides that servicing shall be performed under the authorities of the original creditor agency, thus maintaining all the original

rights and protections of the debtor. The language in the proposed legislation clearly adopts this position. No right or privilege will be eliminated solely because the debt will be collected by an agency other than the original creditor agency.

In consolidating offset within the Government, Treasury will provide extensive due process protections. At a minimum, prior to initiating offset, creditor agencies will be required to provide:

1. written notice to the debtor of the debt and that the debt is delinquent and that the agency intends to collect the debt through the offset;

2. an opportunity to inspect agency records concerning the debt;

3. an opportunity to review the debt with agency officials; and

4. an opportunity to enter into a written agreement with the creditor agency to repay the debt.

These rights concerning offset are currently contained in title 31, United States Code, section 3716, and the Federal Claims Collection Standards adopted by the Department of Justice and the Government Accounting Office. The proposed legislation, H.R. 2234, does not change any of these existing due process rights.

Computer Matching

The legislation does provide an exemption from the requirements of the Computer Matching and Privacy Protection Act of 1988 (the "Act"). We support this exemption, not because it eliminates any due process rights or protections, but because the Computer Matching and Privacy Protection Act of 1988 contains provisions that would prohibit conducting a disbursing official offset program. For example, the Act would require that the debtor be sent a written notice subsequent to the match of debtor and payment records indicating that the agency intends to collect the debt through offset. While this notice is substantially similar to the notice which will be sent by the creditor agency prior to initiating TOP, the Act would both prohibit conducting offset for thirty days after the notice is sent and, simultaneously, prohibit holding up the payment while the thirty day period expires. As a result, no offset would be possible, and the money would be paid to the debtor leaving the Federal debt unpaid.

By comparison, the tax refund offset program which is exempt from the Computer Matching and Privacy Protection Act of 1988 and has resulted in over $5 billion in collections to date, provides due process rights virtually equivalent to the rights provided under TOP.

In weighing the additional due process protections provided by the Act, which are minimal, against the administrative burden of the Act, which is substantial, we believe that the exemption

provided under the proposed legislation is clearly necessary and warranted.

The Legislative Proposal

We strongly support H.R. 2234, the "Debt Collection Improvement Act of 1995," because it will assist us in implementing improvements to governmentwide debt collection. This legislative proposal:

1. protects the rights of the debtor, and provides notice and due process, before the debt is collected;

2. enhances the Federal Government's ability to collect from those people who owe money to the Government;

3. provides a mechanism for the Government to apply payments intended to be made to people who are past due on amounts owed the Government to pay back their Government debts;

4. expands the authority for Federal agencies to service and collect debts for each other, so that agencies do not duplicate collection programs;

5. allows more Federal agencies to use private debt collectors;

6. prohibits the extension of Federal credit to delinquent debtors;

7. provides financial incentives for agencies to do a better job collecting the Government's debts;

8. expands the use of private attorneys to help collect Federal debts; and

9. authorizes non-judicial foreclosure of federally held mortgages.

Anticipated Benefits - One Year From Now

This proposed legislation will provide the following benefits:

1. increased receipts of an estimated $1.05 billion over five years, and additional deficit reduction of $284 million over five years;

2. reduced delinquencies;

3. increased use of debt collection tools already in existence, including the use of private collection contractors;

4. consistent and fair treatment of delinquent debtors; and

5. increased public perception that the Federal Government performs its functions in an effective and efficient manner.

Thank you, Mr. Chairman. This concludes my remarks this morning. I would be pleased to address any questions regarding this legislation or our debt collection efforts that you or other Members of the Subcommittee may have.

Mr. HORN. We thank you very much. Our next witness is also a regular with this panel. Mr. Anthony Williams is the Chief Financial Officer for the Department of Agriculture.

Nice to see you again, Mr. Williams.

Mr. WILLIAMS. Thank you, Mr. Chairman, and members of the committee.

I'd like to introduce for the committee, Ted David, my Deputy Chief Financial Officer, and Ray Gonzalez, who is our Debt Management Coordinator at USDA. I like to introduce the people who are actually doing the work, and just briefly summarize the remarks I have entered for the record.

As this committee well knows, USDA has a wide range of different programs that range from farm and home loans to food stamps and loans for utilities. USDA is also a lender in many cases of last resort, going where no one's gone before, so to speak, and basically operating at risk levels that the private market doesn't.

This is all the more reason why we have to take every precaution to safeguard our assets, and more importantly, to ensure that we achieve the right return on those assets in our lending programs. With over $12 billion out of $113 billion in debt delinquency, this is a level that is unsatisfactory I know to the administration, and certainly to the Secretary, and he has asked us to do everything possible to accelerate our effort to collect delinquent loans.

We are proud of what we have done in tax refund offset in 1994, of $33 million; what we have done by aggressive litigation efforts, around $76 million; and what we have done already in administrative offset to the tune of some $15 million. But much more needs to be done. I would just briefly share with the committee an agency's perspective of how a number of these tools fit together.

I think it's very important that we look at the complete life cycle of our lending programs and what we're trying to do from the very beginning, from the program design, what we're doing under GPRA to begin establishing goals and performance measures for our programs; to look at what we're actually trying to accomplish and how well we're accomplishing it; to look at program administration and under the ag/USDA reorganization consolidating for efficiency and economy, many of our collection efforts; and to look at what the NPR and as Mr. Koskinen has referred to this, what the NPR has urged us to do in the effort to look at more unique approaches.

We have already, with the cooperation of this Congress, gotten efforts to go into private collection resources, to better use U.S. attorneys for some of our litigation efforts, and I think very importantly over the last year, working with the Federal Credit Policy Working Group, to create for the first time a stream of reporting on how well we're doing in our lending programs.

And you may say, "well big deal, you've got a reporting program not performance." But compared to where we are, we are going in the right direction and have made great advances because this provides the Secretary with an answer. How are we doing on these loans? How far are we going? What are our milestones? What are the results of all of our efforts? A very, very powerful measure. And I know the Federal Credit Policy Working Group is now working further on performance measures. We think this is very important.

The bill and what it offers us for offset, George has referred to this, we think is also quite salient. But I would also really urge the committee the importance of cross-servicing, because one of the major initiatives of the administration and this committee has been to further centralize and consolidate a lot of our financial activities. I know from an agency perspective that's known for its constellation of different component agencies and processes the best way to go about this is on a competitive basis and I've referred to this before as a kind of Kevin Costner approach. If you build a system that is attractive to other agencies, that's cost competitive, and that's very enticing, people will use that service, and over time you achieve the economies of scale that you want. We think that there is a very important feature of the bill.

And I would finally add as my time elapses the whole area of gain sharing. We have long felt the need for a litigation tracking system. Again, not rocket science but something very needed in the area of management information systems. This is something that all of our people can invest resources in with what we would get from gain sharing under this bill in cooperation with the other agencies.

We're very strongly behind the bill and urge its adoption, Mr. Chairman.

[The prepared statement of Mr. Williams follows:]

STATEMENT OF
ANTHONY A. WILLIAMS
CHIEF FINANCIAL OFFICER
U.S. DEPARTMENT OF AGRICULTURE

BEFORE THE
HOUSE SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION AND TECHNOLOGY

TESTIMONY ON GOVERNMENT-WIDE DEBT COLLECTION
POLICIES AND PROPOSALS FOR IMPROVEMENT

September 8, 1995

Mr. Chairman and Members of the Committee, thank you for the opportunity to share our thoughts on Federal debt collection policies and needed improvements. With me is Irwin Ted David, Deputy Chief Financial Officer for the United States Department of Agriculture (USDA).

As of September 30, 1994, USDA was owed about $113.7 billion, of which $12.3 billion was delinquent. These delinquencies are a result of farm loans, food stamp overpayments, utility loans, defaulted loan guarantees, and other USDA program activities. The large delinquencies can be attributable to a great extent to the interest that accrues during the time consuming servicing actions required by laws and regulations. Much of the accrued interest will not be collected.

USDA provides debtors every opportunity to bring their accounts current. We fully respect due process in the collection of delinquent debts. However, USDA intends to use all the tools available to us to reduce the number and amount of delinquent debt. The proposed legislation and other debt collection practices being considered by your Committee provide numerous tools to assist Federal agencies in pursuing collection of delinquent debt.

I am pleased to have worked with the Department of Treasury (Treasury), the Office of Management and Budget, and other Federal agencies in the development of proposed legislation, now referred to as the Debt Collection Improvement Act of 1995, H R. 2234.

Among those tools which are particularly important to us are:

- Administrative Offset for all delinquent debt through Treasury;
- Exemption of Administrative Offset and other debt collection initiatives from restrictions of the Computer Matching and Privacy Act;
- Allowing States and the Federal Government to offset each other's payments to collect each other's debt;
- Facilitating the ability of agencies to service each other's debt on a reimbursable basis (cross-servicing);
- Requiring persons doing business with and participating in programs of the Federal Government to provide taxpayer identification numbers;
- Barring delinquent debtors from obtaining Federal benefits including, loans, insurance, and administrative services;
- Allowing agencies to report current consumer debts to credit reporting agencies;
- Expanding the use of private collection agencies; and
- Allowing some agencies to retain some portion of increased collections of delinquent debts to fund improved debt collection efforts.

Administrative Offset

Administrative Offset is the withholding of monies owed by the Government to a person or entity, to satisfy a debt owed the Government by that person or entity (for example, the withholding of income tax refunds due former food stamp recipients to offset their delinquent food stamp overpayment claims). Offset programs may use income tax refunds, salary payments or other payments to offset debt.

We support this proposal and Treasury's plans for development of a collection management service for Federal debt. We believe this will result in more effective collection efforts, and that the process will satisfactorily address Internal Revenue Service (IRS) concerns over the disclosure of taxpayer information. This provision in the proposed law will resolve, in part, difficulties USDA has experienced with the Federal Tax Refund Offset Program we operate to collect food stamp overpayments.

Treasury's Administrative Offset Initiative promises to be an excellent collection tool, which when fully implemented will greatly increase opportunities for collection.

Computer Matching

We support exemption of the Treasury Administrative Offset Program (TAOP) and other Federal debt collection initiatives from requirements of the Computer Matching Act of 1985. The Computer Matching Act requires each Federal agency to: (1) draft Interagency Agreements allowing the exchange of information between agencies seeking information on the location of delinquent debtors and agencies that have information on the location of those delinquent debtors; (2) establish Data Integrity Review Boards to review and take action on these Interagency Agreements; and, (3) publish the matching information in the Federal Register.

While we support Congressional intent to protect individual privacy, these requirements of the Computer Matching Act delay and impede the collection of debt owed the Government. It is very important to debt collection efforts that Federal agencies be able to share information about

Federal debtors in an efficient manner: addresses, identification numbers, and total debt obligation information. Such information not only helps collect delinquent debt, but may prevent the extension of additional Federal credit to debtors unable to carry their current debt load.

In addition, this exemption will significantly reduce the amount of resources spent by the Data Integrity Review Boards and the Offices of General Counsel and their associated staffs, as well as improve the timeliness of matches. In keeping with the current Congressional spirit of "government operating like a business," we support the exemption of these valuable tools from the Computer Matching Act.

Federal and State Government Partnerships

USDA supports the establishment of partnerships between State and Federal agencies to collect public debt. We know that partnerships between State and Federal agencies work. For instance, USDA's Food and Consumer Service successfully uses State-level sources to collect Food Stamp overpayments. State agencies routinely refer delinquent Federal debts to State tax agencies, State lotteries and gaming commissions, motor vehicle departments, and other agencies to pursue collection. These cooperative collection activities have resulted in the collection of approximately $60 million of delinquent food stamp overpayments since 1993.

A reciprocal arrangement would not only allow State agencies to collect their debt, it would also open the door for increasing collections where Federal and State funds are commingled in overpayments to program recipients, as in the Aid to Families with Dependent Children (AFDC) program. It would also allow continued State participation in offset programs under a block grant funding arrangement, an opportunity not currently available to States.

More and more State governments are instituting State income tax offset programs, and they are finding these programs to be instrumental in collecting State debt. This Act provides the basis for Federal and State Government partnerships in debt collection and expands the capability of States to collect their debts.

Cross-servicing

USDA supports the cross-servicing of debt collection activities. For nearly 15 years, USDA has played an active role in cross-servicing debt collection, administrative billings and collections, travel, and other financial services through the operations of the National Finance Center (NFC).

USDA handles payroll-related debt service for all the agencies we cross-service, and provide full debt collection activities for smaller agencies. This includes billings, collection letters and installment payment negotiations. We also refer delinquent debts to credit bureaus, and to the IRS for income tax offset, and to the Department of Justice for litigation. Our services reduce operating costs and result in significant savings to our customers.

Our experience demonstrates to us that there are enormous benefits to be realized by cooperating to share needed information and services. We strongly support this provision in the proposed legislation.

Taxpayer Identification Numbers

It is essential that Federal agencies be given maximum leverage to collect delinquent debts. An extremely important factor in debt collection efforts is correct identification of debtors, both to collect current delinquent debt and to prevent incurring more delinquent debt in the future. Taxpayer identification numbers are central to this identification effort, and we support this provision in the proposed legislation.

Bar Delinquent Debtors From Obtaining Additional Federal Benefits

USDA supports the provision to bar delinquent debtors from obtaining additional (non-essential) Federal benefits. The provision will not bar delinquent debtors from receiving essential Federal benefits (such as food stamps), but will prevent problem debtors from incurring new Federal debt. In addition, a waiver provision in the proposed legislation addresses extenuating circumstances. This provision will provide an incentive for delinquent debtors to resolve their current debt and decrease future delinquencies.

Credit Reporting

Agencies should be allowed to report both current and delinquent consumer debts to credit reporting agencies. Current law permits only the reporting of delinquent consumer debts. Failure to report current debt information leaves Federal and other creditors unaware of a debtor's true debt load. Therefore, Federal and private sector lenders are in jeopardy of making additional loans to debtors who are already overextended, and at high risk of default.

In concert with Congressional concerns that the Federal Government operate like a business, we support the use of expanded credit reporting.

Use Private Collection Agencies

The expanded option to use private collection agencies could be a valuable tool in debt collection. While some Federal agencies have long shied away from using collection agencies, they can be important to ensuring that we are using every available option before we consider writing off debts. Collection techniques can be limited and described by contract, to prevent abuse, as is being done with Treasury's newly-awarded collection contracts, which USDA may use to pursue delinquent debt in the U.S. Territories.

Gain Sharing

Agencies are generally conscientious in their efforts to collect delinquent debts, however, those efforts are hampered by a shortage of funds. For example, USDA has successfully used

private sector attorneys to handle foreclosure proceedings; however, due to resource reductions, we have been unable to expand this effort to refer and foreclose on the many vacant properties now on our books. Allowing agencies to retain a share, even one percent, of increased collections from delinquent debts will allow expansion of this and other effective debt collection activities.

We support this gain sharing effort.

Conclusion

It is essential that USDA and other Federal Agencies have and take advantage of all opportunities to collect delinquent debt. USDA intends to use all the tools available to reduce the number and amount of delinquent debt, while providing debtors every opportunity to bring their accounts current.

We at USDA support the Debt Collection Improvement Act of 1995, H.R. 2234. We believe the proposed legislation could be further improved by allowing agencies to use several of these debt collection tools simultaneously on the same debt. We believe it will strengthen debt collection, and send a strong message that says, "Debts owed the Government must be paid."

Mr. HORN. Well, I thank you very much. You and your colleagues have a splendid record in this area and we appreciate your testimony.

Our next witness is Mr. Michael Smokovich, the Deputy Commissioner for Financial Management Service of the Department of the Treasury. Nice to see you again.

Mr. SMOKOVICH. Thank you. Good to see you again, sir. I would like to submit my statement for the record and to try to be as brief as my chairman.

We do support Mr. Lightfoot's legislation. The Financial Management Service is responsible for managing the government's money. During this current—during fiscal year 1994, we collected, disbursed or accounted for approximately $2.7 trillion in cash. We are the government's money mover. But as the agency that is most responsible for getting people paid, we have a large stake in seeing that payment policies are effective for the recipients themselves and the agency that so authorized the payments.

During the current fiscal year, we will issue over 830 million payments to a wide variety of recipients. Roughly 420 million of those payments will be made by check, the remaining 410 million will be made via some form of EFT.

By far the best value of our workers is their issuance of EFT payments at an average cost of less than 2 cents per item. The checks that our employees produce cost 43 cents on the other hand. More than two-thirds of that expense goes for postage and check stubs.

We have been successfully using EFT and promoting it as a payment method for two decades. Our plan for the next decade emphasizes electronic payments. For this reason we support H.R. 1698.

EFT is the best payment method available for virtually all our payment work. However, we need your help to expand the use of EFT so that we and our customer agencies can work as effectively as possible. The government has been the leader in making electronic payments. In recent years there has been steady but slow growth. There are many success stories. On balance, we are only halfway to our goal.

Electronic Funds Transfer should be the Federal electronic payment standard. Electronic payments are virtually trouble-free and they are never lost. I want to emphasize that word "never," they are never lost.

On the other hand, there are many customer service problems that relate to checks. After we release a check from our centers, Treasury loses control of the payments. Every 40 seconds a Treasury check is lost, stolen or damaged.

During this hearing, probably 100 people will be inconvenienced. They will be part of the 1.7 million constituent inquiries that our agency will receive this year. For the fiscal year we will have to replace over 800,000 checks.

Mr. Davis made a remark about some of his constituents losing a check. In that particular case, it took us 9 days to replace those checks. If they had been EFT payments, we would have replaced them in 1 day. A big service issue.

Crime is an issue. Forgeries are at record levels and increasing. During the current fiscal year, the U.S. Secret Service and our agency estimate that 75,000 forgeries will occur. That's 18 percent

more than last year. That will cost financial institutions about $68 million. EFT legislation will eliminate opportunities for payment loss, theft and forgery.

We also need this legislation, as Chairman Lightfoot said, to control cost. Paper processing is inherently expensive. Electronic processing is inherently efficient. Our net savings over a 5-year period from this bill would save $66 million.

Savings in the area of postage, facilities, equipment and personnel cost are approximately $416 million. These significant savings are offset by an estimated $350 million loss on check float. We also calculate saving 240 FTE when the mandate is implemented. Payments are being converted but it is occurring at a fairly sluggish rate. Check production will remain at over $400 million items annually well into the next century without legislation.

Mr. Chairman, we support H.R. 1698. With the passage of this bill, we can achieve an EFT payment rate well over 90 percent. However, we can do more. We can implement the proposed legislation by 1999.

The administration supports such an amendment and such an approach. We can do this because the largest percentage of current check recipients have bank accounts. We believe that aggressive direct deposit marketing and the development of customer friendly systems to accommodate the unbanked will allow a smooth and successful transition to EFT by the turn of the century. Therefore, we urge implementing this legislation in 1999. Setting EFT as the Federal standard before rather than after the turn of the century is more than symbolic. It is really good government.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Smokovich follows:]

DEPARTMENT OF THE TREASURY

Statement of Michael Smokovich
Deputy Commissioner
Financial Management Service
before the
House Committee on Government Reform and Oversight
Subcommittee on Government Management,
Information and Technology

Mr. Chairman and Members of the Subcommittee, I am Michael Smokovich, Deputy Commissioner of the Financial Management Service. Today I am representing the agency as the Acting Commissioner.

Thank you for the opportunity to appear today to discuss the need for legislation to expand Electronic Funds Transfer (EFT) for Federal payments. We support such legislation and appreciate the Subcommittee's interest in making the Government more efficient and cost-effective.

The Financial Management Service (FMS) is the bureau of the Treasury Department responsible for managing the Federal Government's money. FMS' primary responsibilities are to: 1) manage the collection of revenues, including individual and corporate income taxes, tariffs, and fines; 2) issue payments on behalf of Federal civilian agencies; 3) perform the central accounting and reporting for the Government's general receipts and expenditures; and 4) to develop financial systems and techniques to better manage the Federal Government. During fiscal year 1994, FMS collected, disbursed, and accounted for approximately $2.7 trillion in cash flows.

As the agency that is most responsible for getting people paid, we have a large stake in seeing that payment policies are effective for the recipients themselves and the agencies who authorize the payments. During the current fiscal year, FMS will issue over 830 million payments (Reference Chart A) to a wide variety of recipients receiving Social Security entitlements, Veterans benefits, and Internal Revenue Service tax refunds. Roughly 420 million of these payments will be made by check. The remaining 410 million payments will be issued via some form of EFT.

The performance of FMS' payment operations is one of the Government's best success stories. About one-third of FMS' 2,100 employees work in our 6 Regional Financial Centers where payments are issued. The people who work in our centers are some of the Nation's most dedicated civil servants. They issue over 830 million payments accurately and on schedule a documented 99.994 percent of the time, something that is critical for millions of Americans who count on Social Security and other types of Federal benefits and payments.

By far, the best value these workers offer the taxpayers is their issuance of EFT payments at an average cost of less than 2 cents per item. The checks that our employees produce cost about 43 cents each, more than two-thirds of this expense goes for postage and check stock.

We have been successfully using and promoting EFT as a payment method for two decades. FMS is committed to implementing the most accurate, reliable, and cost-effective financial systems and processes available to manage the Government's finances. Our recently published Strategic Business Plan for the next decade emphasizes electronic payments. The goals in that plan include:

* creating a world class delivery of all payments and associated information;
* managing the Government's cash with minimal risk, and less cost;
* ensuring that the Government serves as a model for financial management excellence; and
* providing the services that our customers want and need at the highest standard of quality.

Expanding the use of EFT as a payment technique is essential to achieving our strategic goals. For this reason, we support H.R. 1698, legislation introduced by Representative Jim Ross Lightfoot to convert Federal payments from check to EFT. EFT is the best payment method available for virtually all of our payment work. We need Congress' help to expand the use of EFT so FMS and our customer agencies can work as effectively as possible.

The Government has been a leader in making electronic payments. In recent years there has been steady, but slow growth in EFT. There are many success stories, but on balance we are

only half way to the goal. Below are figures that represent the 1995 percentage of EFT payments by payment category:

* Federal Salary -- 87%
* Office of Personnel Management -- 69%
* The Social Security Administration -- 59%
* The Railroad Retirement Board -- 54%
* The Veterans Affairs Administration -- 47%
* Vendor Services -- 17%
* Internal Revenue Service Tax Refunds -- 13%

We are using EFT for well over 50% of the recurring benefit and salary payments; however, EFT is used less than 20% of the time for non-recurring payments such as those to vendors and people receiving income tax refunds.

Electronic Funds Transfer should be the Federal standard. Electronic payments are virtually trouble-free. Occasionally, an EFT payment may be routed into the wrong bank account; however, these payments are never "lost." They are traceable and can be quickly rerouted to recipients, usually within 24 hours.

On the other hand, there are many customer service problems related to checks. After we release checks from our centers, the Treasury loses control of the payments process and bad things often happen. In fact, on average, every 40 seconds a Treasury check is lost, stolen or damaged. Statistically, during this hearing, perhaps 100 or more Americans will become inconvenienced

and will need their checks replaced. They will be part of the 1.7 million constituent inquiries that FMS receives each year because of checks. During the month of July, FMS issued over 75,000 replacement checks. For the fiscal year we will replace over 800,000.

Because of the paperwork involved, it normally takes a minimum of 14 days to replace check payments. More than 75% of our replacement checks go to Social Security and Supplemental Security Insurance recipients. Lost checks impose a great burden on many of these people. EFT legislation will help the poor and elderly.

Of the checks that we replace, one of every 12 is reissued due to forgery. Forgeries are at record levels and increasing. During the current fiscal year, the United States Secret Service and FMS estimate that 75,000 forgeries, 18% more than last year, will be perpetrated at a cost to financial institutions and the Government of about $68 million, or $900 per forged check. Other types of financial crimes, such as check alterations and counterfeiting are more rare, but the individual items can be for large sums of money. EFT legislation will eliminate opportunities for lost payments, theft, and forgery.

We need EFT legislation to control the rising costs of paper processing and take advantage of the reduced costs of using electronic technology. Our net savings over a 5 year period are about $66 million. Savings in the areas of postage, facilities, equipment, and personnel are approximately $416 million. The

significant savings are offset by an estimated $350 million loss of float earnings resulting from the conversion of check payments to EFT. We calculate a 240 FTE savings after the implementation of the mandate.

To emphasize, the value of EFT in reducing our costs, streamlining a paper intense operation and minimizing payment risk for our customers, we offer this analysis (Reference Chart B):

-- Cost: 2 cents for EFT versus 43 cents for a check.

-- Inquiries: 76,000 for EFT versus 1,700,000 for paper check processing.

-- Non-receipt Claims: 10,000 for EFT versus 600,000 for paper checks.

Payments are being converted from check to EFT, but at a fairly sluggish rate. Even though EFT payments will continue to grow and the percentage of check payments will decline, the number of checks will remain fairly constant. Without enactment of this proposed legislation (Reference Chart C), check production will remain at 400 million, annually, well past the turn of the century.

Mr. Chairman, as I stated previously, we do support H.R. 1698 and any similar legislation to make EFT the Federal payment standard. With the passage of this bill (Reference Chart D), we will achieve an EFT payment rate well over 90%. However, we can do more. We can implement the proposed legislation by FY 1999. The Administration supports such an

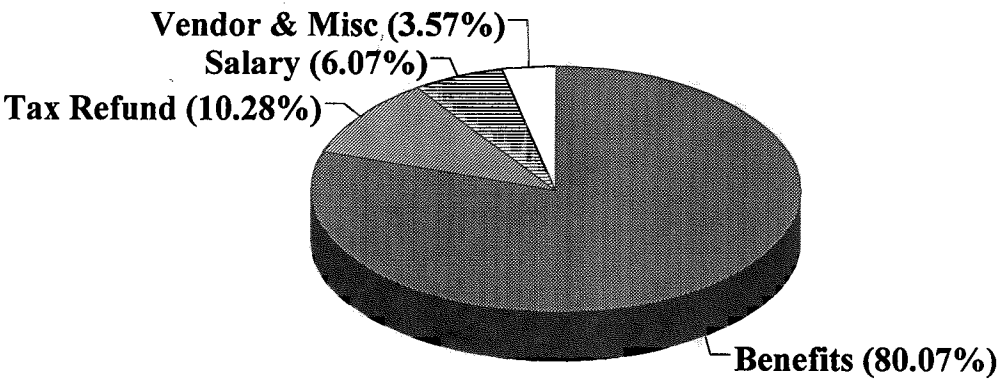
amendment. We can do this because the largest percentage of current check recipients have bank accounts. We believe that aggressive Direct Deposit marketing and the development of customer-friendly systems to accommodate the unbanked will allow both recipients and Federal agencies to make a smooth and successful transition to EFT by the turn of the century. Therefore, we urge implementing EFT legislation in 1999; and ask that the Secretary of the Treasury be provided with the authority to require EFT for all payments, including Internal Revenue Service tax refunds.

Setting EFT as the Federal standard before, rather than after, the turn of the century is more than symbolic--it is good Government.

Mr. Chairman, we appreciate the leadership that you, Representative Lightfoot, and this Subcommittee have demonstrated on this issue. I would be glad to answer any questions.

A. Total Payments

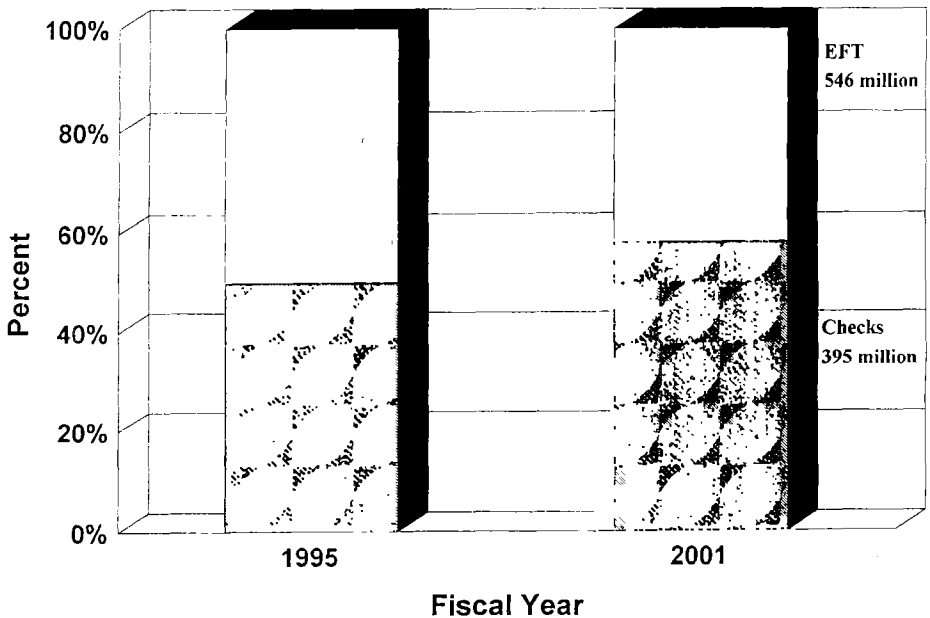
833 Million Payments in FY 1994



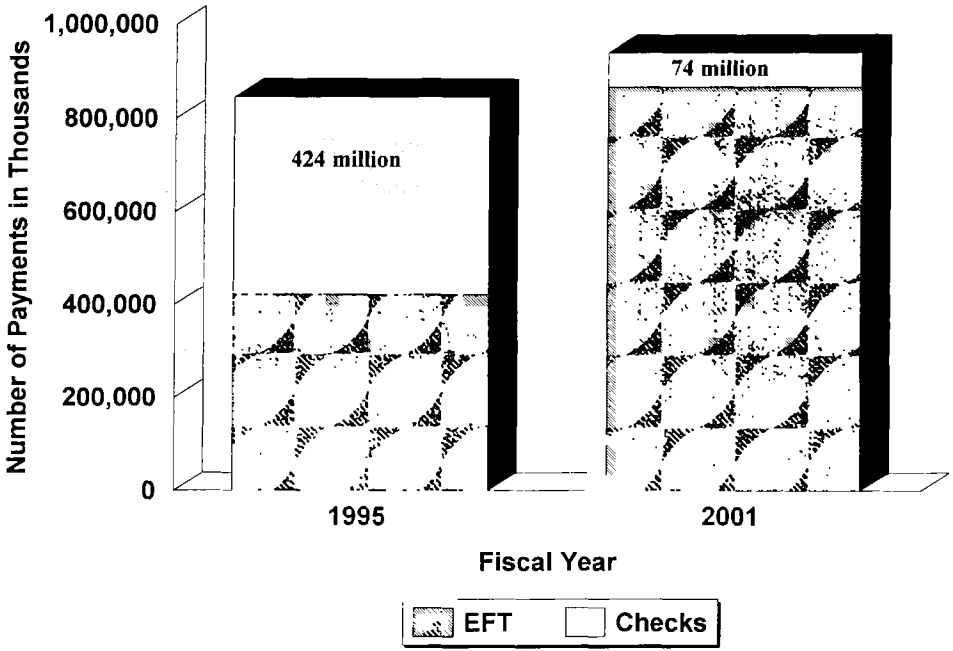
B. EFT: Reduces Cost and Payment Risk

	EFT	Check
Cost (per transaction)	2 cents	43 cents
Inquiries	76 thousand	1.7 million
Claims	10 thousand	600 thousand
Forgeries	none	63 thousand $55 million
Counterfeit	none	102 $2.9 million
Altered	none	405 $4.5 million
Resolution of Payment Inquiries	24 Hours (best)	14 days (best)

C. Without Legislation
400 Million Checks in FY 2001



D. H.R. 1698 Implementation



Mr. HORN. We thank you for that splendid testimony. I'm going to violate my usual rule. I want to ask one question right here, and maybe have you think about it. On the electronic transfer, to what extent has the Treasury found that hackers can cut in on that system, divert it to another account, so forth?

Mr. SMOKOVICH. That type of thing has never occurred in the 20-year history of this program. As we have built our systems out further and further, we, the Federal Reserve and my good friends from the GAO, have become more and more involved in the issue of computer security. These systems are virtually failsafe in that regard.

Mr. HORN. Thank you.

Our last witness on the panel are our friends from the other part of the legislative branch known as the General Accounting Office. Mr. Jeff Steinhoff, Director of Planning and Reporting of the General Accounting Office and he's accompanied by Mr. Gregory Holloway of the General Accounting Office. Welcome, gentlemen.

Mr. STEINHOFF. Thank you so much, Mr. Chairman, Mr. Davis. I am pleased to be here today to discuss the proposed Debt Collection Improvement Act of 1995, H.R. 2234.

In the past, GAO has made numerous recommendations to improve debt collection, and we are in agreement with the thrust of the proposed bill's provisions. I have a full statement for the ready the record, with your permission will briefly summarize my remarks.

The stakes are high. Upwards of $50 billion in delinquent nontax debts were reported at the end of fiscal year 1994 with about $35 billion delinquent for more than a year. Almost $10 billion in write-offs were reported during the year.

It has been well documented for a number of years that serious weaknesses have impeded Federal debt collection. And several lending programs are on GAOs high risk list. I would like to echo the earlier witnesses in endorsing the provisions in H.R. 2234, which include for example the following five issues:

First, providing additional collection tools and authorities, such as the requiring—such as requiring the reporting of delinquent debts to consumer credit agencies; second, centralizing the offset of delinquent debt against Federal payments; third, establishing debt collection centers and cross servicing arrangements; fourth, giving agencies greater incentive to improve debt collection practices through gain sharing, a concept that we endorse and is central to the philosophy of the National Performance Review.

And finally, denying additional loans and loan guarantees to delinquent debtors, something that in my view is long overdue. Federal loans and loan guarantees, which represent over two-thirds of the delinquent nontax debt and about 80 percent of the total nontax receivables, are made to accomplish legally mandated objectives. And as others have pointed out already, are oftentimes made to borrowers who could not obtain similar private financing.

Agencies are therefore faced with balancing social and economic goals against credit management and debt collection practices. In many cases, the government's risk in extending credit is much greater than private lenders are ever willing to accept.

Therefore, by their nature these programs, for the most part, are expected to lose money because there's a cost to meeting a program's social and economic goals. Thus, properly controlling and mitigating these losses or costs, which is another way of viewing it, is very important as is measuring and reporting on performance to hold agencies directly accountable for results and costs.

Clearly the magnitude of the government's nontax receivables makes it especially important to appropriately pursue the collection of amounts due. To do this effectively and efficiently, agencies must be afforded a range of tools and authorities and, I emphasize, must have good data to measure and manage performance and costs on a day-to-day basis.

The Debt Collection Improvement Act of 1995, which you are considering today, combined with the existing Debt Collection Act of 1982, which put a good foundation in place, the 1990 Credit Reform Act, the Chief Financial Officer's Act of 1990, which is key to getting good data in place, and the Government Performance and Results Act of 1993, which focuses on measuring performance, represents an important additional step in putting agency debt collection systems on a sound footing.

Mr. Chairman, this concludes my brief summary remarks. Again, we agree with the thrust of the proposed bill and stand ready to assist the subcommittee as it finalizes the language and concepts in H.R. 2234.

I will be pleased to answer any questions that you or other members of the subcommittee may have at this time.

[The prepared statement of Mr. Steinhoff follows:]

Statement of Jeffrey C. Steinhoff
Director of Planning and Reporting
Accounting and Information Management Division

Mr. Chairman and Members of the Subcommittee:

It is a pleasure to be here today to discuss the proposed Debt Collection Improvement Act of 1995 (H.R. 2234) and governmentwide debt collection improvements the Subcommittee is considering. We agree with the overall thrust of the bill's provisions, and will be pleased to work with the Subcommittee as it deliberates on and refines the proposed legislation. In the past, we have made numerous recommendations to improve government debt collection practices.

Federal agencies have long had problems in managing credit programs and collecting nontax debts. These problems have been highlighted in reports by GAO and others over many years. The need to strengthen debt collection has been recognized by the administration. In its September 1993 report, Vice President Gore's National Performance Review (NPR) made recommendations to strengthen agencies' debt collection programs. Also, the Chief Financial Officers Council, created by the Chief Financial Officers (CFO) Act of 1990 (Public Law 101-576), has designated debt collection as one of its priority initiatives.

This attention is driven by the hundreds of billions of dollars involved. At September 30, 1994, the government reported $241 billion in nontax receivables, primarily from direct loans and loans acquired as a result of claims paid on defaulted guaranteed

loans. Of that amount, $49 billion, or over 20 percent, was reported to be delinquent. Moreover, at that date, the government was contingently liable for outstanding guaranteed loans totaling a reported $694 billion.

Consequently, it is essential that the federal government not only make and guarantee creditworthy loans, but also put effective practices in place to collect amounts that are owed. In addition to being a good business practice, the potential for increasing collections, by even a small percentage, through sound debt collection programs can help to reduce the deficit. The collection of nontax receivables did, in fact, increase by a reported $8.8 billion between fiscal year 1993 and fiscal year 1994. On the other hand, in fiscal year 1994, reported delinquent nontax debt increased by over $5 billion, almost $10 billion in delinquencies was reported as written off, and about $35 billion in nontax receivables was reported as delinquent for more than a year, with the collectibility considered doubtful by the Office of Management and Budget (OMB).

Today, I will first highlight the magnitude of the government's direct loans and guaranteed loans, the long-standing debt collection problems confronting federal agencies, the necessity of having reliable information with which to manage credit programs, and the importance of leadership in having effective credit management and debt collection programs.

I will then discuss some of the significant debt collection authorities and practices the bill contains and the Subcommittee is considering. These relate to

-- expanding and enhancing the debt collection tools available to agencies;

-- strengthening agencies' authority to offset delinquent debts from federal payments;

-- strengthening the coordination among agencies through increased centralization of collection activities;

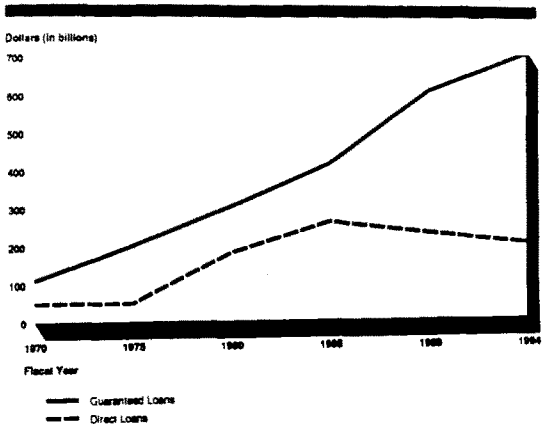
-- giving agencies greater incentive to improve their debt collection programs; and

-- denying loans and loan guarantees to those delinquent on federal debts.

COLLECTING DEBTS INVOLVES BILLIONS OF DOLLARS

The federal government is the nation's largest source of credit. It lends or guarantees hundreds of billions of dollars of loans for a wide variety of programs, such as housing, farming, education, and small business. The trend, as figure 1 shows, is toward increased use of loan guarantees and decreased use of direct lending.

Figure 1: Direct and Guaranteed Lending Between Fiscal Years 1970 and 1994



Between fiscal year 1986 and fiscal year 1994, direct loans outstanding were reported to have decreased 30 percent, from $219 billion to $161 billion. During the same period, guaranteed loans outstanding were reported to have increased 54 percent, from $450 billion to $694 billion.

In fiscal year 1994 alone, the federal government obligated a reported $19 billion in new direct loans and guaranteed an additional reported $195 billion in nonfederal lending. Total loans receivable were reported to be $198 billion at

September 30, 1994, which included $161 billion reported in direct loans and $37 billion reported in loans receivable as a result of claims paid on defaulted guaranteed loans.

In fiscal year 1994, reported loans receivable included, for example,

-- $111 billion reported in Department of Agriculture loans,

-- $21 billion reported in Department of Housing and Urban Development housing loans,

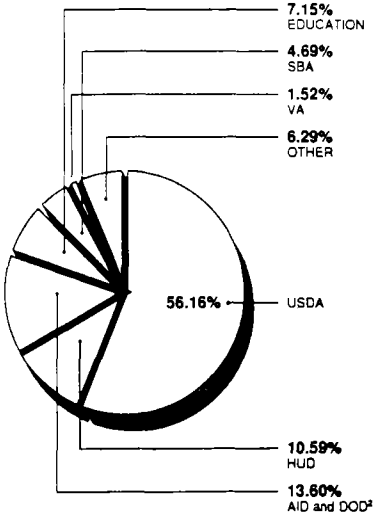
-- $16 billion reported in Agency for International Development loans,

-- $14 billion reported in Department of Education student loans, and

-- $11 billion reported in Department of Defense foreign military sales.

Figure 2 shows the percent of the government's total direct loans held by major lending agencies.

Figure 2: Agency Distribution of Direct Loans[1] at September 30, 1994



[1]Includes direct loans and loans acquired as a result of claims paid on defaulted guaranteed loans

[2]Includes foreign loans and receivables.

In addition to the $198 billion in loans receivable, agencies have large amounts in accounts receivable. At September 30, 1994, nontax, noncredit accounts receivable were reported to be $43 billion, an increase of over $9 billion during fiscal year 1994. Accounts receivable arise from a variety of sources, such as Social Security and other benefit overpayments, civil monetary fines and penalties, grant overpayments, duties, and insurance premiums. Together, loans and accounts receivable, which represent nontax debt, total a reported $241 billion.

In addition, at September 30, 1994, the government had a reported $694 billion in loan guarantees. These included, for instance

-- $384 billion reported in housing loans guaranteed by the Department of Housing and Urban Development,

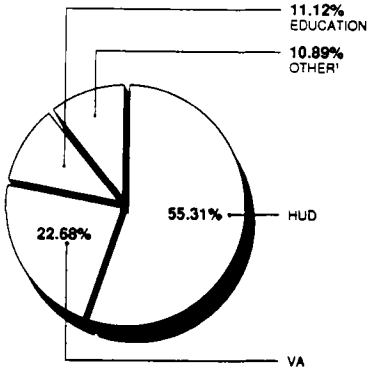
-- $157 billion reported in loans to veterans guaranteed by the Department of Veterans Affairs,

-- $77 billion reported in loans to students guaranteed by the Department of Education, and

-- $23 billion in loans to small businesses guaranteed by the Small Business Administration.

Figure 3 shows the percent of the government's total loan guarantees held by major credit program agencies.

Figure 3: Distribution of Guaranteed Loans at September 30, 1994



[1]Includes foreign loans

Because federal loans are made to accomplish legislatively mandated objectives and are often made to borrowers who cannot obtain satisfactory private financing, agencies are faced with balancing social and economic goals with good credit management practices. In many cases, the government's risk in extending credit is much greater than private lenders are willing to accept. Therefore, by their nature, these programs, for the most part, can be expected to lose money because there is a cost to meeting a program's social or

economic goals. Thus, properly controlling and mitigating these losses or costs is important, as is measuring and reporting on performance to hold agencies accountable for results and costs.

At September 30, 1994, almost $49 billion in loans receivable and accounts receivable were reported to be delinquent. Corresponding to the shift from direct to guaranteed loans, delinquent direct loans were reported to have dropped from $13 billion in 1989 to $12 billion in 1994, while delinquent defaulted guaranteed loans were reported to have increased from $14 billion to $22 billion.

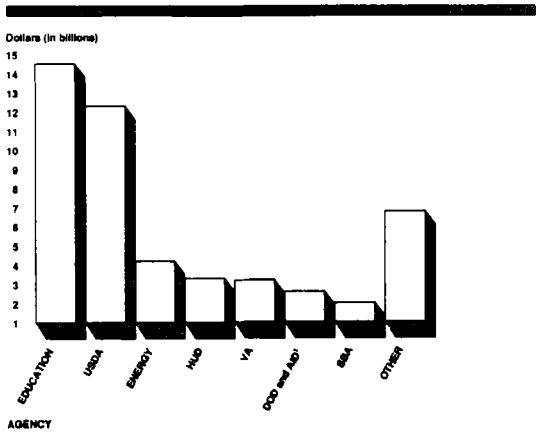
The Department of Agriculture's reported direct loan delinquencies, $8 billion, accounted for over 66 percent of the total $12 billion in reported governmentwide delinquent direct loans. Approximately $12.7 billion, or 58 percent of the total reported delinquent defaulted guaranteed loans were Department of Education student loans. Other domestic agencies with reported significant levels of delinquencies resulting form defaulted guaranteed loans included the Department of Housing and Urban Development ($2.6 billion), the Department of Veterans Affairs ($1.6 billion), and the Small Business Administration ($1.3 billion).

Also, at September 30, 1994, delinquencies on nontax, noncredit receivables were reported to be over $14 billion. These delinquencies included $4.2 billion at the Department of Energy, $2.4 billion at the Department of Health and Human Services, and

$1.7 billion at the Department of Defense, and $1.4 billion at the Department of Agriculture, and $1.3 billion at the Department of Veterans Affairs.

Figure 4 shows the distribution of delinquent debt by major lending agency.

Figure 4: Distribution of Delinquent Nontax Receivables at September 30, 1994



[1]Includes foreign loans.

DEBT COLLECTION PROBLEMS ARE LONG-STANDING

Going back almost 2 decades, we have reported on the government's serious nontax debt collection problems. In 1982, to strengthen debt collection practices, the Congress passed the Debt Collection Act (Public Law 97-365), which we supported. Among other things, the act specifically requires agencies to do a number of things to enhance credit management and debt collection, such as obtaining taxpayer identification numbers from loan applicants and assessing additional interest, penalties, and administrative costs on delinquent debts. The law also clarified federal agencies' authority to use collection tools available in the private sector, such as using private collection firms and referring delinquent debts to consumer credit bureaus.

In monitoring the Debt Collection Act's implementation, we found that agencies had continued to struggle to collect nontax receivables. In April 1990, we reported[1] to the current Chairman of the House Budget Committee that the Congress should amend the Debt Collection Act of 1982 to require agencies to use certain credit management tools which are optional and to take a number of other actions to improve debt collection practices governmentwide. Since that time, the Congress has enacted several laws to strengthen the government's credit management program.

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[1]Credit Management: Deteriorating Credit Picture Emphasizes Importance of OMB's Nine-Point Program (GAO/AFMD-90-12, April 16, 1990).

-- Agencies are now legislatively required to refer all otherwise uncollectible debts to the Internal Revenue Service (IRS) for income tax refund offset before they are written off. Since 1986, when the IRS refund offset program, which we first recommended in 1979, began on a pilot basis, it has resulted in over $5.3 billion in reported collections that otherwise may have been lost.

-- The Department of Justice was authorized to test the use of private-sector attorneys to litigate debts owed to the federal government. The test has been extended through fiscal year 1996.

-- The Credit Reform Act of 1990 (Public Law 101-508) changed the budgetary treatment of loans and loan guarantees made after fiscal year 1991. By requiring the President's budget submission to include the full long-term cost to the government of credit programs in the year in which the loan obligations or loan guarantee commitments are made, the Credit Reform Act is intended to ensure that the cost of credit programs are available to the Congress, on a comparable basis to other federal spending, as it deliberates the amount of direct loans and loan guarantees to authorize and fund each year. In the President's fiscal year 1996 budget submission, for example, OMB estimated that the total subsidy costs over the next 5 years

associated with direct loans and loan guarantees could reach as high as between $27 billion and $59 billion.

Also, minimizing loan program losses is a focus of our high-risk program. We have designated (1) farm loan programs, (2) student financial aid programs, and (3) the Department of Housing and Urban Development as areas we considered high risk because they were especially vulnerable to waste, fraud, abuse, and mismanagement.[2]

RELIABLE INFORMATION IS IMPORTANT TO MANAGE CREDIT PROGRAMS

We have long been concerned about the quality and reliability of financial information on credit programs. Our audits, as well as those by the inspectors general, have consistently disclosed serious weaknesses in agencies' systems that account for and control receivables. Agency managers need accurate and reliable information on a day-to-day basis to effectively manage multi-billion dollar loan and loan guarantee portfolios, as well as other receivables, and to determine the value and collectibility of debts owed the government.

In this regard, we recommended in 1990 that the Congress require agencies to provide it with audited financial information on their receivables and delinquencies. (See footnote 1.) The CFO Act, as expanded by the Government Management Reform Act of 1994 (Public

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[2]GAO High Risk Series, An Overview (GAO/HR-95-1).

Law 103-356), now legislatively requires the 24 CFO Act agencies to prepare audited financial statements for their entire operations, including credit programs.

In July 1993, based on recommendations of the Federal Accounting Standards Advisory Board,[3] the Director of OMB and the Comptroller General issued accounting standards for direct loans and guarantee loans.[4] These standards, which are critical to improved credit program financial information, are based on the concepts in the Credit Reform Act. They concern the recognition and measurement of direct loans, the liability associated with loan guarantees, and the cost of direct loans and loan guarantees.

Further, in December 1993, the Joint Financial Management Improvement Program[5] issued Direct Loan System Requirements (FFMSR-5) and Guaranteed Loan System Requirements (FFMSR-6). These financial systems requirements are necessary to establish credit management and financial reporting systems that are in compliance

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[3]The Federal Accounting Standards Advisory Board was established by the Comptroller General, the Director of OMB, and the Secretary of the Treasury to recommend accounting standards for federal agencies.

[4]Statement of Recommended Accounting Standards Number 2, Accounting for Direct Loans and Loan Guarantees.

[5]The Joint Financial Management Improvement Program, established in 1950, is a cooperative undertaking of OMB, GAO, the Department of the Treasury, and the Office of Personnel Management to improve governmentwide financial management.

with the requirements of OMB, Treasury, the Credit Reform Act, and the CFO Act.

Agencies must now implement these accounting standards and systems requirements. It will also be important for agencies to establish performance measures for their loan and loan guarantee programs, as well as the collection of other receivables. The systematic measurement of performance is a basic requirement of the CFO Act and the Government Performance and Results Act of 1993 (Public Law 103-62) and was called for by the NPR. In the past, agencies have had difficulty establishing such measures and developing baseline data with which to set realistic and achievable debt collection goals and to measure results. For example, for credit programs, goals should be established in conjunction with OMB and Treasury and be specific to each loan and loan guarantee program, in recognition of the differences in risk for each program. In this way, by setting performance goals, tied to actual costs that were earlier developed as estimates for the budget submission under the Credit Reform Act, there will be accountability for the cost and performance of these programs.

LEADERSHIP IS CENTRAL TO EFFECTIVE CREDIT PROGRAMS

For their part, OMB and Treasury have given increased emphasis and priority to the government's debt collection and credit management problems. To sharpen focus in these areas, OMB and Treasury agreed

in 1986 that Treasury would be primarily responsible for overseeing agencies' activities to carry out credit management initiatives, with OMB continuing to establish credit management policy. Since then, Treasury, working directly with federal credit agencies, has focused on improving all aspects of the credit cycle--credit extension, account servicing, debt collection, and write-off.

Support of these efforts by the major credit agencies--such as the Departments of Housing and Urban Development, Education, Agriculture, and Veterans Affairs--is essential and is being coordinated by the CFO Council and the Federal Credit Policy Working Group, which includes high-level credit program and debt collection policy officers. Also, the Credit Institute has been established to provide training to enhance the abilities, skills, and knowledge of credit management personnel.

PROPOSED DEBT COLLECTION ENHANCEMENTS

As introduced in the Congress on August 4, 1995, the Debt Collection Improvement Act of 1995, is intended to help

-- maximize collections of delinquent debts owed to the government by ensuring prompt action to enforce recovery of debts and the use of all appropriate collection tools; and

-- minimize the costs of debt collection by consolidating related functions and activities and encouraging cross-servicing arrangement between agencies to collect debts.

Our work over the years has shown that agencies have difficulty meeting debt collection objectives such as these and that improvement is necessary. Consequently, we fully support the Subcommittee's interest in the issues hampering effective collection of amounts owed the government.

We have not performed current work in all of the areas presented in the bill and, thus, will not address each of its specific provisions. We do, however, offer our perspectives and observations on five key proposals the Subcommittee is considering: (1) providing additional debt collection tools and authorities, (2) centralizing offset of delinquent debt against federal payments, (3) coordinating agency collection activities, (4) giving agencies an incentive to improve debt collection practices, and (5) denying loans and loan guarantees to delinquent debtors. In concept, we support the thrust of these proposals.

Providing Additional Debt Collection Tools and Authorities

The proposed bill includes provisions to expand and enhance agencies' fundamental debt collection tools and authorities in several ways that, in principle, we endorse. For example:

-- Agencies and guarantee lenders would be authorized to disclose to consumer credit reporting agencies information related to debtors showing the amount, status, and history of the claim. Presently, agencies are authorized to disclose to consumer credit reporting agencies only the status of delinquent debt.

-- A centralized federal salary offset computer matching service would be established. This proposal would require agencies to match their records to identify federal employees who are delinquent debtors.

-- The Social Security Administration and the Customs Service would be authorized to use administrative offset, salary offset, and private collection agencies to collect debt, consistent with other agencies under the Debt Collection Act of 1982.

In 1990, we recommended that agencies be required to use consumer credit reporting agencies and offset federal employees' salaries. (See footnote 1.) Reporting the status of all federal claims to consumer credit reporting agencies would be consistent with practices in the private sector. Also, as to federal employee salary offset, OMB recently reported[6] that since the program began in 1987, nearly 347,000 federal employee accounts have been identified and $221 million has been collected. In particular,

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[6] 1995 Federal Financial Management Status Report and 5-Year Plan (OMB, July 1995).

centralized computer matching has potential for increasing the identification of federal employees delinquent on their federal loans.

Consequently, we continue to support enhanced legislative authority in these areas. Further, we support the bill's provision to authorize the Social Security Administration and the Customs Service to be on par with other agencies with respect to the provisions of the Debt Collection Act of 1982.

In addition, it is our understanding that the Subcommittee is considering a provision that would allow agencies, after notification and due process, to garnish any delinquent debtor's disposable pay. Our past work did not specifically examine the feasibility of garnishing wages of delinquent debtors other than federal employees to recover delinquent debt. However, if this debt collection practice is enacted into law with appropriate protections of a debtor's rights and due process, it could provide a previously untapped option for ensuring repayment of federal debt.

Identifying delinquent debtors' employers might, however, be an impediment to fully implementing this requirement. Nonetheless, other requirements being proposed in the bill, such as requiring taxpayer identification numbers, could help to mitigate this potential problem. The Subcommittee may, therefore, wish to

consider having a series of pilots to determine the best way to implement this provision, perhaps through a phased-in approach, before requiring it to be implemented governmentwide.

Centralized Offset of Delinquent Debt Against Federal Payments

The proposed bill would require agencies to notify the Secretary of the Treasury of past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the federal government. Treasury's disbursing officers would then be required to offset these delinquencies from federal payments that are certified to be made.

Agencies make payments to contractors, grantees, certain benefit recipients, and others, which affords opportunities to collect delinquent debts through offset. In July 1995, OMB reported that, in fiscal year 1994, agencies collected over $322 million through administrative offsets, with the Department of Veterans Affairs collecting over $231 million by administrative offset. Since fiscal year 1989, over $1 billion has been reported as collected governmentwide through administrative offsets.

Our past work has shown that, while authorized to make such offsets, the use of this collection tool was not extensive primarily because of difficulties in correlating delinquent debts

with payments before they are made. As we understand the proposed bill, Treasury would essentially be a central clearinghouse for handling administrative offset. The proposal is intended to facilitate Treasury's ability to administratively offset delinquent debts owed to one agency against payments certified by another agency.

While we endorse this provision, there are potential challenges and costs involved in implementing the proposed administrative offset process. To help mitigate these difficulties, the proposed bill would

-- require taxpayer identification numbers (1) from each person doing business with the government (furnishing taxpayer identification numbers is already legally required for contractors and loan applicants) and (2) when certifying disbursement vouchers;

-- provide an exemption from present legislative requirements involving privacy considerations when performing computer matching; and

-- authorize Treasury to charge agencies a fee sufficient to cover its offset costs, which can be collected, in part, by retaining a portion of the amounts collected.

Coordinating Agencies' Collection Activities

The proposed bill would also allow agencies, on a reimbursable basis, to refer a nontax debt to any executive department or agency operating a debt collection center for servicing and collection. The effect of this proposal, which we support, would be to establish cross-servicing arrangements between government agencies for collecting debts.

We have found some agencies to be highly successful in such arrangements for other financial operations, such as payroll and accounting operations. The development of debt collection centers logically extends the cross-servicing concept. This could reduce redundancy and duplication and ensure that consistent debt collection procedures are promptly and effectively used to collect debt owed to agencies that may not have developed strong debt collection programs.

Also, under the proposal, agencies would be required to transfer to the Department of the Treasury nontax claims (1) that are more than 180 days delinquent, for additional collection action or closeout and (2) on which collection activity has ceased, to determine if additional collection action is warranted. To facilitate these servicing arrangements, the proposed bill would require agencies to release the name and address of a delinquent debtor's workplace so that debtors and their employers could be located.

Giving Agencies a Greater Incentive to Improve Debt Collection Practices

As an incentive and to provide resources to improve debt collection practices, the proposed bill would allow agencies to share in the increased collections their debt collection improvements generate, called "gain-sharing." NPR's September 1993 report made a similar recommendation. It stated that agencies that attain their established goals and can show productivity improvements resulting in cost savings by reducing losses or increasing collections should be eligible to retain a portion of their collections.

Under the proposed gain-sharing arrangement, Treasury would manage a fund into which agencies would transfer a percentage, not to exceed 1 percent, of delinquent debt collections during a fiscal year that exceed a delinquent debt baseline established by OMB. Then, Treasury would make payments from the fund to reimburse agencies for qualified expenditures that improve debt collection and debt recovery activities, such as automatic data processing equipment acquisitions and personnel training involving credit and debt management.

Under the proposal, the gain-sharing account would be available to the extent and in the amounts provided in advance in appropriation acts. Every 3 years, any unappropriated balance in the account

would be transferred to the general fund of the Treasury as miscellaneous receipts.

We endorse the concept of agencies sharing in increased collections and in the past, we have suggested the Congress consider providing this type of incentive to agencies to improve debt collection practices and systems. (See footnote 7.) We have not, however, studied application of the proposal in H.R. 2234. To effectively implement the gain-sharing concept, though, agencies will have to have accurate baseline data from which to accurately determine increases in delinquent debt collection. As highlighted earlier in my testimony, such a reliable baseline will have to be developed.

Denying Loans and Loan Guarantees to Delinquent Debtors

The proposed bill provides that, unless a person receives a waiver, he or she would be denied from obtaining a loan or a loan guarantee administered by the federal government if the person has an outstanding delinquent federal nontax debt with any federal agency. (It is our understanding that the Subcommittee is also considering allowing disaster loans to be exempt from this proposal.) Such a person would be allowed to obtain an additional federal loan or loan guarantee only after the delinquency is resolved through such means as repayment or rescheduling.

The objective of this proposal is to bar delinquent federal debtors from obtaining federal loans or loan guarantees. We endorse this provision of the bill, and in 1990, we recommended a similar course of action, where consistent with program legislation. (See footnote 1.)

To make the necessary match, federal agencies presently rely primarily on a centralized data base, the Credit Alert Interactive Voice Response System (CAIVRS), developed by the Department of Housing and Urban Development. In July 1995, OMB reported that the use of CAIVRS will annually prevent the award of over $2 billion in new loans to applicants who are already delinquent in repaying federal debt.

As with administrative offset, a key to success in this area would be the government's ability to match delinquent debtors with loan applicants. Again, the bill would help alleviate this problem by requiring persons doing business with the government to furnish their taxpayer identification number, which will assist agencies in matching delinquent debts with loan applicants.

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Clearly, the magnitude of the government's nontax receivables makes it especially important that agencies to appropriately pursue the collection of amounts due. To do this effectively, agencies must

be afforded a range of tools and authorities to help them minimize the amount of delinquencies and write-offs that continue to occur each year and thereby reduce the costs of lending programs.

The purposes for which government credit programs were created bring with them an inherent exposure to loss or program cost. Minimizing these losses deserves urgent attention by the Congress and the administration. The Debt Collection Improvement Act of 1995, and the other debt collection improvements the Subcommittee is considering, would help put agencies' nontax debt collection and credit management programs on a sounder footing.

Mr. Chairman, this concludes my statement. I will be glad to answer any questions that you or members of the Subcommittee may have at this time. Again, we agree with the overall thrust of the proposed Debt Collection Improvement Act of 1995, and we will be happy to work with the Subcommittee as it finalizes the technical language and concepts in the proposed legislation.

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Mr. HORN. We appreciate that testimony. We appreciate that offer of assistance. We'll take advantage of it.

I now yield to Mr. Davis to do the questioning of the witnesses for the majority.

Mr. DAVIS. Thank you, Mr. Chairman.

Let me start with Mr. Koskinen. An area mentioned in the IG report was invisible debt. That's where agencies don't establish debts after a debtor stops payment on a federally guaranteed mortgage. The Federal Government guarantees in some way a large percent of U.S. mortgages. Has OMB considered giving agencies guidance on invisible debt or deficiencies?

Mr. KOSKINEN. The invisible debt issue really focuses on the question of nonjudicial foreclosure which extinguishes any personal liability as opposed to judicial foreclosure. The IGs were concerned even in the judicial foreclosure situation as to whether or not we were pursuing people individually.

Historically, our position has been that this is really a decision to be made agency-by-agency because, while we're talking about collateralized loans here, they are collateralized for a lot of different programs. You have loans that are collateralized by farm land, by individual housing and by multifamily housing. Our judgment has been that it is not appropriate to try to have an across the board issue.

The private sector experience in this area is consistent with our support for nonjudicial foreclosure. The critical issue in a collateralized loan default is to get control of the collateral to protect further deterioration of it and to realize its value as quickly as you can. So that our judgment has been that this bill provides is that we need to focus more of our resources that way. Again, the private sector experience is that pursuing debtors beyond the collateral generally is not a cost effective measure.

Mr. DAVIS. Let me ask this. The GAO report of certain agencies, including the Farmer's Home Administration, in some State-guarantee agencies in the student loan program aren't even counting as delinquent some accounts in which the government hasn't received payment for years. There could be billions of delinquencies that make a bad, dismal debt collection picture even worse if you included that.

What is your attitude, what is OMB's attitude on this? Are you doing anything about that?

Mr. KOSKINEN. Actually, the Federal Credit Policy Working Group, which I chair, has been focused over time at improving our data collection and ensuring that we actually know which loans are outstanding, what the value, the value of our receivables are and what our delinquency rates are. I think particularly since the passage of the Federal Credit Reform Act we have better data.

And in fact one of the issues that has been resolved recently is in the Department of Education where the data provided by State-guarantee agencies did not count delinquencies for several months while the State-guarantee agency was pursuing collection and therefore our data was underreported. We think that the data is getting closer to being totally accurate, but your point's well taken. We need to ensure that, across the board, we actually have a handle on the correct information.

Mr. DAVIS. Does OMB consider the Department of Education's debt collection approach successful? You think other agencies should adopt that approach at this point or is the jury still out?

Mr. KOSKINEN. We think the Department of Education has made great strides and there are lessons to be learned from that and to some extent some of the elements of this legislation are built upon what could be seen as a pilot program at Education. We think that we need to adopt those tools and establish them across the government.

Mr. DAVIS. Thank you very much.

Mr. Muñoz, let me ask, if I could, a question of you. The figures you present in your testimony regarding the dollar value of delinquencies are pretty depressing. A recent GAO audit of the IRS was unable to offer an opinion on the reliability of the audit because of material weaknesses in the IRS. It's ironic that the agency which has conducted millions of audits on American citizens continues not to pass muster in its own audit.

Given that material weakness in the IRS, can we rely on the data for tax debt?

Mr. MUÑOZ. Sir, I think that we can, if we identify what it was that the GAO audit was focusing on. There was a—there is a real issue in terms of what can be recorded in the books as an account receivable. The Internal Revenue Service is of the opinion that when you have underreporting of income or failure to file, the IRS can make an assessment based on its—on its information that it has. That assessment is recorded in its books as an account receivable.

GAO, in discussions with the Internal Revenue Service, has requested that the receivables be kept according to general accounting principles which would not look at those numbers in the same light. So, there is a dispute as to how you get the numbers. The GAO wants to make sure that those numbers are not only legally collectible, but are potentially collectible.

The Internal Revenue Service is of the opinion that these are the assessments that they will legally go off and will keep them in the books. So it's really an accounting, a bookkeeping question more than it is in terms of its efficiency to go after debt collection.

If you look at just the debt collection components of it, I don't think there is a dispute that the Internal Revenue Service can do a good job given the tools that it does have to collect debt. So to answer your question I think the GAO is focusing more on what you can—whether you use general accounting principles in recognizing that account receivable or whether you use the Internal Revenue Service internal assessment process.

Mr. DAVIS. Mr. Steinhoff, do you have any comment?

Mr. STEINHOFF. Yeah. I will pass to Mr. Holloway.

I want to make a first point is that, one, IRS has had problems with their financial systems and when we do our audit, we're talking about a point in time at the end of the year. We found they don't have on a day-to-day basis accurate reliable information to help them manage, but I'll pass over to Mr. Holloway.

Mr. HOLLOWAY. I guess I would make a couple of observations. What our opinion does suggest and I would differ a little bit with Mr. Muñoz, respectfully differ, in fact while financial statements

are required to be reported in accordance with generally accepted accounting principles, there is a reason for that. That it is because it would be a comparable measure to how anybody else would report receivables and while it's true IRS has legal assessments that they make, oftentimes those initial assessments don't turn into receivables.

They are in fact efforts to try to get people to comply with the law by either filing a return or amending their return, but not necessarily with the intent of collecting additional taxes. So we believe it is not representative to display that as amounts owed because in many cases it doesn't turn out to be amounts owed.

So I think our position has always been that IRS has not been able to get good data on its accounts receivable to people they actually established they owe them money. So it is difficult to assess IRS's performance in collecting receivables because you don't have the good data to measure it with. I think the point of emphasis here is that clearly that it is imperative that agencies have good information to assess their performance and the IRS doesn't have that right now.

Mr. HORN. Thank you.

Mr. DAVIS. Let me just ask Mr. Williams if I can, you have got the Farmers Home Administration under you which has been one of the major, one of the agencies with the largest and most severe credit problems. The Farmers Home Administration, as I understand it, many debts are uncollectible because the agency doesn't have the information on the address of the debtor, the amounts owed, the status of loans or total delinquencies.

Are you considering using private contractors to automate the loan portfolio to improve management? Would improving credit management improve debt collection? And how will this legislation affect your collections?

Mr. WILLIAMS. I would say as a general response that all of the loans in question fall under the framework of this Debt Collection Improvement Act and when I say the framework, I say the powerful set of incentives that are offered and imposed on, if you will, an organization. Certainly the use of whatever resources, including private collection agencies, is something that's got to be ready. As I have said before, the Secretary is interested in getting maximum return on asset.

Mr. DAVIS. Are you going to go to the private collection agencies and private contractors to automate the loan portfolio to get the systems up to date?

Mr. WILLIAMS. Well, in terms of the systems, in terms of economies, the Secretary has already asked that this program be consolidated with the Farm Services Administration so you have instead of two systems you've got one, you have got the economies that way so that when you're making your systems improvement efforts you're getting maximum bang for the buck. To answer your question in terms of the systems, this is just another example of where our systems are wanting, and as Mr. Steinhoff has said, we're on a series of acts that improving systems all come into play in this context as well.

Mr. DAVIS. Thank you. My time is up.

Mr. HORN. Mr. Owens will get 7 minutes in a minute. Your time is up. I want to get one question straight from Mr. Steinhoff before we leave this round. GAO has given the IRS a report on what needs to be done to come into conformity with standard accounting practice, is that not correct?

Mr. STEINHOFF. That is correct, yes.

Mr. HORN. And you gave them that report when?

Mr. STEINHOFF. In June. I think we issued the final report in July and this is our third annual financial audit.

Mr. HORN. Right, because——

Mr. STEINHOFF. So for 3 years in a row we have given IRS a report and we have laid out a range of things that must be done to be in compliance.

Mr. HORN. And in the previous 103d Congress, as I remember Mr. Condit's committee, of which I was a member, and Mr. Cox at that time was a member, did review the IRS situation and found it a shambles and disgracing—and a disgrace. Now, you have been working with him for 3 years pointing out what needs to be done, is that not correct?

Mr. STEINHOFF. That is correct, yes.

Mr. HORN. I just want the Assistant Secretary to know that in a few months I'm going to hold a hearing strictly on IRS. I expect them to be in conformity. I expect them to give us the data that we need and not to run this slipshod operation.

So I'm just putting you on fair notice.

Mr. HOLLOWAY. Chairman Horn, could I just mention one thing?

I will say that all that's true, but IRS is making some efforts to try to improve it and they are actually making efforts at trying to better account for that information. They certainly have not accomplished it yet but I am trying to find the best adjective. But they are making progress toward that end. I don't want to leave a picture as though they're not making efforts to improve it because they've made more progress, I would say in the last year, than possibly what was being made 2 or 3 years ago.

Mr. HORN. Well, we'll take a look at it. The ranking minority member gets 8 minutes of questioning on this round.

I apologize.

Mr. OWENS. Thank you, Mr. Chairman.

Mr. Williams, in your testimony you stated that as of September 30, 1994, USDA was owed about $13.7 billion of which $12.3 billion was delinquent. You also state much of the accrued interest will never be collected. U.S. aid provides debtors every opportunity to bring their accounts current, you also stated.

The chairman referred to you previously as having been here several times before so I apologize if my question is redundant, you have been asked the question many times. But I read on the front page of the Washington Post that Farmers Home Loan Mortgage operation had forgiven, had forgiven $11 billion in debt. Now, I don't—to debtors. I don't believe everything I read in the papers, so could you clarify that to me? Is that true?

And if that figure is not true, how much was forgiven and can you explain what forgiven means?

Mr. WILLIAMS. Do you know which article you're referring to, Mr. Congressman?

Mr. OWENS. Some time ago.

Mr. WILLIAMS. I know that there was a lot of controversy, a lot of coverage of this last year and as a response, the Secretary organized what he called the Loan Resolution Task Force, on which was spent, I think, a gargantuan amount of time and effort.

Mr. OWENS. I'm sure it caused quite a stir in your agency and you are familiar with the article. Secretary Espy was there at the time.

Mr. WILLIAMS. That's correct.

Mr. OWENS. I spoke to him about it. He said it was before he got there. They were on top of it. They knew very much what I'm talking about.

Can you tell me how much has been forgiven in the last 10 years and what does forgiven mean?

Mr. WILLIAMS. Well, I can give you some context for that, Mr. Congressman, but I can get you the exact details as a followup answer. I don't have—I cannot provide you that exact answer right here.

Mr. OWENS. Do you forgive loans?

Mr. WILLIAMS. I can say this. One of the problems that we face with these loans, if you take, for example, the large loans in that portfolio in question, almost half of the amount due is in interest and one of the big reasons is that we have interest accrual rules that are different from those in the private sector which basically end after 90 days. Ours go on infinitely. This is a big problem that we face.

Mr. OWENS. You say that to say what, that you forgive interest, but you don't forgive principal? What are you saying?

Mr. WILLIAMS. I'm saying that a lot of—I'm saying that when we talk about any notion or definition of forgiveness, a lot of what is forgiven is, in fact, excessively, if you will, accrued interest on loans.

Mr. OWENS. Is there anybody on the panel who can answer this question a little more?

Mr. KOSKINEN. I think the terminology in your question was good. One, what does it mean to forgive? As a general matter, debt is not forgiven. What the agencies do is look at its collectibility. As Mr. Williams noted, particularly with accrued interest where the face value of the debt may have doubled over time, the agency will make a decision, just as in the private sector you would, to write off that debt as uncollectible.

Mr. OWENS. It is written off as uncollectible. That is synonymous as forgiven.

Mr. KOSKINEN. Technically, to the debtor, if you are no longer being pursued for that debt, you could view it as having been forgiven. It is much like Congressman Davis' question about the invisible debt and that is situations where a borrower signed a portion——

Mr. OWENS. Are you familiar with the Washington Post article that I'm——

Mr. KOSKINEN. I am not familiar with it.

Mr. OWENS. Is anyone else familiar with it or is it just a figment of my imagination?

Mr. HORN. The staff thinks it might be January 1994. That article.

Mr. OWENS. My point is they also pointed out that a number of the people with loans forgiven were very wealthy people. It also pointed out that one of them sat on a committee appointed by President Reagan to coordinate loan, the loans.

My point is if there are such things as forgiving billions of dollars, what incentive is there for a large number of people to pay? This does not apply to my poor constituents. I had a case where the head of a nonprofit agency came to me crying because the IRS was threatening to close her down because the State from which she received all of her funds, a nonprofit agency, paid slowly and they had used the money that should have gone to IRS to pay their salaries. Therefore, the agency was delinquent and the director downtown said I'm coming out to close you down for $11,000.

I see there are delinquencies of $12.3 billion in the article I read in the Washington Post. It said $11 billion had been forgiven. I would like to be able to explain this to poor urban constituents: how rich farmers are able to get $11 billion in debt forgiven or written off, either way you want to write it. They would love to have theirs written off, too.

Mr. KOSKINEN. There are two levels of issues here. One, you are raising a very important one that debtors who are able to pay, as I note in my testimony, we should collect from, and one of the advantages of the legislation the chairman has introduced is it would give the agencies greater tools for collection.

If you were a debtor, you would be subject to not only tax refund offsets, but offsets from other programs as has been noted. One of the prime thrusts of this legislation is, once you are a debtor and have not paid, you would be barred from any further or future Federal loans and we would be able to more effectively do that. And your delinquency would be reported to credit bureaus. I think that the act provides very strong debt collection measures, but the point you raise, even with the act, you will still have——

Mr. OWENS. I am baffled by the fact several of you stated we have now put procedures in place to stop people who have debts and who are delinquent from getting other loans. We have now put it in place, as if that's something new. My constituents find that if they owe $10 somewhere they can't get a credit card. So how is it that you are just putting systems in place to keep people from getting large Federal loans if they already have debts?

I really don't want to go into that because it is not the issue—I just want to pinpoint where this forgiving comes in and what impact it has on the debt collection process. I know we're all talking about systems, systems, systems. It's outrageous that we don't have certain basic systems in place, but is it a lack of systems also caused by political problems?

Nobody was that interested in really pursuing the debts in the way we pursue debts of poor people, debts of private citizens out there when they owe income tax. Farmers owe billions, millions can get away with it.

Mr. Williams, you want to ask the question now, have you seen the article?

Mr. WILLIAMS. I was just going to say, Mr. Congressman, one of the—I think a great feature of this act, there is equality of treatment of all debtors under the act and I think that is good. I think another, again——

Mr. OWENS. I will go back and tell my constituents that hoorah! I understand now we are going to institute systems that have equality. Those who owe millions will be treated the same as those who owe a few hundred.

Mr. WILLIAMS. That is correct. I think the second is all of us have referred to this, the act creates a powerful set of incentives and tools and the creation, development of better financial systems is going to result—result in that. It is going to give top management potential.

Mr. OWENS. Are there political forces out there that mitigate all this? There were people sitting on the coordinating committee appointed by President Reagan who owed millions of dollars and they were not paying those dollars even though they had assets totaling more than $20 million. I know I'm running out of time. But I hope you go back and research this because you don't seem to be familiar with this. But I would like a better answer to what does it mean to forgive $11 billion in Farmers Home Loan mortgage loans.

Mr. WILLIAMS. We will provide an answer to you, Mr. Congressman. I know there was an article on this question 1½ years ago that they are talking about this forgiveness and we can follow up for you.

Mr. OWENS. Thank you.

Mr. HORN. I thank the gentleman from New York. I think he put his finger on a very important problem. Yesterday, when I was going over this with staff and I noted in my opening statement, which I did not read so there is no reason why you should know it, the figures are we have about $50 billion in delinquent nontax debts and nearly $70 billion in tax debts. So making an under statement, the $120 billion figure is staggering and I am worried about the very point the gentleman from New York makes, which is the forgiveness bit by agencies as to why some agencies just sort of think why should we collect it, we don't get the money?

So we have tried to build in here a little incentive for agencies to see a good reason for it to get the money back. It would be subject to an annual reappropriation process so there would be some incentive in it. I think on some staggering debts individually, before one writes it off, it ought to go through these committees on the Senate and the House side to see what we've got there so we just aren't willy nilly letting someone off the hook where, on one hand, they're getting millions from a government agency, which this is designed to stop, and on the other hand, they owe millions to another government agency. So those situations do worry me certainly when they get above the $50,000 mark, so I say I think we ought to think about 10 times before we write off that debt.

Mr. OWENS. Mr. Chairman.

Mr. HORN. Yes.

Mr. OWENS. Are you talking about poor constituents? When you reach $50,000 don't worry about it?

Mr. HORN. No, I'm willing to worry about it at $1,000 and up, but there comes a time we want to see how many of those debts

there are hanging out there and I think that would be an interesting type of spread for OMB or GAO to say you know, where is that—what is the average debt that's owed agency-by-agency so we get some feel for it.

But the gentleman from New York is right. The average taxpayer says, wait a minute. Nobody gave me a forgiveness or whatever and so we have got to be conscious to try and collect this money.

All right, I now yield to the gentleman from Florida, Mr. Scarborough.

Mr. SCARBOROUGH. Thank you, Mr. Chairman. I certainly appreciate you holding this very important hearing and also appreciate your remarks and also the remarks of Congressman Owens. And Mr. Williams, I'm going to stay with you just for a minute here. We don't want to pick on you, but unfortunately, somebody appointed you as CFO from one of the agencies that really has one of the more severe debt problems.

I think you would recognize that. And if you discussed this with Mr. Owens before, if you can just give me a very brief overview on how you believe this legislation is going to make your job easier in collecting debts.

Mr. WILLIAMS. Yes, Mr. Congressman, I think in referring back to what I said to Mr. Owens, I think the most important thing that this legislation can do in respect to the questions about these large loans is it does create an equality among all debtors. So we're not treating big debtors differently from small debtors.

I think the second thing it does and this is very, very important in a big agency like ours, is it creates a powerful set of incentives, not just in the act, but as the act complements other acts, like the Government Performance and Results Act. What are we trying to accomplish? Are we measuring that accomplishment? Do we have a system in place to provide the information? Are we looking at alternative means to collect this debt? This legislation offers us that opportunity.

Have we looked at other government agencies that may or may not do a better job, looked at the horizon and taken those opportunities. All of those are—all of those are things we recognize readily at Agriculture we need to do and look at this bill as a big tool to do it.

Mr. SCARBOROUGH. I know in the past you talked about alternative means of collecting debts. I know in the past some political forces have actually passed, been responsible for passing legislation that restricts private collection of such debts. Is that the current situation? Are you currently banned from having private collection agencies collect on such debts from—in your area?

Mr. WILLIAMS. Sir, as I referred in my opening remarks, there was legislation last year around the time of the article in question, that allowed some of our agencies to go and use private resources. This bill certainly would facilitate and expand that and it's something that has to be in our arsenal, again, of tools to do.

I think a very important feature here is there may be questions of, well, this agency or that agency may or may not resist the overall ambit or, may try to fall outside of the framework of this legislation. A very, very powerful thing. Again, I would urge in the committee, is the reporting under the Federal Credit Policy Working

Group: if we allow in the full light of day the performance of our various agencies to get to decisionmakers, people are going to be hard-pressed to do things the old way when they have under this act and other measures, tools for them to go elsewhere.

I'm going to be hard-pressed as manager to say, well, I'm going to do things the way I've done them for the last 20 years. If there are features readily available where I can get a much better return, a much greater efficiency, I think that's a big feature of this bill. So to those who would say we've got a bad record, we have got a lot of delinquencies, we've got a lot of inequities out there, I say that's all the more reason for this legislation.

Mr. SCARBOROUGH. Of course, let me just say, obviously, this problem did not start the day that you walked in the office. You inherited a very difficult problem which really leads back to something Congressman Owens said and I had not heard this before and maybe Congressman Owens, I can yield to him on the clarifying point. He said something like what was it, that during the Reagan administration there were actually people appointed to a board that had to do with debt forgiveness that owed debts themselves; is that correct?

Mr. OWENS. No, to an advisory committee on the loans, who to give the loans to and how the loans should operate, et cetera. One of the members of the committees was a major delinquent borrower, which was mentioned in the article.

Mr. SCARBOROUGH. Was that an agency set up by the Department of Agriculture?

Mr. OWENS. Yes. This was all under the Department of Agriculture. The Farmers Home Loan mortgage has certain advisory groups, obviously, and one of the individuals—they mentioned four millionaires who had tremendous assets who still were delinquent and one of them was on a committee appointed by President Reagan to coordinate the loan program.

Mr. SCARBOROUGH. OK. Thank you, Mr. Owens.

Can you say without a doubt right now that you don't have such conflicts of interest currently? You don't have, as they say, you don't have any foxes guarding the hen house?

Mr. WILLIAMS. I'll say this. Information systems being what they are and with deficiencies, we all recognize—the Secretary certainly recognizes this. There are certainly not, to his knowledge, and certainly would be a violation of his direct orders for there to be such conflicts.

Mr. SCARBOROUGH. OK.

Mr. WILLIAMS. But we all recognize we need these systems. I might add, it is coming back to me now, a lot of these loans originated in the 1980's in emergency situations. They were later restructured and I think these restructuring, certainly have some equity considerations and certainly could be characterized as forgiveness. But all of this—I'm not saying this to exonerate myself personally, but it happened, I think, around 2 months after I came into office and it certainly wasn't the express intent of Secretary Espy and I know Secretary Glickman, who insisted month, after month, after month that we have got to increase performance. Everybody is the same in collecting these debts.

Mr. SCARBOROUGH. And, again, I appreciate that. Like I said before, this is a problem that didn't start with you and I personally don't feel you have any need to exonerate yourself. The problem is a system that has been set up and whether the Republicans did it in the 1980's or whoever did it, we need to clean it up, and I certainly appreciate you—your testimony here today. Who is our GAO person?

Mr. HORN. I think Mr. Steinhoff wants to comment.

Mr. STEINHOFF. With respect to my earlier testimony, I talked about the fact that many of these lending programs have social or economic goals. If you look at the farm programs, they have those. What we found, and we discussed farm loans in our high risk series report earlier this year. What we found—I am not familiar with the article Congressman Owens mentioned, but what we reported was between 1991 and 1994, Farmers Home wrote off $6.1 billion, which they forgave. So there was forgiven debt of that amount during that 3-year period.

What we further found is that the way the programs themselves are designed becomes very, very important because we're talking a lot here about the back ends, collecting the debt at the back end, but it's making the loan at the front end oftentimes where the die is cast. And in the case of Farmers Home, the way those farm programs were structured, a lot of borrowers were able to borrow more money even though they hadn't paid for maybe 10 years, they were delinquent. Their loans were restructured, refinanced. Many times they appeared on the books to be current, but there weren't payments being made.

Debts were forgiven. Properties were sold to selected groups so we didn't necessarily optimize the amount of revenue. Now, there were policy reasons for this, social, economic reasons that someone decided this was the way to go and I think both the Congress and the administration are involved in those matters. So I think you have got to take each program and break down up front what do we expect to achieve? What do we expect to be the cost and then measure people against that.

If we have economic and social goals, lay those out and measure those. But I think oftentimes we focus on the losses or cost at the end. It's not just simply a debt collection. It's in many cases a public policy call.

Mr. SCARBOROUGH. And I certainly understand that. We just want to make sure it isn't an overriding political——

Mr. STEINHOFF. Yes.

Mr. SCARBOROUGH. Overriding political goal of Congressmen and Senators and others that will be willing to throw taxpayer money away for their own political purposes.

Let me ask you one final question. I see my time is up. We have been talking about private tax collectors to collect debt. Is that something you and GAO would support?

Mr. STEINHOFF. Yes. We have endorsed that in the past in a 1990 report to the now chairman of the Budget Committee, Chairman Kasich. We called for that. It is part of the Debt Collection Act of 1982, which we worked on and it is one of the many tools that people should have at their disposal. People should use private sector collectors when it makes sense to augment and assist them

in the collection function. And I think it's a very, very important tool and should be used to the extent it is practicable.

Mr. SCARBOROUGH. Thank you very much. I appreciate it. Mr. Chairman, thank you.

Mr. HORN. We thank you. I think Mr. Steinhoff's example is a good one that we have had a lot of social reasons for these programs, not just financial reasons over the years, and this goes back 40, 50 years in terms of Congress and certainly agricultural policy.

In fact, in my opening statement I noted that according to the General Accounting Office one deadbeat convinced an agency to forgive a Federal loan of $428,000. Two months later he received a new loan of $132,000 and within 2 years he stopped payment on the second loan and I said this occurs frequently and it's sheer abuse and waste.

What I think, listening to this, is after we get this legislation through, we'll besides IRS in a few months, start, having the Farmers Home and then a few others to just see where are they and what are they doing and let them know we're watching, which is our job.

The gentleman from New York, Mr. Owens. Five minutes additional questions.

Mr. OWENS. I have a major comment to make in terms of the diplomatic answer of the gentleman from GAO in terms of these are social—how did you put it, social, not political.

Mr. STEINHOFF. Well, there——

Mr. OWENS. You used the word "political." The loans are never forgiven in urban areas when small business people have them or people owe the IRS. My constituents and the constituents in the big cities don't benefit from billions of dollars of forgiveness and we would just like to know more about how they arrive at the determination that they're going to forgive. Your records show $6.8 billion in 3 years.

Mr. STEINHOFF. $6.1.

Mr. OWENS. $6.1 billion in 3 years.

Mr. STEINHOFF. Three years.

Mr. OWENS. I would like to know the rationale for that. I would like to know how those decisions are made. I would like to know where is the equity for the urban communities in terms of being able to get something similar. That's a major benefit flowing from the taxpayers, flowing from the government. Who makes those decisions?

Is that left up to civil servants in the Department of Agriculture? It must go up to a higher level. You threw in Congress there casually. What is the basis for your saying Congress is in on making those decisions about which loans to forgive? There are laws that we pass, amendments to bills which facilitate those forgiveness operations from time to time.

Mr. STEINHOFF. I wasn't speaking purely of forgiveness. I was speaking more of the structure of the programs themselves and the fact that——

Mr. OWENS. The decisions to forgive, you're not implying that Congress is ever in on those decisions are you?

Mr. STEINHOFF. I'm not aware of exactly what happened in this case.

Mr. OWENS. Which individuals to forgive, how much to forgive are made by persons in the Department of Agriculture.

Mr. STEINHOFF. I am not familiar in this case who decided what. I'm not familiar with the article you cited. I have a number here that that was the amount that we reported had been forgiven during that period.

Mr. OWENS. Can anybody describe how a forgiveness takes place? There are many students out there with loans, student loans, and I'd like to know if we can have a parallel forgiveness program. What are the criteria, how do you make your case? Is there an appeals board, et cetera?

Mr. KOSKINEN. I would just like to go back to a point I made earlier just to make sure we have a clarification of what we're talking about. While the effect on a borrower, when there has been a write-off, is that the lender has decided not to pursue that particular loan further, that is not the same as a forgiveness. As I noted, this act would make clear that if you had been a delinquent borrower, we may write off your loan after we decide it is uncollectible and that may apply across the board and that happens to a number of your constituents, I'm sure, as well.

The fact we declare it as uncollectible, no longer carry it as a receivable on our balance sheet, no longer treat it as an asset, does not necessarily mean we have forgiven the loan in the sense of either, A, being willing to make another loan to you or, B——

Mr. OWENS. So you stop pursuing the collection of it.

Mr. KOSKINEN. That's right. You may at some point decide that it is no longer functional. There is no money to be retained. It is not cost-effective. But at that point——

Mr. OWENS. These are billions of dollars I am talking about.

Mr. KOSKINEN. Well, we have over $1 trillion in guarantees in loans outstanding and the amounts we are talking about accumulated over years. All I want to make sure——

Mr. OWENS. I am talking about the Farmers Home Loan mortgages, which were not given out in small amounts. Let's focus on that. Say you're talking about $1 million. You are writing off $1 million and refusing to pursue it any longer. You said you don't pursue it just because it is not cost-effective to collect $1 million?

Mr. KOSKINEN. What I am saying is, if the borrower has no money, it is not cost-effective to take him to a judgment for bankruptcy.

Mr. OWENS. If he has no money you say?

Mr. KOSKINEN. If he has no money.

Mr. OWENS. Is that a criteria?

Mr. KOSKINEN. That is a criteria.

Mr. OWENS. Have you got a list of the written criteria? Do you know what criteria exists for making these decisions?

Mr. KOSKINEN. Yes. Well, the agency-by-agency has those criteria, but——

Mr. OWENS. Do you have a list of the criteria for the Department of Agriculture, Mr. Williams? Can you furnish us with the criteria?

Mr. WILLIAMS. Yes, we do.

Mr. OWENS. The criteria for making decisions about who to forgive, how much to forgive and when to forgive?

Mr. WILLIAMS. Yes. And I can say that since this article back—it was, now that I'm thinking about it in January of last year, we have, I think, strengthened our efforts and strengthened our criteria to ensure that if there is a security there, if there are assets——

Mr. OWENS. Can you supply us in the future with a written criteria if you don't have it today?

Mr. WILLIAMS. Yes, we can.

Mr. HORN. It will go at this point in the record. My understanding is that each agency develops its own criteria. The question should be should OMB have an overall policy on this? Should the law have an overpolicy on—overall policy on this? And I think what we need, Mr. Koskinen, since you are head of the management approach there, is to try to gather these criteria, see if there is some commonality.

I don't want to limit agency discretion because you might have some unique circumstances. On the other hand, a debt is a debt, and we need to know and understand what conditions agency guidance provides the answers that the gentleman from New York is seeking. So if you can give us a little exhibit, I think this is the appropriate place for it.

Mr. OWENS. My point is that systems must be put in place which optimize the best; that's very desirable and I hope we'll go forward with that. But there is something else here that I was trying to pinpoint which nobody seems to want to own up to and that is why do certain kinds of things happen in such an uneven pattern across agencies, and why is Agriculture, in particular, which has the biggest debt, so slipshod.

I just heard a few minutes ago that they don't have addresses. They have the problem of not having the addresses of people who have these loans. I find that incredible that there are people with million-dollar loans out there and we can't—we don't have their addresses. Somebody just said that a few minutes ago, locating the addresses is a problem. So there is something at work here which leads to the slipshod system or the lack of development of a system. They haven't wanted a system because not having a system worked very well for some people. They benefited greatly.

Mr. KOSKINEN. I would like to——

Mr. OWENS. From lack of a system. So if we put a system in place, if we don't deal with these other things, then there are incentives still not to pay and you get away with it.

Mr. KOSKINEN. Yes, I think that's right. But again, I would come back to one of the criterion and the issues that we are dealing with is why we need this legislation. We are not before you saying we don't need to do anything more, we don't need any more tools. We're before you supporting the legislation the chairman has introduced that would basically make sure that the agencies have the ability, first, to make sure they don't make new loans to people who have been delinquent on loans.

Second, that they can reach out and make sure that, if we're making Federal payments to people who owe us money, we, can offset the amount owed against those payments. Third and I think the most significant part of this legislation is providing incentives and financial support for debt collection efforts. If there's one part

of this bill that I would like to stress on behalf of all of the debt collection agencies, it is the gain-sharing provisions of this bill. The most significant thing we can do is provide additional resources to agencies that are effectively collecting debt, instead of asking them to deploy more resources toward debt collection without any benefit directly to those operations. The gain-sharing portion of this bill, it seems to me, is critical and is one of the major advantages that will accrue from the passage of this legislation.

Mr. OWENS. Above all, OMB should stress that we should never trivialize forgiving and throwing away the taxpayers' money. Don't trivialize it by saying it's not that important, you know.

Mr. KOSKINEN. I don't think anyone said it is not important, Mr. Congressman. I would like to have the record clear on that.

Mr. OWENS. Not cost-effective to go after it when it ranges in billions of dollars. That sounds like trivializing a major problem.

Mr. KOSKINEN. Mr. Congressman, I would like to leave the record clear that to say, that if a borrower has no money it is not cost-effective to continue to pursue them judiciously or otherwise is not to trivialize debt collection.

Mr. OWENS. I yield back the balance of my time, Mr. Chairman.

Mr. SCARBOROUGH [presiding]. OK, thanks a lot. I have a question I would like to clarify right now and it shows a basic, perhaps a basic ignorance of the whole process itself. But can you all tell me as far as the decisionmaking process goes, whether it is exclusively within the province of your particular agencies to make the decisions on debt forgiveness or whether it comes down from OMB or the President or where exactly it comes from?

Mr. KOSKINEN. Mr. Williams will answer.

Mr. SCARBOROUGH. Why not. You have been answering everything else.

Mr. WILLIAMS. A couple things. There is general guidance on all these things, but it is up to the agency to come up with specific programs and processes to adopt these and I would also echo for the record what John has said in regard to, "forgiveness".

To say that there are no longer any assets, there is no longer any money, it is no longer cost-effective to go after someone, so to speak, is not to trivialize the whole thing. We consider this very, very important. But I would also urge to the committee once again, the very high importance of better systems, providing better information to decisionmakers to hold us accountable on how we're managing our portfolio.

There's an incentive for us, then, to do things differently, do things better, put them somewhere where they can be done and get the kind of results you want. This bill offers us those tools and is very effective for that reason.

Mr. SCARBOROUGH. Thank you. Mr. Smokovich, if I can ask you a couple questions regarding direct deposit. Regarding it, do you think we should exempt from this process hardship cases?

Mr. SMOKOVICH. I think we are going to have to need to have some flexibility. We—our estimates tell us, for example, that if we implement this legislation, there would be maybe 2 or 3 million unbanked, OK, by the year 2000. We will probably always have some people who don't have bank accounts for one reason or an-

other and we're going to have flexibility. We would ask that the Secretary of the Treasury be given that kind of discretion.

Mr. SCARBOROUGH. How would individuals without bank accounts be treated?

Mr. SMOKOVICH. How would they be treated? The way we would handle those types of situations, as the legislation contemplates, we would ask the program agency to approach that individual and we would say to them if you have a bank account, we certainly want to give you a direct deposit. If you don't have a bank account, we would like to offer—we would like to offer you a payment alternative.

One of those payment alternatives might be the EBT program, which is a program that would give individuals a debit card or a plastic access card to funds in a bank. And another approach we might use would—and this is something we do intend to do, is to actually market the financial institutions, both large and small, to offer plastic access or debit cards to individuals who don't for some reason want to have a checking account or a bank account. So it would be a lot of hands-on direct marketing, high-touch, if you want to call it that.

Mr. SCARBOROUGH. Mr. Steinhoff, getting back to you, Congressman Owens appeared indignant that you would suggest that anyone would forgive a debt for policy reasons. Do you have any recommendations on perhaps—perhaps a way that we could, if an agency did want to forgive debt for policy reasons, a way that we could somehow clarify the purposes for forgiving the debt or are we just creating new problems?

Mr. STEINHOFF. I want to clarify something. I wasn't speaking about forgiving a debt. I was speaking about the underlying requirements and the underlying programmatic rules that would apply. And I was really trying to say that is a number of lending programs have various reasons and there are various goals and objectives, some social, some economic.

For the most part, people are borrowing from these lending programs at terms and conditions which they could not get in the private sector. So I wasn't pointing to the decision to forgive at the end. I am not familiar with the specific case he was citing.

I was speaking about the way the programs are structured and the fact that people can obtain loans under these programs. I think in terms of forgiving—and that's just saying we're just forgiving the debt versus stopping collection of the debt—there's a difference between the two. That's a decision that should be made in a very careful manner and it should be determined that that's the fair, equitable thing to do in that case, and it certainly shouldn't be done without full consideration of the implication of doing it. But I wanted to make it clear that in no way was I implying that for political or other reasons they were forgiven.

I don't really know why they were in this case. I know they were, but that the structure of these programs themselves have a bunch of goals. The government is not in the position of a bank which has a central goal of making money and they're going to make a range of loans in order to make a profit.

We're in there as this lender of last resort providing some kind of benefit to the person obtaining that loan. So there's a cost of

doing that, and that's what I was trying to say. When you made that decision to make those lines, restructure loans, refinance loans, make loans to people who haven't paid back, prior loans to make loans to people who have no chance of paying back, then you end up at the end with a loan that you simply can't collect.

Mr. SCARBOROUGH. I don't think your earlier statements were so shocking. It is obviously clear that we are the lender of last resort in many cases and it's a darn good—it's good for us that we aren't in the business of making money because we are $4.9 trillion in debt and aren't doing a very good job at that. But at the same time, I understand.

What you're saying when the Federal Government gets into the business of loaning farmers money or loaning students money, they know going in that they're not going to receive 100 percent of their money back. Is that not what you're suggesting?

Mr. STEINHOFF. Yes.

Mr. SCARBOROUGH. And when they set up these programs, they have probably already figured that in as a cost, if not a direct cost, an indirect cost?

Mr. STEINHOFF. Yes.

Mr. SCARBOROUGH. Of those programs and that is the point you were trying to make.

Mr. STEINHOFF. Yes. The Credit Reform Act requires the government for a guarantee, as well as a direct loan, to estimate what those costs would be so when you are passing a budget, you are agreeing up front this is the cost.

Mr. SCARBOROUGH. Let me just say I also agree we need to do that and I appreciate your testimony and I appreciate all of your testimony. Mr. Williams, we appreciate you putting yourself forward to be picked on more than others. I think you did a very good job and we look forward to working with all of you to pass and implement this important legislation and we are going to send further questions for all of you to answer. And with that we must recess because I have got to run over and vote. We're adjourned.

[Recess.]

Mr. DAVIS [presiding]. The committee will come back to order and we are pleased to have our next witness, Robert M. Tobias, the national president of the National Treasury Employees' Union, and Bob, good morning and welcome and thank you for being here with us.

Mr. TOBIAS. Thank you very much. I appreciate the opportunity to be able to testify on this most important piece of legislation.

Mr. DAVIS. Your union represents most of the IRS employees, for example, doesn't it?

Mr. TOBIAS. That's correct. We represent all of the Internal Revenue Service employees, all of the people at the financial management.

Mr. DAVIS. Bob I have to swear you in.

Mr. TOBIAS. OK, I can do that.

[Witness sworn.]

Mr. TOBIAS. I will.

Mr. DAVIS. Thank you. Now we're official. Thank you very much and, once again, thank you for being here today.

STATEMENT OF BOB TOBIAS, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, WASHINGTON, DC

Mr. TOBIAS. This legislation seeks to enhance governmentwide debt collection activities. To further this, I understand the subcommittee is considering a proposal which would authorize the Internal Revenue Service to use debt collection tools under the Debt Collection Act of 1992, including the use of private collection agencies and private collection agents.

NTEU shares the concern of the subcommittee that money owed to the Federal Government must be collected and used to reduce our deficit. We strongly believe that the IRS can make a major contribution to balance the Federal budget by 2002 if given the necessary resources. However, NTEU is vehemently opposed to using private debt collection agency to recover delinquent tax debt. And I believe there are several good reasons not to use private contractors.

First is the issue of taxpayer privacy. I do not believe American taxpayers want their private tax information in the hands of private-for-profit companies. I have attached an article by Llewelyn Rockwell, Jr., which appeared in the Washington Times, which persuasively makes this point. Second is the issue of taxpayers rights.

Congress has passed significant protections for taxpayers which balance the government interest in collecting revenue against the taxpayer's right to be treated fairly. Quotas on dollars collected, enforcement actions conducted and dollars per hour generated are outlawed, but those measurement techniques are precisely what are used by debt collection agencies.

Third is the issue of IRS credibility and congressional oversight responsibility. Private debt collectors don't care about the importance of voluntary compliance and the credibility of the IRS to the total collection of taxes. They care only about the dollars collected. Bad experiences by taxpayers with private companies will certainly damage the voluntary tax compliance effort. I've included examples of overzealous collection activities in my testimony. We don't want that behavior in connection with private contractors collecting public taxes.

Further, Congress can't effectively oversee private contractors. If the IRS gets off track, Congress can get accountability, but not with the private sector. Fourth and perhaps most importantly, IRS employees can collect more money at less cost than the private sector.

The GAO studies of service contracts issued in March 1994 show that the private sector costs more to perform the same kind of services provided by the Federal sector, significantly more for the same service done by Federal employees. Last year Congress funded a compliance initiative for the Internal Revenue Service at a cost of $405 million a year, $2 billion for 5 years, which would produce $9.2 billion for the same 5-year period.

We are now ahead of schedule on the revenue produced as the result of that compliance initiative. Yet Congress wants to cut the funds for fiscal year 1996. We know how to collect more money and

we know how to do it at less cost. Give us the chance to do it and don't endanger the private sector and the credibility of the Internal Revenue Service by contracting out the collection of the Internal Revenue Service debt. Thank you very much.

[The prepared statement of Mr. Tobias follows:]

I am Robert M. Tobias, National President of the National Treasury Employees Union. NTEU is the exclusive representative of over 150,000 Federal employees, including virtually all employees of the Internal Revenue Service. On behalf of the men and women who collect the revenue for the Federal Government, I welcome the opportunity to present our views on the Debt Collection Improvement Act of 1995 and proposed changes to this legislation.

This legislation seeks to enhance Government-wide debt collection activities. To further this end, I understand this Subcommittee is considering a proposal which would authorize the Internal Revenue Service to use debt collection tools under the Debt Collection Act of 1982; including the use of private collection agents. NTEU shares the concern of the Subcommittee that money owed to the federal government must be collected and used to reduce our deficit. We strongly believe that the IRS can make a major contribution to balance the Federal Budget by 2002, if given the necessary resources. However, NTEU is vehemently opposed to using private debt collection agents to recover delinquent tax debt.

I believe there are several very good reasons NOT to use private contractors. First, is the issue of taxpayer privacy. The methods available to track taxpayer information are becoming more

and more sophisticated and far-reaching. I do not believe that taxpayers want that kind of sensitive information out of the government's direct control, in the hands of for-profit companies. The American people have demanded that their tax return information be kept confidential - we must respect this essential element of our tax system. I am submitting with my statement a copy of an article by Llewelyn Rockwell, Jr. from the Washington Times that makes this point very effectively.

An issue related to taxpayer privacy is taxpayer rights. Congress has recently passed Taxpayer Bill of Rights legislation aimed at protecting individuals' rights in the tax law enforcement area and I am told Congress intends to strengthen this legislation in the very near future. While Congress is moving to ensure greater taxpayer protection, it makes no sense to begin using private contractors who are not covered under taxpayer rights legislation.

While the focus of today's hearing is how to bring in more revenue owed, I have also testified at many hearings that focused on methods of tax collection that were deemed to be too heavy-handed and tough on taxpayers. Quotas as to how much revenue individual IRS employees needed to bring in used to exist in the IRS, but based on the potential of such practices to lead to abuse, have been widely discredited and abandoned. Members of Congress, directing federal employees, are in a much better position to understand the need to balance effective debt collection practices

against measures that are too intrusive or punitive. For-profit contractors will not necessarily share these concerns.

Private sector employees who work on commission are not going to care whether their actions antagonize taxpayers, or erode the credibility of the IRS. And their bosses are not going to invest the same resources and effort into ferreting out misdeeds by their workers as the IRS does. No one likes to pay taxes, but the majority of American people know that the system now in place aims to strike a balance between protecting the rights and privacy of taxpayers and collecting taxes owed. Moving to a private collection on commission system could cause more people to lose faith in this system under which 83% of all federal taxes owed are paid without any affirmative action by the IRS.

One does not have to look far to hear horror stories concerning private debt collectors. According to U.S. News and World Report, one couple, who ordered furniture from a New Jersey company and refused to pay when the furniture arrived damaged, complained to the attorney general that two collectors came to their home claiming to be police officers - complete with handcuffs and a gun - and threatened jail. Many of the people getting 10 calls a minute are first time offenders and have no idea of their rights. The Associated Press recently reported that an El Paso woman was awarded 11 million dollars from a debt collection agency after receiving many profanity laced phone calls, one death threat and a bomb threat to her place of work.

I believe the issue that is probably of most interest to this Subcommittee with regard to the possibility of private sector companies doing IRS work is cost. However, there have been no studies to verify the cost of contracting out compared to assigning work internally. All of the recent GAO studies on contracting out point to the outrageous needless cost. In fact, it will cost more money to use outside contractors than using IRS employees. Contractors will not have the authority under current law to use the enforcement powers given to the IRS -- revenue collected per dollar expended will be approximately one quarter the amount that could be collected if the same dollars were spent on IRS collection personnel. Furthermore, the IRS will need to take additional people off line to provide management and oversight to contractor efforts. I firmly believe that IRS employees, if given the opportunity, can do any job allocated to the private sector more efficiently and more effectively. It simply does not make economic sense to employ private contractors.

NTEU and IRS have worked together to come up with more and more effective means of bringing in more of the revenue that is owed and we both agree that using contracts for uncollected debt is not an efficient and effective use of the limited resources available to the IRS to collect tax debt. I am also attaching a letter from Commissioner Richardson expressing strong reservations on contracting out collection functions.

Much research and planning have gone into targeting IRS resources to get the most return on the dollar. In the FY 1995 Budget Resolution, Congress authorized $2 billion over 5 years to provide 5,000 additional enforcement positions at IRS. The compliance initiative is slated to bring $9.2 billion into the treasury over five years, that would otherwise go uncollected. Last year, the initiative was fully funded and appeared on track. This year the initiative's funding is under attack. We believe full funding for this initiative is the appropriate way to collect revenue owed.

NTEU is concerned with other parts of the legislation as well. We believe that the use of private debt collectors in Treasury agencies creates an unfair and unproven assumption that the private sector can do it better. In addition, we believe that the release of taxpayer numbers presents large privacy concerns that the American public would be horrified to learn.

Thank you for hearing our concerns on this important matter. I would be happy to answer any questions and look forward to the opportunity to work with your Committee on this important legislation.

The Washington Times

COMMENTARY

LLEWELLYN ROCKWELL JR.

Guess who's apt to call for your taxes

Capitalism is a productive, efficient and powerful organizer of human energies. But there are some things capitalism should not do.

The Clinton administration, believe it or not, wants to privatize a government function. No, not the mails, the parks, or the highways. Showing an unexpected faith in capitalism, the administration is preparing legislation that would allow private business to collect unpaid taxes.

Profit-driven private companies would, no doubt, do this more efficiently than lumbering government agencies. Even so, tax collection is one "service" that private enterprise should not provide. Or do we, for the first time in American history, want real Robber Barons?

The nature of business is persuasion and voluntarism, not force, and I fear. As a long history shows, when government recruits the private sector to more efficiently marauding the people, the result is corruption and disaster.

The president should read "For Good and Evil: The Impact of Taxes on the Course of Civilization" by Charles Adams. Private tax collection has been the ruin of many countries and many politicians in world history.

In 17th century England, Charles II imposed a Hearth Tax, assessing two shillings per chimney in each house. To collect it, the king contracted out with private parties, empowering them to enter private homes at will.

The "Chimney Men" were ruthless and hated, and a ballad of the day expressed the popular attitude: "There is not one old dame in 10 / And search the nation through / But, if you talk of chimney men / Will spare them a curse or two."

Hatred of the privately collected tax help depose Charles' brother James II. As soon as the new monarchs, William and Mary, were installed, the House of Commons abolished the tax, ending a "badge of slavery upon the whole people" that allowed "every man's house to be entered and searched at the pleasure of persons unknown to him."

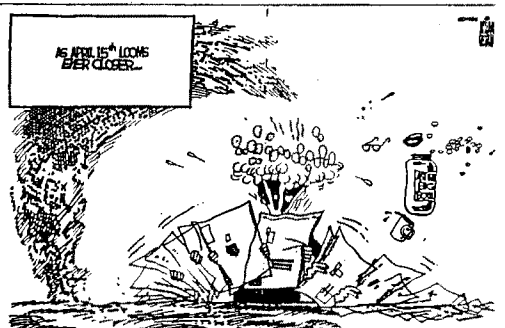
The practice of private tax collection, or "tax farming," dates back at least to ancient Greece. When kings raised taxes, and had trouble collecting them, they hired private enterprise do it. The taxmen were of course cruel, dishonest, sometimes violent, and always despised. "Every door now trembles at the tax farmers," wrote a lady from Cos.

Alexander the "Great" exported the practice, and when his satrap Ptolemy founded his own dynasty in Egypt, he too had "nationalized tax farming." Collectors guaranteed a certain amount of taxes to the state, swearing to get every last obol or make up the difference themselves.

When the Ptolemaic government awarded tax contracts, it was the commercial event of the year. And over time the collectors erected an elaborate administration based on intimidation, threats and plunder. Tax evasion became virtually impossible.

When the peasants couldn't pay, the privatized tax collectors extended credit, and then charged exorbitant rates of interest, giving this legitimate market institution the sinister cast of "usury." Men abandoned families and farms, and allowed crucial dikes to fall into disrepair. Others went to tax-debtors prison.

The private tax collectors were a plague of locusts for Egypt, and their depredations led to a civil war, which ended only when Ptolemy V issued a general amnesty for tax rebels and tax debtors. The Rosetta Stone of 200 B.C. was erected to publicize the "Proclamation of Peace."



The farming brutalized pre-Revolutionary France as well. The ancien regime sold tax collection contracts to private parties, who paid a fixed sum immediately (usually 10 percent, for the right to extract. That gave the government fast cash and a firm assurance of more to come.

French tax farmers organized themselves into corporations, issued paper money in lieu of taxes, and marketed them to the government as bonds. To maintain their high value, tax farmers became almost a government unto themselves, suppressing tax revolts and shaking down peasants for every last sou.

The French court paid the price for this during the Reign of Terror. Some parts of the terror were more terrible than others, however. In an early version of Proposition 13, the people rounded up the tax farmers, tried them in people's courts, and condemned them to death. As heads tumbled, the taxpayers cheered.

As a result, the revolutionary government abolished tax farming and, to this day, France prohibits private companies from collecting taxes.

Capitalism is a productive, efficient and powerful organizer of human energies. But there are some things capitalism should not do.

If government is going to raise taxes, the least it can do is assume the responsibility, and the blame, for collecting them. In bringing back tax farming, the Clinton administration should prove its exception to a long history of disasters. Or do I hear a whetstone on the guillotine blade?

Llewellyn H. Rockwell Jr. is president of the Ludwig von Mises Institute in Auburn, Ala.

WILLIAM BUCKLEY JR.

The weaknesses in a constitutional amendment

Balanced budget admonition

MARTIN ANDERSON

and applau

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

August 4, 1995

The Honorable David Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

I am writing to express my concern regarding statutory language in the FY 1996 Appropriations Committee Bill (H.R. 2020) for Treasury, Postal Service and General Government that would mandate the Internal Revenue Service (IRS) spend $13 million "to initiate a program to utilize private counsel law firms and debt collection activities..." I have grave reservations about starting down the path of using private contractors to contact taxpayers regarding their delinquent tax debts without Congress having a thorough understanding of the costs, benefits and risks of embarking on such a course.

There are some administrative and support functions in the collection activity that do lend themselves to performance by private sector enterprises under contract to the IRS. For example, in FY 1994, the IRS spent nearly $5 million for contracts to acquire addresses and telephone numbers for taxpayers with delinquent accounts. In addition, we are taking many steps to emulate the best collection practices of the private sector to the extent they are compatible with safeguarding taxpayer rights. However, to this point, the IRS has not engaged contractors to make direct contact with taxpayers regarding delinquent taxes as is envisioned in H.R. 2020. Before taking this step, I strongly recommend that all parties with an interest obtain solid information on the following key issues:

1) What impact would private debt collectors have on the public's perception of the fairness of tax administration and of the security of the financial information provided to the IRS? A recent survey conducted by Anderson Consulting revealed that 59% of Americans oppose state tax agencies contracting with private companies to administer and collect taxes while only 35% favor such a proposal. In all likelihood, the proportion of those opposed would be even higher for Federal taxes. Addressing potential public misgivings should be a priority concern.

THE HONORABLE DAVID PRYOR

2) How would taxpayers rights be protected and privacy be guaranteed once tax information was released to private debt collectors? Would the financial incentives common to private debt collection (keeping a percentage of the amount collected) result in reduced rights for certain taxpayers whose accounts had been privatized? Using private collectors to contact taxpayers on collection matters would pose unique oversight problems for the IRS to assure that Taxpayers Bill of Rights and privacy rights are protected for all taxpayers. Commingling of tax and non-tax data by contractors is a risk as is the use of tax information for purposes other than intended.

3) Is privatizing collection of tax debt a good business decision for the Federal Government? Private contractors have none of the collection powers the Congress has given to the IRS. Therefore, their success in collection may not yield the same return as a similar amount invested in IRS telephone or field collection activities where the capability to contact taxpayers is linked with the ability to institute liens and levy on property if need be. Currently, the IRS telephone collection efforts yield about $26 collected for every dollar expended. More complex and difficult cases dealt with in the field yield about $10 for every dollar spent.

I strongly believe a more extensive dialogue is needed on the matter of contracting out collection activity before the IRS proceeds to implement such a provision. Please let me know if I can provide any additional information that would be of value to you as Congress considers this matter.

Sincerely,

Margaret Milner Richardson

Mr. DAVIS. Thank you very much. I was in local government, as you know, for 15 years prior to coming to the Congress, and we did some privatization of debt collection and we did some in-house, eventually returning it in-house. We found out, frankly, that the more county resources we put into it, hiring people, whether it was on a contract, temporary basis as county employees or whatever, that you needed to put the resources into it.

Public or private, you needed to put the resources in the collection, that asking you to collect more money and cutting staff didn't cut it in that area. Is it your position that basically Congress really has not put the resources into debt collection in the public sector that they should have if they want to reduce the debt?

Mr. TOBIAS. The answer is, yes. Last year, Congress did fund this compliance initiative debt collection option. Congress said, hiring 5,000 employees, training them, by keeping them on the rolls for 5 years, we'll spend $405 million in the first year, $2 billion over 5 years and we'll collect $9.2 billion for our efforts.

GAO has testified that, indeed, the IRS is ahead of schedule on collecting those funds and ahead of what has been projected and yet the Senate has zeroed out the compliance initiative and the House-passed Treasury appropriations bill cuts it less than in half. So here we have something that has worked. We have something that is effective, and yet rather than sticking with it, Congress seems to be cutting back on it. I think that's unwise.

Today, I wonder how the Congressional Budget Office would score that. Because it would seem to me with the track record that the more people you add, the more net gain you get into the Treasury and it would be an illusory savings.

Mr. TOBIAS. Well, I certainly hope they would score it positively.

Mr. DAVIS. But it seems to me, then, the cuts won't really be cuts. It would be a decline in revenue.

Mr. TOBIAS. It is a decline in revenue. There is no question about the decline in revenue. It is a very clear correlation. And so we urge that rather than contracting out, which I believe will cost more in terms of the dollars spent to collect the revenue, and will produce less revenue overall, that we ought to fund the people who know how to do the job.

Mr. DAVIS. Let me ask a question. We have a later witness, a Mr. Thomas Gillespie, who is going to state that there's no basis for concerns about collectors invading taxpayers' privacy. I am talking about private collectors, private debt collectors invading private taxpayers' privacy. He says under the Fair Debt Collection Practices Act, collectors are prohibited from disclosing debt information to a third party, any contractor with a collector to specify privacy restrictions. Do you have any reaction to that?

Mr. TOBIAS. Well, I'm sure that those pledges are made. But I would ask whether or not this Congress wants to hold the Internal Revenue Service accountable or try to hold a private debt collector accountable through the IRS for breaches that will inevitably and ultimately occur. I think that it's very unwise to run the risk. Once a breach occurs, and we know it will—I mean it's guaranteed that it will occur, the spillover effect of that breach, when it's the private sector, I suggest, will be much larger than the problems that we have even with the Internal Revenue Service.

We already have the problems in the Internal Revenue Service when these infrequent breaches occur, but it would have a much larger impact on voluntary compliance if it were the private sector where these breaches were to occur.

Mr. DAVIS. In raising that, it reminds me of I think earlier this year, there were reports that over a period of years, we had a number of IRS employees who snooped into thousands of tax records, examining friends and neighbors' returns and, as you say, I guess that's human nature to some extent. But do you know what happened to those employees and how that was handled internally?

Mr. TOBIAS. They were disciplined. They were disciplined, discharged and some of them were put in jail.

Mr. DAVIS. So it was easily handled.

Mr. TOBIAS. Not easily.

Mr. DAVIS. Easier than in the private.

Mr. TOBIAS. It would be more difficult in the private sector. Much less control by Congress over the breaches.

Mr. DAVIS. OK. How would you describe the IRS's tax collection efforts to date in collecting—we're talking about debts at this point, longstanding debts.

Mr. TOBIAS. The Internal Revenue Service attempts to collect debts in a number of different ways. First by mail, then by telephone, and then by personal visit. Like the private sector, the Internal Revenue Service has found that the sooner people are contacted, the more chance you have of collecting, of collecting the debts. And one of the real issues for the Internal Revenue Service is to get itself technologically in a position where these calls can be made soon, sooner rather than later and there's a lot of movement toward that.

One of the key provisions of the tax compliance initiative was to hire people specifically to make these telephone calls early and the results, of course, are quite dramatic in terms of the dollars collected.

The most difficult cases are those where people go out of business, because the largest portion of the tax debt is for taxes that are withheld, FICA taxes withheld to be paid for social security. So these are small businesses that go out of business and the funds aren't available, so it's very difficult to collect from these folks who are coming in and going out of business quite rapidly. So our goal is to put enough people on the task early enough to collect the maximum possible revenue and I think that's what we're doing.

Mr. DAVIS. OK. Do you have any—what is your reaction to the centralization of debt collection efforts at Treasury?

Mr. TOBIAS. Well, the idea of Treasury serving as a—as an agency to collect debts for other government agencies, I think, is a sound one. I think it's a good one. I think that coordinating FMS with the Internal Revenue Service would be a good thing.

I believe that the FMS will be able to prove that it can collect money, again, cheaper and faster and will do a very good job at it. This is an agency that has done more work on improving its quality and more work on improving its productivity than many, many agencies in the Federal sector. So I think that this agency is really poised to prove to the world how efficient and effective it is.

Mr. DAVIS. I wonder if you can elaborate for us in terms of these GAO audits which, unfortunately, I don't think all the Members have read at this point in terms of saving money versus costing money using outside collection agencies because this has been subject to a lot of different interpretation in representations by people appearing before this committee. You want to compare apples to apples in the reports I guess. I wonder if you would like to elaborate on that.

Mr. TOBIAS. I don't know that GAO has done a study that directly compares debt collection in the private sector with debt collection, for example, in the Internal Revenue Service and one of the reasons that would make it very difficult is that the authority that is vested in an Internal Revenue Service employee cannot be vested in the private sector, the ability to issue a lien, the ability to issue a levy, the issue to actually go out and collect the taxes. So I don't know that there would be—that there has been.

I know that there has not been a specific comparison, but what I do have is the March 1994 GAO report called, "Government Contractors," measuring cost of service contracts versus Federal employees. And in that report, GAO pointed out that when service contracts are negotiated with the private sector, there's no requirement that cost comparisons be conducted and GAO looked at some contracts that had been performed and they found that the cost was substantially more than it would have been if Federal employees had performed it.

And the primary basis of difference is really in the amount of pay. For example, there's one that appears on page 23 of that report that I just referred to where an engineer assistant on this contract was paid $30.50 an hour and an equivalent employee would be paid—in the Federal Government $18.90.

A junior engineer in the private sector is paid $35.68 and an internal revenue—or a Federal employee is paid $20.83. So using these kinds of analysis on seven or eight contracts, every one of them showed that the Federal sector could do it cheaper. So I believe that these kinds of analysis really show the kind of work product that we can do if we're allowed to do it. I think it's pretty unfair to say on the one hand to the Internal Revenue Service we want you to do this debt collection, but we're only going to give you a limited number of FTE's and at the same time think about contracting out to the private sector. It seems to me that the real basis ought to be who can do it cheaper, who can do it better and then Congress ought to allocate the FTE's based on who can do it faster, who can do it better.

Mr. DAVIS. I guess what I've been surprised to hear today is that the compliance effort has been started. It seems to be doing well, but we seem to be undermining it a little bit.

Mr. TOBIAS. That's a fact. I would urge the House and the Senate to use another opportunity in conference and in reconciliation to add more funds to this initiative, and I certainly hope that it's done.

Mr. DAVIS. Well, thank you. Thank you very much. Let me ask at this point—my time is up. Mr. Fox, do you have any questions?

The gentleman from Pennsylvania.

Mr. FOX. Thank you, Mr. Chairman.

Tell me this, is it safe to say that a private contractor would have fired employees who engage in the type of recreational browsing under the Fair Debt Collection Practices Act?

Mr. TOBIAS. I would assume that they would. I don't know. I have never talked to anybody in the private sector. I don't know what the practices are. I don't know the answer to the question.

Mr. FOX. Let me ask you this. Isn't it possible to limit the access of the private collection agency employees to taxpayer data so that taxpayer privacy is protected?

Mr. TOBIAS. It's not. I mean, so long as a person's name, their social security number and the amount they owed is made available, that's taxpayer information. That's the kind of stuff that is, I think, very volatile when it's shared with anyone.

Mr. FOX. And if there are other prescriptions in the same regard that the IRS employees would have?

Mr. TOBIAS. Well, the issue isn't whether they are under the same prescriptions, because I assume they would be.

Mr. FOX. Yes.

Mr. TOBIAS. The issue is what happens when breaches occur and what damage occurs to the voluntary compliance effort. I mean, I think that's the real issue.

Collecting taxes is a very difficult business; there is a lot of hostility and a lot of anger about collecting taxes. So if there are breaches in the private sector, I think it has more of an adverse impact on the voluntary compliance effort than even breaches in the Federal sector. Among Federal employees, even though there are, as Mr. Davis has mentioned, situations where Internal Revenue Service employees have browsed, there aren't examples of breaches outside of Internal Revenue Service employees.

Mr. FOX. Thank you, Mr. Chairman. Thank you, Mr. Tobias.

Mr. DAVIS. Mr. Tobias, I have one other question. I would like to talk about hardship cases. We talk in government about the individuals that technically owe the money, but have a hardship, an explanation that if the total facts of the situation became known to the general public that the government were coming down on these people, it would really have an adverse effect on public opinion toward the tax collection agency; and I draw on my experience in local government on these. But in terms of sensitivity to that, you believe that having this sponsored from the government, done by the government instead of private sector, you're going to be able to have greater guidelines toward sensitivity on these hardship cases?

Mr. TOBIAS. Well, I think that the whole issue of when taxpayers are entitled or offered hard pay agreements or extended periods of time to pay taxes, or the most critical issue of whether or not you close a business down, are issues that ought be under the control of the Federal Government and ought be under the control of Congress. I don't think, candidly, there is a more central government function, a more inherent government function than the collection of taxes.

When people try to make a distinction about what might be privatized, what might be contracted out, an inherent government function is the collection of taxes. There is nothing more critical

other than providing defense. So I think that for that alone we ought not be talking about contracting out the collection of taxes.

Mr. DAVIS. Thank you very much.

Mr. HORN [presiding]. The gentleman from Pennsylvania, Mr. Fox; have you any questions?

Mr. FOX. I have asked them. Thank you very much, Mr. Chairman. I appreciate that.

Mr. HORN. I'm sorry I didn't hear all of your oral testimony. I've looked at some of your written testimony. I think your employees certainly on the financial management service do a fine job and I believe you represent them, don't you?

Mr. TOBIAS. We do.

Mr. HORN. I have got a real worry about the position you have, however, on collection. I regard the IRS situation as a national scandal on lack of collection. All I can say, whatever method they are using now needs to be changed.

Now, to what extent from your judgment—are you part of IRS at the Treasury? I'm just not sure on your background.

Mr. TOBIAS. I'm the president of the National Treasury Employees Union. We represent all of the employees at the Internal Revenue Service.

Mr. HORN. Which would include IRS?

Mr. TOBIAS. That's correct.

Mr. HORN. Do you have any working experience with the IRS?

Mr. TOBIAS. I did work at the IRS.

Mr. HORN. Maybe you can educate me. Why do they have such a large uncollected debt, given their present methods of collection? It's a scandal. I don't know any other word for it. Do you think it's a scandal?

Mr. TOBIAS. No, I don't think it's a scandal.

Mr. HORN. Look, when you have $70 billion in tax debt, what would you call it?

Mr. TOBIAS. I would call it dollars that are difficult to collect, and I would call it an attempt by a government agency to balance the interest of collecting taxes versus the rights of employees—versus the rights of taxpayers in the private sector.

The largest balance of that $70 billion is really from social security withheld by a lot of small businesses who go out—who use the trust funds that are withheld from employees' pay to fund their operation and then they go out of business. Collecting that money from those businesses that are going in and out of business is very difficult. They can't be located. They don't have any money. They have to be pursued. So the traditional methods of collecting funds for taxes or the traditional method of collecting funds is exacerbated when we're talking about the taxpaying public.

In order to address the problems of collection, Internal Revenue Service initiated a tax compliance initiative last year, which I mentioned in my testimony, where the Congress authorized $405 million over 5 years to hire an additional 5,000 folks, so the cost was to be $2 billion with a return of $9.2 billion over a 5-year period. We're on our way. We're ahead of the schedule for collecting those funds.

One of the ways that we're collecting the funds faster is by contacting taxpayers telephonically sooner. The procedure that we had

in effect was you write, you call, you visit. What we found, of course, is that if we call earlier, it cuts down on the number of visits you have to make, which are expensive, and you get more money faster, you find people quicker by making calls earlier.

In order to make even more calls, you need more technology and you need the implementation of the tax system's modernization effort that IRS is trying to implement. The way that, if you were really doing it correctly, you would do it as American Express does when you don't pay your bill. The person sits at the screen, calls up your bill and says, Tobias, you owe; and Tobias says, I don't really owe that much and the person can look at the bill and know it. In the IRS, the person who calls can't call up the return on the screen, so you really can't have that kind of a conversation because the hardware and the software in the Internal Revenue Service is so outmoded, it's 1960's technology; and the IRS is trying to implement a system which would give employees the kind of technology that's available in the private sector to be more efficient and to be more effective.

So I don't think it's a scandal in the sense that people are negligent or maliciously avoiding the collection of debt. I think that what you have is a situation where the Internal Revenue Service knows what its problems are and is moving to solve them and in fact is fulfilling the promises that it has made to Congress to collect the money.

Mr. HORN. I'd like staff to put at this point in the record, if it's in existence since the 1960's, the problem's been recognized, 20 years of what has IRS asked for, what has OMB granted in terms of the updating of the computerization? If it's 10 years, if they were still in date 10 years ago, whatever it is, let's find out what did they ask for—IRS, Secretary of the Treasury—what did OMB approve? Did the Treasury appeal it? What did the President send to Congress? What did Congress give them? Because I think if that's been known that long, there's either been some negligent parties in the administration, regardless of party—some negligent parties in Congress, regardless of party, and we might as well lay it out.

Mr. TOBIAS. I welcome that.

Mr. HORN. Now, there's no problem, I take it, for the people at the screen to get access to that data. There's no internal memoranda that prevents the collection side from knowing what that taxpayer's actual——

Mr. TOBIAS. No.

Mr. HORN [continuing]. Filing looks like. It isn't just the amount owed, but it is the actual filing they can look at; is that true?

Mr. TOBIAS. Right now—no, the answer is no.

Mr. HORN. No what?

Mr. TOBIAS. No. If I'm sitting at a telephone site, calling you——

Mr. HORN. Right.

Mr. TOBIAS [continuing]. Saying that you owe $1,000, I can't pull up on my screen your tax return. I can't do that. The technology is not available to the IRS.

Mr. HORN. I understand the technology. I just want to make sure there is no internal regulation that says they are so confidential they can't be accessed by anybody in the IRS.

Mr. TOBIAS. No.

Mr. HORN. That is not the problem?

Mr. TOBIAS. No, that is not the problem.

Mr. HORN. I just wanted to clarify that.

Mr. TOBIAS. No, that's not the problem.

Mr. HORN. Now, the General Accounting Office has stated that 43 of the 50 State governments, 43 were the only ones that replied to their survey, used private-sector tax collectors. Any reaction to that, what the State government practice is?

Mr. TOBIAS. I don't know why the State government used private-sector collection agencies. What I'm saying is that based on our record, based on the cost of collection, based on the dollars collected, the employees of the Internal Revenue Service can collect more at less cost than the private sector.

And based on—if Congress funds the dollars—right now if, for example, the IRS were required to contract out, it would cost a significant sum of money to contract out because of the coordination problem that would be required between the IRS and the private contractors to collect funds. So it would be an increased—a significant, increased overhead expense to make it possible. So I believe that if Congress wants to reduce the amount of debt, it ought to fund the compliance initiative, and we'll reduce the debt as was promised last year.

Mr. HORN. Well, I certainly think you're probably right when it comes to getting back the whole amount owed since the cost of private collection we'll explore later with some witnesses in that area strike me as much higher if you're saying buying the debt and then maybe you collect half of it and keep the other half, whatever. Obviously, I'd just as soon we collect the whole debt.

Now, if that means we do it inside, we ought to at least do it as far as we can. If we think we've got an absolutely hopeless case, then it seems to me we ought to turn those over to private collectors because we've given it the college try at the agency level and we've been unsuccessful. So what is your reaction to that?

Mr. TOBIAS. Well, I think that giving it the college try at the agency level says we've given it the college try at the agency level with the funds that Congress has allocated. And if Congress is going to allocate some additional funds to collect debt, so, for example, Congress says, well, on this debt of $100 we're willing to give up $50 of revenue collection, give it out to the private sector and they can—they'll give us a portion of whatever they recover, it's a policy decision to give up revenue.

My belief is that if you cost that out and you say, OK, it makes sense to go after that money, it makes sense to collect 50 cents or 25 cents or whatever you say you think it makes sense to collect, and allocating an FTE to do it, you will get more money and it will cost less. So it isn't an issue of can't we give it the college try but rather how much money we want to spend collecting the revenue. Do we want to give to it the private sector or do we want to do it cheaper, at less cost, by having the Federal Government do it, what I describe as the most inherent government function other than defense.

Mr. HORN. Well, I still look at that $70 billion tax debt, and I'm sure people have tried to collect it. I'm not completely sure how successful they've been. That's why I'm going to hold a hearing on

the IRS, because I think it is a disgraceful situation. So we'll explore that.

I am told you testified that private collection would harm the sort of theory that has been prominent for a long time that IRS has a very high level of voluntary compliance. I don't see how that's true. I mean, if private collection can go after the debt when the agency's failed to go after the debt, it seems to me that would wake up people that IRS isn't going to have a $70 billion in tax debt; they're going to get that money in one way or the other.

Mr. TOBIAS. What I said, Mr. Chairman, was that I believe that the inevitable breaches that will occur with the private sector collection of debts, if Congress were to authorize that, would have a significant adverse impact on the voluntary compliance system. I think that the collection of taxes, as I said, is very much an inherent government function.

People are very concerned about their taxes and they're concerned about privacy. If Congress makes the decision to allow private contractors to collect and there are breaches, I think that it will not redound to the detriment of the Congress, but rather to the credibility of the Internal Revenue Service; and when that happens, voluntary compliance goes down.

Mr. HORN. Well, I'll tell you—I just thought I had it with me; I'm going to have to put it in the hearing exhibit. But a Los Angeles firm is advertising, talk to them, they can get a deal for you with IRS. I'm sending that today or some time to the regional director in Laguna-Nigal and I'm asking to know every single settlement they've made because of the activities of that firm.

To me, that also gets my anger up to see a firm assuring that they can make a deal with IRS. That doesn't seem to confirm the theory that we have efficient collection and we have compliance.

Mr. TOBIAS. Well, we also know that.

Mr. HORN. I am told by staff they were former IRS employees, which leads to further problems.

Mr. TOBIAS. Well, we certainly know the first amendment protects anybody to say anything they want in an ad in the newspaper. That doesn't make it true, and I don't think it is—ought be considered evidence to confirm anything other than people can put whatever they want in the newspaper.

Mr. HORN. Well, it just seems to me you've got a problem of advertising that the attorney general in California might well be interested in in terms of false claims or whatever.

Mr. TOBIAS. Certainly true.

Mr. HORN. And we will pursue all of those with that bunch.

Anyhow, I just don't see the logic that it is affecting voluntary compliance. It just seems to me whatever method of enforcement you have, be it public or private, that's what assures voluntary compliance because they know you're serious. When people read about $70 billion in tax debt, they obviously don't think you're serious, $70 billion hasn't been paid.

Major Owens mentions his situation in New York; I'm sympathetic with that. If the average little guy is being picked on, why aren't some of the big guys? And that's what gets to me, too.

Well, any other questions?

Mr. OWENS. Mr. Tobias, is there a history of your union submitting proposals or making proposals for the improvement of the IRS debt collection procedure?

Mr. TOBIAS. Every year. Every year in the context of the appropriations process we submit testimony on how the debt collection process can and should be improved, every single year, and have for the last 15 years.

Mr. OWENS. Do most of these recommendations involve new technology?

Mr. TOBIAS. It is a combination of technology and people, yes.

Mr. OWENS. And more people?

Mr. TOBIAS. It's both. You can't just hire more people with the current system. You've got to have more technology. You have to have systems which image returns. You have to have systems which allow returns to come up on the screen. You have to have the technology which allows the returns to be analyzed so that those that are most likely to yield dollars will be attacked first. So it's a combination of technology and people.

Mr. OWENS. During the Reagan administration, there was a—one official, I forget who it was, who issued a statement that—maybe it was George Bush himself, Bush, later on, go after the little guys because you know you can get the money from them. It takes a long time to get money from corporations because they have lawyers and accountants and they can evade. Always go after the little guys first. So your statement that technology will enable you to determine what is collectible doesn't sit well with me.

But let's move on to another point. The debt, do you have any idea, the national—of the $70 billion, you just mentioned that a lot of it is money collected by small businesses that go out of business—businesses, not small businesses, businesses that go out of business; and then you have no way to find them and collect the money. What else do you know about that $70 billion in debt?

Mr. TOBIAS. I don't have a current breakdown of the debt.

Mr. OWENS. Is it profiled to the public?

Mr. TOBIAS. It is. It is profiled to the public.

Mr. OWENS. How much corporations owe?

Mr. TOBIAS. Yes. The Internal Revenue Service can give you that virtually up to the minute.

Mr. OWENS. You don't know what is corporate debt?

Mr. TOBIAS. I don't know and I didn't bring it with me this morning, but it is available.

Mr. OWENS. Do you have any idea how the members of your union, their salaries, compare with the counterparts in private industry debt collection operations?

Mr. TOBIAS. It depends—the answer is no.

There was some testimony at the appropriation—in the Appropriations Committee by some private-sector debt collection agency persons who described low-paid people collecting vast sums of money. The Internal Revenue Service has a whole range of people who do collection activities from the lower-grade people, who do basically telephonic inquiries, people who do basic research to find out where somebody might have money secreted, to higher paid people who actually go out and meet a taxpayer face to face. So my belief is, at the lower range, the private-sector people are paying

about the same as the Internal Revenue Service is at the lower range. But private sector people don't employ those to go outside of the office and engage in face-to-face discussions, so those folks receive more pay.

Mr. OWENS. I suppose Federal law prohibits any incentives or bonuses, any kind of relationship between the work and the pay?

Mr. TOBIAS. The taxpayer bill of rights prohibits that, that's correct. And I point out in my testimony that those kinds of measurements and those kinds of incentives are precisely how the private sector measures its progress and rewards its employees, which is directly contrary to the way Congress has decided the Internal Revenue Service ought to collect taxes.

Mr. OWENS. I know you're not an engineer, a software engineer. Do you have any idea how long would it take to upgrade and modernize the technology in the IRS? I'm asking the question because my next question would be, would you support some kind of temporary situation where the private sector is given an opportunity to prove whether or not it can do a good job in collecting? Not just prove it, but a period where, of necessity, we allow it to be collected by private agencies which may have better technology, while the IRS is upgrading and catching up with the private sector in terms of technology? What do you think?

Mr. TOBIAS. No, I wouldn't, because I believe that even without the technology, if you do a cost comparison, do it up front, we'll do it better and we'll do it cheaper.

Mr. OWENS. There are no cost comparisons now?

Mr. TOBIAS. No, there aren't. There are no studies in existence now that would compare the cost of what it would cost the Internal Revenue Service to have a private contractor doing this kind of work, because it's not cost free. The overhead costs are quite significant of monitoring, of handoff, of coordination, and that's all money lost that—if you were spending that same amount of money on a Federal employee doing the work, you wouldn't have that overhead.

But there are no cost comparisons that have been done to date.

Mr. OWENS. Do you have any idea how long—if Congress were to give the IRS the money it needs, it would take to update the technology?

Mr. TOBIAS. The IRS has been attempting, has been spending money to update the technology for the last 3 years. Their plan to implement the technology that's needed—well, they're doing it all along. They're implementing technology all along.

For example, right now they're rolling out something called the integrated collection system, which is a hardware-software program available to revenue officers. Those are the people who go out and collect the taxes. This technology has improved productivity in the three places where it has been produced by 35 percent, and it allows revenue officers to increase the amount of inventory that they can manage by 50 percent. So the technology, the full implementation of the technology isn't till the year 2001, but stuff is coming on line all the time, and there's an example of one of the collection programs that's coming on line now.

Mr. OWENS. My final question, how many more people do you think they need for this kind of operation?

Mr. TOBIAS. Well, Congress authorized an additional 5,000 last year, and we hired 'em, we trained 'em. We promised that we'd produce $9.2 billion over 5 years; and now the Senate has zeroed that out, and the House cut it from 405 to 286. So here we have a program where we've trained people, we've hired people, we're out there collecting the revenue as promised, and Congress cuts the funds by more than half. I think that's unwise.

Mr. OWENS. Thank you.

Mr. TOBIAS. Thank you very much.

Mr. HORN. I thank the gentleman and his staff.

Mr. TOBIAS. Thank you very much, Mr. Chairman.

Mr. HORN. If we have any other questions, we might send them some. If we do, if you wouldn't mind replying, we would be grateful to put them in the record. We thank you for your testimony. If the next panel would come forward.

If you would rise, if we have got everybody—there we have Mr. Gillespie, Mr. Tracey, Mr. Bernstein and Mr. Sale—if you would raise your right hand.

[Witnesses sworn.]

Mr. HORN. All four witnesses affirm.

STATEMENTS OF THOMAS GILLESPIE, PRESIDENT, NATIONAL CREDIT MANAGEMENT CORP., BALTIMORE, MD; STEPHEN SALE, PRINCIPAL, SALE, QUINN, DEESE AND WEISS, WASHINGTON, DC; JAMES TRACEY, CHIEF EXECUTIVE OFFICER, DIVERSIFIED COLLECTION SERVICES, INC., SAN LEANDRO, CA; AND ROBERT BERNSTEIN, PRESIDENT, COMMERCIAL LAW LEAGUE, WASHINGTON, DC

Mr. HORN. Just a minute, gentlemen. What we'll do, we have a vote on the floor; we have 15 minutes in which to vote. We will start with the first 5-minute presentation. I believe there is one presentation; is that not correct? Is that Mr. Gillespie's?

Mr. GILLESPIE. Yes, Mr. Chairman.

Mr. HORN. You're going to make the presentation. Then the others will have other things to add to that. But I take it it is not formal statements.

Is that correct, staff? OK.

Let us start with Mr. Gillespie then, president of the National Credit Management Corp., Baltimore, MD. Then we will break for a recess of perhaps 15, 20 minutes so those of us here can vote. And I will return, and we will then have the questioning of the witnesses.

So, Mr. Gillespie, please proceed.

Mr. GILLESPIE. Thank you, Mr. Chairman.

Chairman Horn, members of the subcommittee, my name is Thomas F. Gillespie Jr. I am president of National Credit Management Corp., a financial services firm headquartered in suburban Baltimore, MD. We are one of the State tax collectors you talked about, Mr. Chairman. I am appearing today representing the American Collectors Association, a trade association of some 5,700 collection firms. All of the other witnesses this morning are also members of the ACA, and this statement is submitted on behalf of this entire panel, although I do believe there is someone here from the Commercial Law League as well.

Mr. Chairman, ACA applauds you for introducing H.R. 2234 and for the prompt hearings you are holding on this much-needed legislation. "Prompt" is a very important word in debt collection. In fact, the longer a debt is allowed to remain unpained, the less likely recovery becomes. A study done by ACA shows that for private accounts placed with collection firms, 53 percent of the accounts that were turned over within the first 30 days of delinquency achieved positive collection results.

From the table attached to my testimony, you can see that as time passes, accounts get less collectible and as an account reaches its first year of delinquency anniversary, the collection rate drops below 10 percent, and after 14 months, only 47 percent of the debts will be collected.

Unfortunately, Mr. Chairman, the Federal Government in many cases has not acted in a prompt manner in pursuing its debts. At the end of last year, according to the Department of Treasury figures, the U.S. Government was owed total nontax debts of $48.7 billion. That in itself is shocking, but what is even more shocking is that $34.5 billion is more than 1-year-old, and another $5.9 billion is from 6 months to 1 year delinquent.

Mr. HORN. I regret I'm going to have to interrupt. I just got word I have a recorded vote in the Transportation and Infrastructure Committee that I must respond to. That's the problem with juggling hearings.

We'll take a recess for 20 minutes and pick up. So relax for 20 minutes, please.

[Recess.]

Mr. HORN. The hearing will resume. Mr. Gillespie, please pick up where you let off.

Mr. GILLESPIE. Previously, Mr. Chairman, we were talking about the amount of nontax debt owed to the Federal Government. The $48.7 billion is shocking but what is even more shocking is that $34.5 billion is more than 1 year old and $5.9 billion is from 6 months to 1 year delinquent. If all of the $48.7 billion had been turned over to private collection firms on the day it became delinquent, statistics show that $25.8 billion would have been collected. So you can see, Mr. Chairman, why the word "prompt" is so important. The old saying, "Time is money," was never more appropriate than in connection with today's hearing.

Private collection firms currently collect for some 20 Federal Government agencies. Since 1982 these firms have collected more than $700 million for the Department of Education alone. Two years ago, my firm, National Credit Management Corp., won a Federal Government contract in competitive bidding from the General Services Administration to provide a demand letter service to government agencies. A demand letter takes place at the first stage of collection. The contract called for NCMC to send letters in the name of the government agency asking for prompt payment of the debt. My company would produce the letters with envelopes and first-class postage for a fee of 54 cents per letter.

With postage currently running at 32 cents, you can see we had a small profit margin. Several years ago a study was done by the government that shows it costs $4 for the government to produce one letter. This includes personnel cost, equipment and stationary.

I'm sure it is higher now. Even using the $4 figure, the contract would save the government $3.46 on each letter.

During the past 2 years, my company has not been able to get a single government agency to use this contract. We have not yet been asked to produce our first demand.

In today's testimony, Mr. Tobias said that the government can do it cheaper. I find that hard to believe, based on the fact that when collection firms get paid, they generally get results. Government employees get paid regardless. I'd like to bring to your attention in the September 11th issue of Business Week it says that the IRS indicated to the government that it could get $3 out of every $1 it spent if it was given additional funding. That equates to a 33 percent fee. I am sure that the collectors in this room and the American Collectors Association and the 5,700 firms we represent would agree that in the private sector today you're getting overcharged for the results that you're getting. That is a very high rate in today's economy.

Let me turn to uncollected tax debt. ACA is pleased, Mr. Chairman, you included tax debt in H.R. 2234. I wish I knew how much tax debt is owed. Last year at this time the operative figure was $110 billion. Today the amount, we are told, is $60 billion. Does that mean in the last 12 months we collected $50 billion? Not at all. The Office of Management and Budget deemed the $50 billion uncollectible, as we heard here today, and would no longer allow the IRS to carry it on their books. Even OMB is not sure how much money is owed the IRS.

For the last 3 years the GAO has attempted to conduct an audit of the IRS, but has been unable to complete the job because the IRS books aren't in the best of shape. Since 1990 the IRS was given $750 for additional enforcement and here we are still waiting.

Can we afford to give up $50 billion because the IRS won't use outside collectors? This is a question Congress must answer. Every time the IRS has raised objections, including privacy concerns, to using outside collection firms, the American Collectors Association has answered those objections. The Fair Debt Collection Practices Act prohibits collectors from disclosing debt information from a third party. In addition, the IRS could write any privacy restrictions it desires into outside collection contracts.

It is strange that the IRS should raise privacy concerns about outside collectors since we heard this morning that there were 1,300 IRS employees who were investigated for snooping into taxpayer records. On the other hand, ACA knows of no privacy complaints against outside collection firms working now for the Federal Government.

Why do outside collection firms get better results than in-house government collectors? Private firms use state-of-the-art technology and professionally trained people to achieve their goals. These technology resources and trained individuals can both locate and motivate people to satisfy their obligations or to resolve them if there is a legitimate dispute preventing the debtor from satisfying the debt. Compare this to the IRS which again we heard this morning, according to the GAO, is still using 1960's technology. We in the collection business have 1990's technology to apply to this problem immediately.

Mr. Chairman, the ACA strongly endorses H.R. 2234. We do have several comments to offer about the legislation. As with the current practice in the private sector, it is important that government collections be centralized in a single entity for better control and accountability. The FMS of the Treasury would serve well in this capacity. Delinquent debt should be turned over to collection firms as soon as other remedies made available under the legislation like offset have been exhausted. As is currently written, there is no requirement that Treasury or any other agency use outside collection firms. The ACA believes that private collection firms should be required at the appropriate time period.

H.R. 2234 would restrict the Justice Department collections to private attorneys. Such a restriction eliminates thousands of collection firms who do not qualify as private attorneys. If the goal of this legislation is to increase government collections, why then eliminate the top professionals in the field? Collection firms currently are collecting both criminal and civil fines and penalties in a number of States with success. Under the current Justice Department system, a lawyer in practice for only 1 day with no supporting infrastructure could respond to the Justice Department's request for proposal, while the largest and most sophisticated collection firms would be prohibited from responding.

In addition, the government has not shown an inclination to use smaller collection firms. The legislation should remove size as a contracting consideration. Companies that can show the ability to handle the scope of the contract and have the financial soundness to meet the contract criteria should be considered regardless of size. Such a provision could have the potential of creating thousands of new jobs in small business throughout the country.

In closing, Mr. Chairman, the American Collectors Association recommends that the Federal Government use the many resources of the private sector in the collection of delinquent accounts.

Thank you. My fellow panel members and I would be happy to answer your questions.

[The prepared statements of Mr. Gillespie, Mr. Sale, Mr. Tracey and Mr. Bernstein follow:]

Testimony of the American Collector's Association
Before the Subcommittee on Government Management, Information and Technology
of the Committee on Government Reform and Oversight
Friday, September 8, 1995
Presented by Thomas Gillespie

Chairman Horn, Mrs. Maloney, members of the Subcommittee, I am Thomas F. Gillespie, Jr. President of National Credit Management Corporation, a financial services firm headquartered in suburban Baltimore, Maryland. My company specializes in accounts receivable management, particularly collections. We are pleased to count among our clients numerous state governments. We are also a vendor to the Federal Government for collection-related services. I am appearing today representing the American Collectors Assn., a trade association of some 3,700 member collection firms. All of the other witnesses at the table this morning are members of ACA and this statement is submitted on behalf of this entire panel.

ACA has a large and diverse membership, comprised of both large and small businesses. Our industry is regulated by the Fair Debt Collections Practices Act (FDCPA) as well as by more stringent regulations in many States. ACA's membership, as citizens and taxpayers, finds it particularly frustrating that the Federal Government has been slow to utilize proven systems to increase its cash flow and reduce costs.

Mr. Chairman, ACA applauds you for introducing H. R. 2234 and your planned changes and for the prompt hearings you are holding on this much needed legislation. Prompt is a very important word in the debt collection profession. The longer a debt is allowed to remain unpaid, the less likely recovery becomes. There is a direct correlation between the time a debt is turned over for collection to a debt collector and the amount of dollars recovered. A study done by ACA shows that for private accounts placed with collectors, 53% of the accounts that were turned over within the first thirty days of delinquency achieved positive collection results. From the table attached to my testimony you can see that for each month that passes the recovery decreases dramatically. When the account passes its first year delinquency anniversary, the collection rate drops to 10% and after 14 months only four percent of the debts will be collected.

Unfortunately, the Federal Government in many cases, has not acted in a prompt manner in pursuing debtors. At the end of 1994, according to Department of Treasury figures, the. Government was owed non-tax debts of $48.7 billion. That in itself is shocking but what is even more shocking is that $34.5 billion is more than a year old and another $5.9 billion is from six months to one year delinquent. No business could keep its doors open with that type of account receivable problem and regulators would close any type of financial institution with collection problems of that magnitude. If all of the $48.7 billion owed the Government had been turned over to private collection firms on the day it became delinquent, statistics tell us that $25.8 billion would have been collected. But because of delay, lack of legislative authority or in some cases a reluctance to use private collection firms, it now appears that of the $34.5 billion debt that is more than a year old, a return of at best, $3.45 billion can be expected and every day private collection firms are not used, the $3.45 billion figure shrinks.

So you can see, Mr. Chairman, why the word prompt is so important. The old saying, "Time is Money," was never more appropriate than in connection with today's hearing. This legislation should require that debt be placed with private collection agencies as soon as all disputes surrounding the debt are resolved.

Private collection firms are currently collecting for some 20 Federal Government agencies. Since 1982, these firms have collected more than $700 million for the Department of Education alone. H. R. would expand outside collection authority to all agencies and ACA strongly supports that move.

There is another factor that limits Government collection by private firms.There are some in the Government, for whatever reason, that do not want to turn over any Government work to private concerns. That reluctance is costing American taxpayers billions of dollars a year and is one reason why Members of Congress are being forced to make difficult decisions on Government budgets. As a private citizen, I cannot help but wonder, how much easier your job would be if you had a large portion of the $48 billion in delinquent tax debt to work with.

If I may be permitted a personal observation concerning the reluctance to use outside collectors. Two years ago, my firm, National Credit Management Corporation won a contract, in competitive bidding, from the General Services Administration, to provide demand letter service to Government agencies. A demand letter is sent in the first stages of collection. The contract called for NCMC to send letters, in the name of the Government agency, asking for payment of the debt. My company would produce the letters, with envelopes and provide first class postage for a fee of 54 cents a letter. With postage currently running 32 cents a letter, you can see we had a small profit margin. Several years ago, a study was done that showed it cost $4 for the Government to produce one letter. That includes, personnel costs, equipment and stationery. I am sure the cost is higher now.

Even using the $4 figure, the contract would save the Government $3.46 on each letter. During the past two years my company has not been able to get a single Government agency to use this cost savings service. We have not been asked to produce the first demand letter. With option years, that contract expires in 1997. We currently do not hold much hope of obtaining any business under this contract, based on the past two years experience. It is very disheartening to think that the Government would incur costs in establishing such a money saving contract and then let it sit unused. This was our firm's first government contract and we invested hundreds of manhours in preparation of the proposal. I'm sure far more time was spent on the government's end reviewing the many responses like National Credit's to its Request for Proposal--all time spent for naught, at this point If the Government was doing a good job of collecting debt, I would not be as concerned about my contract but with more than $48 billion in past due non-tax debts on the books, I am deeply disturbed and so should every taxpayer in this country.

Let me now turn to the uncollected tax debt situation. ACA is pleased, Mr. Chairman that you have included tax debt in H. R. 2234 . Earlier this year, the House passed appropriation's legislation directing the Internal Revenue Service to conduct a test program using private collection agencies to collect delinquent tax debt. A similar provision passed both subcommittee and the full Appropriations Committee in the Senate but when the legislation was on the Senate floor, the IRS Commissioner wrote the Senate, objecting to the provision, on the grounds it was not needed, and that section was dropped from the bill. ACA hopes that the pilot program is kept in the legislation by a conference committee.

It would appear, at first blush, that if IRS says it is not necessary to use outside collectors, that the agency was doing a good job of collecting delinquent taxes. That is not the case. I wish we knew exactly how much tax debt is delinquent and owed the IRS. Last year at this time, the operative figure was $110 billion. Today, we are told the amount is $60 billion. Does that mean that in the last 12 months IRS collected $50 billion? Not at all.The Office of Management and Budget deemed the $50 billion uncollectable and would no longer allow IRS to carry that balance on its books. Even OMB is not certain how much money is owned IRS. For the last three years, the General Accounting Office has attempted to conduct an audit of IRS but has been unable to complete the job because the IRS's books are not in the best of shape. Can we afford to give up $50 billion or more of tax debt because the IRS won't use outside collectors? That is a question that Congress must answer.

Two years ago, Congress gave IRS millions of dollars to conduct a test program using outside collectors. What did the agency do? After receiving 600 requests from collection firms asking to bid on the contract, the agency pulled the plug on the test and spent the money in another area.

Every time IRS has raised an objection to using outside collectors, ACA has answered that objection. For example, IRS Commissioner Margaret Richardson wrote Sen. David Pryor recently stating that if the agency was forced to use outside collectors it would raise privacy concerns. There is no basis for the Commissioner's concern about collectors invading taxpayers' privacy. Under the Fair Debt Collection Practices Act (FDCPA) collectors are prohibited from disclosing debt information to a third party. In addition, the IRS could write any type of privacy restrictions it desires into outside collection contracts. Collectors don't want access to taxpayer records. They simply want basic information such as amount of debt, address and phone numbers. It is strange that the IRS should raise privacy concerns about outside collectors. Last year, 1,300 IRS employees were investigated for snooping into taxpayer records. To my knowledge, no information has been provided as to what happened to those employees.

On the other hand, ACA knows of no privacy complaints against outside collectors working for the Federal Government agencies.Private collectors are handling delinquent income tax accounts in more than 30 states and are collecting other types of taxes and fees such as parking fines, lottery receipts and sales taxes, in every state in the country. Privacy issues have not been a problem with those collections.

IRS also uses the Taxpayer Bill of Rights as another reason why outside collectors should not be used.ACA certainly respects the rights of taxpayers but with rights come responsibilities. Delinquent taxpayer owe the Government billions of dollars. Shouldn't our concern be for the rights of taxpayers who pay their taxes on time and carry the additional burden for the ones who are delinquent? ACA feels that the Fair Debt Collection Practices Act provides broad and adequate protection for taxpayers. The Act prohibits collectors from engaging in any deceptive or harassing tactics. It prohibits discussing debts with a third-party. It is a strong and effective measure to protect taxpayers.

A logical question in this discussion is why outside collectors get better results than in-house Government collectors? There are a number of reasons. Private firms utilize state-of-the art technology and professionally trained people to achieve their goals. These technological resources and trained personnel, can both locate and motivate people to satisfy their obligations or to resolve them if there is a legitimate dispute preventing the debtor from satisfying the debt. Compare this to the IRS which the GAO has stated in Congressional testimony is still using 1950s and 60s collection practices.

Mr. Chairman, ACA strongly endorses H. R. 2234. We do have several comments to offer about the legislation.

It is important that Government collections be centralized in a single entity for better control and accountability, as with the current practice in the private sector. The Financial Management Service of the Treasury would serve well in this capacity. Agencies wishing to operate their own centers, should be allowed to do so only with permission from Treasury and with appropriate oversight.

To maximize result for the Government, delinquent debt should be turned over to private collectors as soon as any other remedies made available under this legislation, i. e. offset, are exhausted. This is a standard practice in many state's and private sector companies using outside collection services

As currently written, there is no requirement that Treasury or any agency use outside collectors. ACA believes that private collectors should be required at the appropriate time period.

We commend the Justice Department for actively seeking help from outside collectors and we note that the Department's outside collection efforts are further enhance in this legislation. However, Justice has limited its outside collection to "private attorneys" and that same limitation is contained in H. R. 2234. Such restrictions eliminate thousands of collection agencies who do not qualify as private attorneys. If the goal of this legislation is to increase Government collections, why then eliminate the top professionals in this field? Collection firms currently are collecting both criminal and civil fines and penalties in a number of states with success. Under the current Justice Department system, a lawyer in practice for only one day, with no supporting infrastructure, could respond to the Justice Department's request for proposal (RFP) while the largest and most respected collection companies would be prohibited from responding.

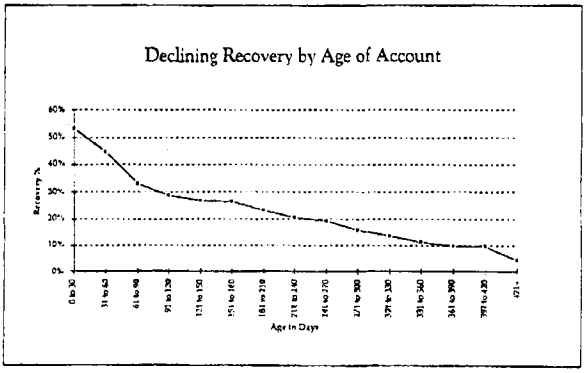
In establishing contracts for outside collectors, the legislation should require that contracts similar to those issued by the Department of Education be standard. The Education Department is the largest private outsourcing agency in the Government. It has performance based contracts that reward those companies that do the best collection job with increased volume and cash bonuses. Contract payments should be made on a contingency fee basis. In addition, the Government has not shown an inclination to use smaller collection companies. The legislation should remove firm size as a contracting consideration. Companies that can show the ability to handle the scope of the contract and have the financial soundness to meet contract criteria should be considered, regardless of size. Such a provision could have the potential of creating thousands of new jobs in small businesses across the country.

In closing, Mr. Chairman, the ACA recommends that the Federal Government use the many resources in the collection of delinquent accounts available to it in the private sector . Not only will this achieve rapid economic benefits for the government and taxpayers, it will get the job done, protecting individual privacy, as required by existing laws and generating substantially improved cash flows to allow government to run better and do more for its citizens. H. R.2234 is a major step in the right direction.Thank you. My fellow panel members and myself would be pleased to answer any questions.

1995 Top Collection
Markets Survey

Declining recovery rates by age at time of placement

Age in days	Recovery %
0 to 30	53%
31 to 60	45%
61 to 90	33%
91 to 120	29%
121 to 150	27%
151 to 180	27%
181 to 210	23%
211 to 240	21%
241 to 270	19%
271 to 300	16%
301 to 330	14%
331 to 360	11%
361 to 390	10%
391 to 420	10%
421+	4%



UNITED STATES OF AMERICA
HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEE ON
GOVERNMENT MANAGEMENT, INFORMATION AND TECHNOLOGY

Good morning, Mr. Chairman and Members of the Committee:

My name is Stephen Sale. I greatly appreciate the Chairman's invitation to appear here today to support the compelling legislative proposals under consideration by the Committee. These measures not only will reduce the federal deficit, but also will mandate sound fiscal practices in the management of ever-growing federal credit and delinquent debt.

I am with the law firm of Sale, Quinn, Deese & Weiss. Since 1982, I have represented, in Washington, CSC Credit Services, Inc. ("CSC"), and a private collection agency ("PCA") acquired by CSC. In this capacity, I supported the enactment and amendment of the Federal Debt Collection Act of 1982 ("Debt Collection Act").

On many occasions, I have provided debt collection training at seminars for all federal agencies sponsored by the Financial Management Service of the Department of the Treasury, as well as single-agency debt collection training for the Executive Office of the United States Attorneys.

I commend the Subcommittee Members and Staff for assembling, for inclusion in legislation, a wide range of collection measures that have proven effective in the private <u>and</u> in the public sector throughout many years of experience with those measures.

<u>Effectiveness of Debt Collection Tools</u>.

With the enactment of the Federal Debt Collection Act of 1982 ("Debt Collection Act"), Congress gave federal agencies the authority to report delinquent debtors to credit bureaus; to engage in tax refund, federal employee salary and other administrative offset; and to contract with PCAs for recovery of delinquent federal debts. In 1983, Congress improved the Debt Collection Act by amendment allowing Federal agencies to pay PCAs' contingent fees from amounts collected without an appropriation. Payment of PCAs from appropriated funds would have delayed collections, and would have stopped collections altogether if an agency reached the level of its appropriation for payment of PCA fees.

In 1984, Congress further amended the Debt Collection Act to allow contracting with private attorneys to collect delinquent debts through litigation. Obviously, the Department of Justice and retained private attorneys should sue delinquent debtors with assets, income or both, but who refuse to pay. The measures under consideration by the Committee have the added benefit of avoiding further congestion of our courts, however, by allowing

administrative recovery of delinquent debt in the large majority of cases.

Lack of Consistent Success under the Debt Collection Act.

The federal collection initiative to date remains ineffective. The Debt Collection Act provides many of the tools necessary for Federal collection, but Congress has not required use of these tools. For several large federal creditor agencies, Congress has actually precluded use of the effective collection tools provided by the Debt Collection Act. Because the collection tools are not mandatory and their use is in many cases precluded, the Office of Management and Budget and FMS have threatened, cajoled, pleaded, and supported federal agencies in the improvement of their collection efforts with limited success. Only a handful of federal agencies make use of credit bureau reporting, tax refund, federal salary and other administrative offset, debt placement with PCAs, and referral for litigation, and some agencies use none of these tools.

In the absence of consistent and comprehensive collection efforts, delinquent federal non-tax debt grew to $50 billion at the end of Fiscal Year 1994 from $44 billion at the end of Fiscal Year 1993. Thus, non-tax delinquency grew 13.6% despite the $8 billion write-off in Fiscal Year 1993. If new delinquency and write-offs are added, non-tax delinquency grew by $14 billion, or almost one-third of the total.

In the private sector, virtually no debt would be written off and closed out until collection has at least been attempted by placement with a private collection agency. Unfortunately, this is not the case with the Federal Government. Excluding Department of Education ("ED") debt (which is placed with PCAs), federal debt placements with PCAs from 1988 to 1993 amounted to only $7.8 billion of $34.6 billion. Most of this $7.8 billion was placed with two PCAs in succession (when the first PCA could not recover the full delinquent balance), resulting in double-counting. When this double-counting is eliminated, only $4.4 billion, or 12.8%, is ever placed with a PCA. Because write-offs during these five years approximate total delinquent debt at the end of the period, the percentage placed with PCAs is overstated by about a factor of two. No retail or other private sector business would long remain in business if it wrote off 94% of its bad debt without ever even attempting recovery through use of a private collection agency. As discussed below, PCA placement of non-tax debt by agencies other than ED has actually declined since 1993.

In contrast to other Federal agencies, ED places 100% of unresolved defaulted student loan debt with PCAs shortly after ED receives these accounts. ED has also sought and received from Congress additional tools for effective debt collection beyond those provided by the Debt Collection Act. For student-related

debt, Congress eliminated the statute of limitations. Most other debts are subject to a six-year statute of limitations under 28 U.S.C. § 2415, or to differing limitation periods under the programmatic legislation generating the delinquent debt.

Congress has also eliminated the discharge of student-related debt in bankruptcy, except where the debt was in default at least seven years before the bankruptcy, or where the debtor establishes undue hardship in the absence of discharge. 11 U.S.C. § 523(a)(8).

Finally, Congress has allowed non-judicial, administrative garnishment of the wages and salaries of defaulted student loan debtors. 20 U.S.C. § 1095a. Delinquent debtors contesting administrative wage garnishment by ED are entitled to a hearing, as are debtors contesting tax refund, federal salary or other administrative (in the rare instance where identified) offset, or credit bureau reporting under the Debt Collection Act. Federal agencies have long provided fair, impartial administrative hearings, and the debtor generally may seek judicial review of the administrative decision. Based on historical experience, judicial review is sought in very few cases.

ED's Success from Maximizing Use of Remedies Given by Congress.

The success of ED and its PCAs demonstrates the effectiveness of the tools given ED for debt collection, and the dedication of ED officials using those tools to maximize collections. Even before enactment of the Debt Collection Act, ED began PCA placement of every unresolved account under separate authority provided by amendments to the Higher Education Act. Throughout the Eighties, ED achieved an average recovery of 8.76% on each account placement with a PCA. This recovery per placement is greatly magnified because ED places each account, on the average, with three different PCAs in succession.

Thus, ED recovers 20-25% of its portfolio by use of PCAs. This recovery ratio is all the more remarkable because ED's due diligence regulations generally require schools, lenders and guarantee agencies to refer student loans to PCAs for cure of delinquent amounts and collection of defaulted amounts. PCA recovery at the school, lender and guarantee agency level is not included in ED's 20-25% recovery ratio.

PCA collections for ED, schools, lenders, and guarantee agencies are augmented substantially by tax refund, federal salary and administrative offset and, increasingly, by administrative wage garnishment. ED is likewise leveraging the effectiveness of administrative wage garnishment by enlisting PCAs' assistance to locate debtors and their employment, and to contact the debtors regarding garnishment. It is reported that as many as 50% of ED debtors selected for administrative wage garnishment have instead decided to repay the defaulted loan voluntarily.

I have prepared opinion letters to CSC regarding the tools and remedies available to ED. When provided with these opinion letters by CSC, attorneys retained by ED debtors initially tend to be incredulous over the scope of ED's legal remedies, but the vast majority of these attorneys advise their clients to make payment arrangements when confronted with the statutory basis for ED's collection remedies.

Government-Wide Duplication of ED's Results.

OMB and FMS have strived Government-wide to duplicate ED's successful results. OMB and FMS continue to be frustrated, however, by roadblocks to collection and by a lack of incentives for collections at other agencies.

The roadblocks include legal restrictions on the use of collection agencies by the Social Security Administration and by the United States Customs Service. Annual appropriations riders have precluded administrative offset or PCA collection of delinquent debts to the Farmers Home Administration, which has now been split into the Rural Housing and Community Development Service and the Farm Credit Service.

Another major impediment to collections is the lack of incentives to federal creditor agencies. Each agency is committed to the program that generates the delinquent debt. Federal agencies have traditionally viewed themselves as dispensers of federal favors, however, rather than as collectors. An agency is concerned lest collection attempts rile a constituent group served by an agency program, the reaction of which could have the perverse effect of undermining program support.

Further, as budgets are squeezed, federal agencies feel compelled to devote an increasing share of resources to the program mission. At present, collections generally must be returned to the General Fund of the Treasury. Agencies are understandably reluctant to sacrifice program funds to collect delinquent debts, and thereby to risk aggravating agency program constituents, when amounts recovered cannot even be used to fund agency collection costs.

Agency fears, of significant program constituent complaints, have never proven valid. Throughout the 15-year history of federal PCA contracting, PCAs have demonstrated that they can collect delinquent federal receivables with the sensitivity required by the creditor agency. CSC has recovered Black Lung Program overpayments, and VA home loan non-judicial mortgage foreclosure deficiencies with a minuscule level of complaints.

Although aggregate collections outside the Department of Education have been disappointing, numerous federal agencies have demonstrated that substantial collections are possible. For

example, the Department of Veterans Affairs vigorously collects non-judicial mortgage foreclosure deficiencies through internal collection efforts, tax refund, federal salary and administrative offset, and first and second placement with PCAs.

After VA's internal collection efforts have been exhausted, PCAs manage to recover about 3% of these deficiencies for VA. While this may sound like a low recovery rate, we must remember that the debtor has lost his or her home, and the average debt is around $16,000. Even in those cases where the debtor can pay something, the debtor is likely to react to collection that he or she has little else to lose from nonpayment. Moreover, 3% netback to VA is a significant sum in relation to delinquency amounts in the billions.

Congress has precluded establishment and collection of deficiencies on foreclosed VA loans issued after 1990. Rural housing loans cannot be placed with PCAs for collection. In general, HUD's Federal Housing Administration does not establish a debt to reflect the delinquency on a foreclosed FHA home loan, so these deficiencies are not collected by PCA placement or otherwise. While VA continues to collect foreclosure deficiencies on pre-1990 loans, these loans reflect an increasingly small proportion of foreclosed VA loans.

HUD's Title I Loan Division is the only agency that consistently establishes and collects deficiencies on foreclosed federal mortgages. These loans are made to lower income individuals, most often for manufactured homes or to bring existing homes up to housing code standards. HUD's Title I collection center intensively collects these accounts by tax refund and other available administrative offset and telephone contact prior to PCA placement. PCAs have nonetheless recovered approximately 3.4% of the amounts placed by HUD.

Small Business Administration loans are the only federal accounts more difficult to collect than mortgage foreclosure deficiencies because SBA is a lender of last resort.

The agencies making greatest use of PCAs, such as ED, VA, HUD Title I, SBA and the Postal Service, share a common trait: the funds are returned to the agency for use in the loan program generating the debt. Thus, agency programs are supported by collections in those cases. The incentives already enjoyed by these "revolving fund" agencies must be replicated to ensure widespread use of federal collection tools by other agencies.

Other federal debt is much more collectible. Excluding HUD Title I, VA, SBA and ED debt, PCAs have achieved a recovery rate of 4.8% per placement. While this recovery rate does not equal ED's historical rate per PCA placement, other federal agencies do not have ED's tools to permit increased collections, and generally do

not place accounts as promptly as ED. If each federal debt were placed an average of three times (as with an ED account), PCAs should be able to achieve total recovery in the range of 10% for accounts other than SBA loans and mortgage foreclosure deficiencies.

With total non-tax delinquency of $50 billion and $8 billion in write-offs last year, a recovery of 10% would indeed contribute significantly to federal deficit reduction.

Debt Collection Improvements Act of 1995.

The Subcommittee has painstakingly assembled the measures which, when enacted by Congress, will provide critical federal debt collection tools. Experience demonstrates the efficacy of each proposal, and I would urge inclusion of as many of these measures as possible in the Debt Collection Improvement Act of 1995.

Before addressing individually each of the tools under consideration by the Subcommittee for inclusion in legislation, the cumulative effect of these tools should not be underestimated. In adoption of federal debt collection remedies, the whole is much greater than the sum of the parts. Once debtors know with certainty that the Federal Government has broad range of tools available to collect delinquent debts, and that the Government will use all of these tools, debtors become more willing to pay. Debtors resign themselves to the fact the government will get its money back, so the debtor might as well come to terms. This phenomenon goes a long way to explain the success of ED's collection program.

Accordingly, while each measure under consideration would make an incremental contribution to government collections, the adoption of all of these measures will increase collections by a greater amount than the sum of each individual contribution.

Offset Authority

* Require that agencies send all debt to Treasury for Administrative Offset.

The right of set-off is so basic that it was recognized as common law long before the right was ever codified. The right provides that when the first party owes the second party a debt, the first party may set-off from the payment any amount owed by the second party to the first party. The Federal Government should make full use of this offset authority through the pending legislation. These offsets help avoid clogging the courts by allowing a form of limited collection self-help.

Centralization of administrative offset and collection efforts will track effective state efforts, and will eliminate problems

caused by the inadequate resources and conflicting priorities of many creditor agencies.

Presently, administrative offset is haphazard. While tax refund offset can only be effectuated by the Internal Revenue Service, a creditor agency must find employment or pending payment by another federal agency to the debtor before federal salary or other administrative offset.

In recent years, ministerial payment functions have been increasingly centralized within FMS. Accordingly, FMS is ideally situated to serve as a clearinghouse for Government-wide administrative tax refund, salary and other administrative offset. By vesting responsibility for all of these offsets within FMS, the Committee will allow standardization and "one-stop shopping." Creditor agencies could send their delinquent accounts to a single agency for application of all of the tools, thereby ensuring ease of compliance with the legislation reported by the Subcommittee.

A requirement of referral to FMS of all debt 90 days delinquent will ensure consistent application of all federal collection tools and remedies. Thus, FMS would be able to effectuate all administrative offsets, to report the accounts to credit bureaus, to refer the account to PCAs for collection, and to refer to the Department of Justice for litigation uncollected accounts where a debtor has assets or income.

* Exempt Administrative Offset from the Computer Matching and Privacy Act.

Exemption of administrative offset from the Computer Matching and Privacy Act will eliminate "red tape" to facilitate and to expedite offset. This is important because the "window" for offset is not open for long, but only until the government payment is made. Any requirement delaying offset will only result in federal payments to parties with debts owed the government.

Referral of delinquent federal debts to credit bureaus and PCAs is already exempt from the Privacy Act. When the Federal Government becomes a creditor, it is generally acting in a proprietary, and not in a governmental, role. Delinquent debtors should have no greater expectation of privacy in relation to the Federal Government than with any other creditor. Computer matching and privacy requirements only shield delinquent debtors from repayment of their obligation to the government while the government continues to make payments to those same debtors.

* Allow Administrative Offset to be conducted for Child Support.

Child support debts should be viewed as a debt indirectly owed to the government, and collected by administrative offset in the same fashion as any other government debt.

Governments at all levels have become heavily involved in the collection of delinquent child support payments because families not receiving support payments when due will likely end up on public assistance. In other words, if these payments are not collected from absentee parents, government will be called upon for support. Obviously, the Federal Government provides a significant proportion of public assistance in the forms of Aid to Families with Dependent Children and Supplemental Security Income.

The scope of this problem is substantial. At any given time, 49% of child support payments are delinquent. Over the course of each year, 80% of those making support payments become delinquent. Spiralling federal AFDC and SSI liabilities can be managed effectively only if child support is diligently collected in the same fashion as any debt owed the government.

* Allow the Tennessee Valley Authority to use offsets to collect debts due it.

TVA and other government entities should have the same offset capability as federal agencies.

Federal full faith and credit have been pledged to TVA, regional power authorities and entities such as the Government National Mortgage Association. A party delinquent to such an entity effectively owes the debt to the government, because the government will be responsible for the debt of the government-backed entity. In making payments to parties with debts to TVA or any other federal entity, federal agencies should consummate the administrative offset so that the TVA or debt to another federal entity is first repaid.

* Allow States and the Federal Government to offset each other's payments to collect each other's debts.

This authority implies two offsets: (1) of the Federal Government and of a state against one another; and (2) offset of a debt to a state from a payment owed the debtor by the Federal Government, and offset of a debt to the Federal Government from a payment owed the debtor by a state. Consistent with minimizing litigation, the broadest possible offset should be allowed, i.e., federal and state against one another, and offset of state debts against federal payments and federal debts against state payments.

Because the Federal Government and the States are separate legal entities under the United States Constitution, restrictions may apply to offset of state debts against federal payments and federal debts against state payments. The requirements of due process of law may prescribe that the debtor be provided an opportunity to contest the debt and the offset before the offset is effectuated. Pending a hearing, the payment to be offset could be held in suspense by paying government, but would be paid during

that period neither to the party potentially subject to the offset, nor to the creditor government.

* Require that agencies offset Federal salary payments.

Federal salary offset should be mandatory along with every other federal offset.

The federal tools for debt collection have not been widely used because such use is discretionary with the agency, greatly reducing the leverage of OMB, FMS, agency inspectors general and the General Accounting Office. Agencies can argue that the tools would be ineffective, or that their current efforts are more effective. While these excuses only prevent the collection of delinquent federal debt, OMB, FMS and the Congress do not have an effective yardstick for measurement of agency performance in the absence of mandatory application of all federal collection tools.

Accordingly, legislation requiring use of all federal collection tools would greatly assist OMB and FMS in enforcing sound Government-wide fiscal management, and will facilitate oversight by the Congress.

Agency Coordination

* Allow agencies to service each other's debt on a reimbursable basis.

The federal agencies that have proven superior in debt collection should be able to provide assistance to other agencies that have been less successful.

This authority should be coupled with a requirement that the servicing agency would assume the responsibility to apply all of the federal collection tools, including offsets and PCA referral where servicing agency efforts prove ineffective.

* Require SSA, DOL and HHS to release workplace name and address information for purposes of locating debtors and their employees.

Matching of names and social security numbers should be allowed with all federal agencies having employment information, including the Social Security Administration, the Internal Revenue Service, the Office of Personnel Management, and the Department of Labor.

Creditor federal agencies have been unable to locate the vast majority of delinquent debtors referred to PCAs. Information from the IRS Locator Service on debtors' last known addresses is inaccurate and outdated on up to 80% of the accounts referred to PCAs after IRS referral.

It makes little sense for the Federal Government to "tie its hands behind its back" by refraining voluntarily from use of its own data bases, thereby shielding delinquent debtors from repayment of their federal obligations.

The best data base is employer information data bases maintained by the SSA and the IRS. Because these agencies are receiving current tax and social security payroll withholding, both debtors and their employers have an incentive to ensure that the debtor information is accurate to ensure proper crediting of payments.

Employment identification is an invaluable tool for location of and collection from debtors. This matching and reporting of information back to creditor agencies should likewise be exempted from Computer Matching and Privacy Act restrictions.

Disbursements/Facilitating Offset

* Require Electronic Funds Transfer (Direct Deposit) by 1998 to facilitate offset, improve audit information and reduce fraud.

Electronic Funds Transfer (EFT) availability should be mandatory to facilitate offset, to enhance audit trails, and to reduce fraud. Further, personnel time requirements and paperwork would be vastly reduced in the issuance of checks, tracing lost checks, and re-issuing checks that are lost or stolen.

EFT would facilitate offset, of course, by allowing the offset to recover overpayments and other funds improperly deposited in the payee's account.

* Require agencies to include Social Security Numbers on files certified to disbursing officers for payment.

Because the Social Security Number ("SSN"), called the Taxpayer Identification Number by the IRS, is the most basic identifying number for individuals within federal data bases, the mandatory inclusion of the SSN on files certified for check disbursement or on any other agency record is necessary for matching and delinquent debt recovery.

The equivalent number for commercial accounts is the Employer Identification Number ("EIN") for SSA purposes, and the same number is called the Taxpayer Identification Number ("TIN") for IRS purposes. The EIN should be required for payments to businesses such as government contractors and grantees.

* Require persons doing business with the Government to provide taxpayer identification numbers.

Provision of the TIN is essential for the government to determine whether the business owes delinquent debts to the government. Indeed, the requirement should extend, beyond persons or corporations doing business with the government, to any person receiving payment or engaged in a financial transaction with the government.

* Bar delinquent debtors from obtaining Federal benefits, loans, insurance and administrative services.

Good fiscal management dictates that the government avoid doing business with parties owing the government a delinquent debt.

No private sector business would sell products to a party owing a delinquent debt to the seller. The government should likewise refrain from "throwing good money after bad." When the government awards contracts, grants, cooperative agreement payments, loans and insurance, and confers administrative services, the government should act as a private sector business and refrain from such government privileges to parties with delinquent federal debts. The long-term benefits should be defined to include contracts, grants and cooperative agreements.

Additional Collection Tools

* Allow agencies to garnish the wages of delinquent debtors.

Administrative wage garnishment has proven a highly effective collection tool for ED.

The employee cannot be fired for being subject to garnishment, so no one's job is threatened by administrative wage garnishment. Because the garnishment process, including a hearing pursuant to a debtor's request, occurs at the administrative level, unnecessary litigation, and concomitant court congestion, are avoided.

In assisting ED in administrative wage garnishment, PCAs have discovered that many employees do not want their employers to find out that they have defaulted student loans. As a result, around 50% of those notified of administrative wage garnishment make payment arrangements in lieu of garnishment.

* Allow the Social Security Administration, Customs Service and the Internal Revenue Service to use private debt collectors.

The success of the Department of Education and other federal agencies in the use of PCAs would undoubtedly be duplicated by SSA, IRS and the Customs Service ("Customs") if they were required to use PCAs. I use the term "required," rather than "allowed," because the optional use of collection tools has not been fully successful to date.

Federal Government resources are increasingly limited. Congress cannot authorize a large number of slots for new federal employees to collect debts at SSA, IRS and Customs, nor would such action be prudent if possible. As with a private sector business, SSA, IRS and Customs necessarily deploy the most resources to attempt to recover the most current, highest balance accounts. These priorities leave older, lower balance accounts unworked. In the private sector, the older, lower balance accounts would be placed with a PCA, and the PCA's resources would augment those of the creditor.

The IRS is experiencing not only delinquent tax debt growth at the level of non-tax debt, but also the parallel growth of the "tax gap" of unreported income. The need to catch tax cheats further reduces the resources available to the IRS for debt collection. The IRS must address these pressing problems while simultaneously engaged in a massive system update, Compliance 2000, now scheduled for completion around the year 2008.

The same pressures afflict SSA and Customs, although to a lesser extent, due to their lower level of receivables.

Mandatory use of PCAs is the only measure that will the IRS, SSA and Customs to pursue intensive collections of accounts presently unworked due to limitations on in-house resources.

* Allow agencies to give public notice of indebtedness in the case of unlocatable individuals or corporations, or individuals who refuse to repay Federal loans.

As the reporting of delinquent debt to credit bureaus has been exempted from the Privacy Act, other public notice of individual indebtedness should be exempted from the Privacy Act.

When the Federal Government began intensive collections of defaulted student loans in the Seventies and Eighties, the government obtained court orders allowing prejudgment attachment of the luxury automobiles of defaulted physicians. Federal marshals took custody of these vehicles with considerable publicity. This publicity resulted in payments not only from the physicians whose vehicles were attached, but also from others fearing a similar fate.

Accordingly, public notoriety can greatly increase collections from both delinquent debtors accorded such notoriety and from others fearful of that notoriety. While the Privacy Act could prevent public notice of debts owed by individuals, no similar restrictions apply to business. It would nonetheless be salutary to apply the legislation drafted by the Subcommittee to individuals and businesses so that a business claim of "trade libel" against a publisher would be implicitly precluded by the legislative authorization, and expressly precluded by the legislative history.

* Require agencies to report current and delinquent debts to credit reporting agencies.

The required reporting of current and delinquent accounts to credit reporting agencies will result in significantly increased collections.

Consumer debts are reported to the CSC/Equifax, Trans Union and TRW consumer credit bureaus (also referred to as credit reporting agencies), while commercial debts are reported to commercial credit bureaus Dun & Bradstreet and TRW.

Good credit standing is increasingly important to obtain the benefits of society often taken for granted. These include a job, apartment rental or a home loan, a car loan, a credit card, or even cable television, telephone or other utility hook-up.

As with all of the federal collection tools, credit bureau reporting must be mandatory or it will occur on only a fraction of total delinquent federal accounts. The reporting of current accounts is also an excellent proposal, as it positively reinforces the benefit of timely payment on a federal account.

By making this measure mandatory, the Subcommittee could also assure that federal agencies timely service accounts reported to the credit bureau by reporting payments or increased delinquency. Current servicing of credit bureau accounts will assure that desired conduct is reported by showing the account current, just as undesired conduct will be deterred by showing the delinquency.

* Require agencies to use private collection agencies.

Mandatory PCA placement of delinquent federal accounts is necessary to attempt Government-wide the collection results achieved by the Department of Education. Of the $8 billion in federal non-tax accounts written off last year, it is doubtful that more than 25% of those amounts were ever referred to a PCA.

Mandatory PCA placement of all delinquent accounts, with the inflexible requirement that accounts must be placed with PCAs at or before the point of write-off, provides benefits to the government far beyond collections. The PCA assembles a significant data base on each account, that may include the current or last known addresses, contacts for debtor location, employment, asset and income, demographic information (local income levels, home values and the like), identification of other creditors, confirmation of death or disability of the debtor (where applicable), and scoring of the collectibility of the account based on the other account information. This information materially assists the creditor agency in the decision whether to pursue through continued collection, to litigate, or to write-off the account. In sum, the

information from PCA placement, and optimally by multiple successive PCA placement greatly improves resolution decisions by the creditor agency. PCA data base assembly on delinquent accounts greatly improves the audit trail for OMB, FMS, creditor agency inspectors general, and the General Accounting Office.

This data base is assembled by the PCAs and is available for return to the creditor agency, however, at no cost to the agency beyond the contingent fee on amounts collected by the PCA. Thus, the creditor agency receives considerable information on each and every account placed, but pays a contingent fee only on those amounts collected. This information is available for the PCA receiving the next placement for agencies such as ED, VA, HUD Title I, SBA and other creditor agencies making multiple successive placements with PCAs. While the first placement PCA generally "starts from scratch" in gathering information on the debtor, successive PCAs can both use and add to the data base already assembled, improving the prospects for collection and the basis for account resolution other than collection.

Miscellaneous Debt Collection Authorities

* Allow agencies to retain some portion of increased collections to fund improved debt collection efforts (agency gainsharing).

Needed substantial improvements of deficient federal collection efforts cannot occur in the absence of gainsharing incentives.

The legislative proposals under consideration by the Subcommittee would make the use of federal debt collection tools mandatory, rather than optional as under existing law. Mandatory use of collection tools will provide "a stick" to Congress, OMB, FMS, agency inspectors general and GAO to improve collections. Experience demonstrates, however, that a "stick" alone is insufficient, and a "carrot" is also required.

The most successful federal collection programs are where a revolving fund receives amounts collected, so the agency benefits through increased funds available for agency programs. Collection gains should be shared with the agency by provision of a baseline share of all collections, and a much larger share of incremental collections (which represent the gain in collections over the preceding year). While 1% has been discussed as the agency share, this amount appears insufficient based on PCA experience. Gainsharing percentages resulting in meaningful collection increases have been the 6% provided to the Department of Justice, while the Department of Veterans Affairs has routinely been granted more than 10% for the recovery of insurance payments for covered patients treated at VA facilities.

Moreover, any gainsharing should apply to net recoveries received by the agency. PCAs charge a contingent fee in the range of 20-25% for the collection of long delinquent federal debt. If gainsharing were computed on the basis of gross collections, an agency would never receive sufficient funds even to pay the PCA's contingent fee. Gainsharing should apply to accounts referred netback to the agency on accounts referred to FMS or another federal collection center as well. In those cases, the creditor agency has costs of assembly and referral of the accounts, monitoring each account, obtaining and providing account verification as is frequently requested by debtors, and system and personnel costs of maintaining the account in the agency's management information system.

The application of gainsharing will be fair and consistent by allowing agencies to pay PCA fees and federal collection center costs from gross collections, with gainsharing computed on the netback to the agency.

Continuing cutbacks in federal spending will make agencies increasingly reluctant to devote scarcer resources to collection of funds that are returned in full to the Treasury without benefit to the agency. Through gainsharing, Congress can avoid placing agencies in the dilemma of whether to sacrifice program resources and goals for enhanced collections that provide no return to the agency. Gainsharing can provide funding for collections without sacrifice of the agency's program objectives.

* Extend agency authority to compromise debts under the Administrative Dispute Resolution Act (current authority expires in 1996).

Compromises are one of the last resorts to achieve collection without litigation. Because the prospects for success in litigation are never certain, recoveries are at best deferred, and costs in terms of litigation and court congestion are substantial, compromise authority must be preserved to maximize federal collections.

Federal contract rules for PCAs preclude a PCA from ever offering a compromise to a debtor, and from accepting a compromise without prior agency approval. The PCA will work tirelessly with the debtor in an effort to find a way to achieve payment in full. Unfortunately, all the debtor budgeting in the world will not allow every debtor to pay every federal debt.

When a debtor discovers that payment in full cannot be achieved, the debtor may offer a compromise. At this point, a compromise offer becomes the only alternative to a refusal to pay which may require a resort to litigation, which in turn may result in debtor bankruptcy. The PCA acts as an honest broker while trying to maximize the compromise amount to maximize the PCA's

contingent fee. The PCA obtains a financial statement and generally provides a credit report and other pertinent information on the debtor offering the compromise. If the PCA finds that the debtor has made a fair compromise offer based on the debtor's circumstances, the PCA may urge agency acceptance, but the decision always remains with the creditor agency.

The failure to extend compromise authority will substantially reduce collections, while causing further congestion in the courts from federal collection suits and from debtor bankruptcies.

* Require agencies to sell debt prior to write-off.

The sale of federal debt will often be optimal in the case of certain loan debt owed the Federal Government.

It may be most difficult to comply with a requirement of sale of debts prior to write-off in all cases, however, and the government may not recognize full value if such sale occurs.

SBA has successfully sold a large volume of loans to the private sector. The Resolution Trust Corporation ("RTC") likewise sold substantial loan assets. In both of these cases, current loans were generally packaged with a much smaller percentage of delinquent loans. This maximized the value received by the government, as a large preponderance of current loans would greatly reduce the risk to the investor.

Conversely, RTC efforts to sell defaulted loans have not been very successful. As a result, RTC has shifted emphasis from sale to collection of these loans to derive maximum potential value to the government. RTC is intensively using PCAs in this effort. A PCA will make almost the same investment in each account, in terms of data base searches and debtor location and contact efforts, but will be paid only on amounts collected. The PCA is willing to make this up-front investment because the creditor has made the initial investment in the asset, and the creditor retains this risk.

Moreover, before initiating collections, the investor can only make a rough guess of potential recovery rates. As a result, the PCA or other investor would generally pay far less than the creditor would ultimately receive as netback for delinquent debts because credit risk would be shifted to the investor. Thus, retention of the risk of asset value by the creditor will generally maximize portfolio yield.

The extension of Federal Government-wide collection tools to a parity with those granted ED, and the mandatory use of those tools, coupled with monetary incentives, are better adapted to maximize federal collections than a universal requirement of sale of debts prior to write-off.

* Allow agencies to adjust Federal Civil Monetary Penalties for inflation.

Penalties should be adjusted for inflation to increase the debtor's incentive to pay the debt, and to compensate the government for higher costs attributable to inflation and for the time value of the penalty dollars.

Some agencies have taken the lead in this effort by adopting agency regulations applying a fixed percentage penalty, such as 6%, that will automatically increase with the amount of the debt, thereby compensating the Government for inflation and continually increasing the debtor's incentive to pay in order to avoid further penalties, administrative charges, collection fees and interest.

The Subcommittee should mandate government-wide the upward adjustment of penalties to reflect interest, either through a fixed percentage penalty or other means.

* Allow agencies to adjust administrative debt (such as fines and penalties) for inflation.

Fines, penalties and other administrative debt should be adjusted for inflation, again to increase the debtor's incentive to pay the debt, and to compensate the government for higher costs attributable to inflation and for the time value of the administrative debt owed the Government.

The primary method of adjustment is through application of the Treasury rate of interest, which is adjusted annually. It makes little sense, however, to charge a delinquent federal debtor, who is obviously a poor credit risk, the lowest rate of interest which is available only to the Federal Government as the best credit risk due to the government's taxation, bond issuance, and currency circulation authorities. A higher rate can be effectively applied through addition of percentage penalty charges <u>and</u> percentage administrative charges to delinquent debts.

Many agencies charge a fixed administrative charge, such as $25. The Subcommittee is indeed correct that agency administrative expenses increase the longer that a debt is delinquent, so that good fiscal policy would increase the administrative charge correspondingly. Thus, the Subcommittee may wish to consider application to each delinquent debt of a percentage administrative charge equal to the gainsharing amount.

<u>Conclusion</u>

The Subcommittee has assembled a comprehensive array of debt collection tools for inclusion in legislation. The enactment and mandatory application of each tool to each delinquent federal debt, when coupled with gainsharing incentives, will increase federal

collections by billions of dollars annually. Moreover, the tools will apply at the administrative agency level, thereby preventing tens of thousands of lawsuits annually to collect these debts.

Additional tools for consideration have been proven effective when given by Congress to ED for collection of delinquent student loans. These tools are elimination of the statute of limitations and of bankruptcy discharge except in those cases where the debtor proves that the application of all or part of the debt will prevent the debtor's rehabilitation in bankruptcy.

The Subcommittee is to be commended for the most thoroughgoing review of federal collection efforts since the early Eighties, and for the improvements that will undoubtedly emanate from proposals under consideration for legislation.

Mr. Chairman and other members of the Subcommittee, my name is Jim Tracey and I am the Chief Executive Officer (CEO) of Diversified Collection Services, Inc. (DCS). Based in San Leandro, California, DCS is a national collection agency specializing in the collection of Federal student aid debt. DCS has substantial contracting experience at the Federal level and is the leading collector under the Department of Education's (ED) Private Sector Collection Activity for Student Related Debts Contract (the "ED Contract").

DCS is grateful for the opportunity to testify before the Subcommittee in support of the Subcommittee's efforts to enhance Federal debt collection activities. DCS also applauds the Subcommittee's attempt to enact legislation quickly through this year's Budget Reconciliation process. With over $50 billion owed to the Federal government in overdue non-tax debts and over $67 billion owed in delinquent back-taxes, this legislation is long overdue.

At the outset, let me say that DCS strongly supports extending the provisions of the Debt Collection Act of 1982 (the "Act") authorizing the use of administrative offset, salary offset, and private collection agencies to the Customs Service, the Social Security Administration (SSA), and the Internal Revenue Service (IRS). President Clinton, in his FY 1994 & FY 1995 Budget Requests, Vice President Gore, in his "Reinventing Government"

proposal, and the Government Accounting Office (GAO), in numerous written reports to Congress, have all advocated the use of private collection companies to help collect delinquent Federal tax debt owed the IRS even though such a program has yet to be tested by the IRS at the Federal level.

We believe there is no need to "test" further the use of private collectors by the government. All one has to do is look at the successful collection effort that is being achieved by ED with private collectors. The harsh economic realities government is facing today must be dealt with in a logical, proven, proactive, professional business manner. The effectiveness of using private collectors is clearly established. The bugs have been worked out. ED's system -- based on 30 years of experience -- is working well.

The entire industrialized world has embraced the concept of out-sourcing (aka - partnering; aka - strategic alliances). Survival for government agencies and private sector companies alike increasingly requires close interdependent organizational relationships.

The lines between the supplier and the manufacturer, the service company and the organization it serves, are becoming more and more blurred. In each case, both parties are increasingly dependent upon one another to succeed in today's competitive world.

Successful organizations today are creating strategic alliances and partnerships with firms whose core competencies are lacking in their own organizations. Doing so frees each to focus on and leverage its own core strengths. Successful organizations are discovering that proven specialists can perform certain jobs better, more efficiently, more reliably, and more profitably than they can internally.

Debt collection work is not one of our government's core competencies. In fact, a government bureaucracy is inherently ill-suited to handle the extremely difficult work of debt collection. Collection of delinquent receivables can be handled well only by highly motivated organizations and individuals. Commercial agencies are motivated by a desire to make profits. Their survival itself is always at stake. Government agencies get paid the same regardless of the results they obtain.

Nor is a government agency an environment in which the individual collection agent can perform well. His/her work requires a substantial outlay of energy and ingenuity. It is critical that the collector's success be promptly rewarded. But in government service, rewards for good performance are distant and uncertain. Because of this, low morale and lack of job satisfaction by government debt collectors is common. This stands in sharp contrast to well-run commercial agencies, where agent compensation and advancement opportunity is directly tied to

performance and morale is generally high. Many commercial agencies change compensation schedules and/or run variable monetary contests monthly. Our people at DCS say that the only constant at DCS is change. Government agencies are organizationally incapable of being dynamic and creative in their efforts to manage internal debt collection operations, thus severely limiting their ability to produce satisfactory results.

In short, for government to increase its efficiency, its cost effectiveness, and its reliability in the debt collection business, it has no choice but to perform the administrative work itself and out-source the hard work of collections to specialists.

This partnering concept has tremendous potential because both the government and the collection firms would bring significant value to the alliance that the other party, by its very nature, does not possess and is unable to acquire. The government provides the administration, monitoring and controls that create and maintain vigorous competition among contractors, while ensuring debtors are treated courteously and professionally. The commercial vendors provide the personnel, expertise, computerization, systems and procedures, and other resources necessary to produce the desired results. ED has demonstrated that this approach works. It's time to implement it government-wide.

The FY 1996 House Treasury/Postal Appropriations bill

currently contains a provision that would provide a paltry $13 million to fund a pilot program to use private collection companies to collect tax debt owed the IRS. The American people don't need another test. The GAO reported that most states hire private companies with great success to collect delinquent state tax debt. ED has 30 years of experience and experimentation in debt collection confirming that private collectors are the best approach. What we need the least is another pilot program to tell us what we already know.

We understand the IRS has taken the position that it already has authority under current law to hire private collection agencies but refuses to do so. In light of the fact that the IRS is currently owed over $67 billion in delinquent back taxes, it is time to mandate the use of private collection companies by IRS.

DCS also supports provisions that would require mandatory offset of Federal debts against Federal payments to debtors, mandatory referral of debts to the Treasury Department at 180 days of delinquency, and mandatory referral of debts to collection agencies after the 180-day referral period has expired.

With regard to mandatory offset of debts, we believe that offset is the most effective manner in which the Federal agencies can contribute to a well-orchestrated team collection effort without the specialized skills needed for the more difficult

collection work. This process offers a no-nonsense, administrative approach to collecting the easy-to-collect dollars prior to referral of debts to Treasury and collection agencies and can be used as a separate collection tool even after referral. Offset efforts should begin at no later than 90 days of delinquency and continue as long as the debtor is not paying voluntarily. It is common practice in the collection industry for clients to use this administrative process without paying fees on these collections to the collection agencies or maintaining any internal collection staff.

With regard to mandatory referral of debts to the Treasury Department at 180 days of delinquency, we believe that such a provision is necessary to ensure that efficient and consistent debt collection procedures are employed in recovering Federal debt. From a policy perspective, it simply makes sense to implement Federal debt collection procedures from a central clearinghouse, like the Treasury Department, rather than to implement such procedures on a random basis by individual creditor agencies.

Furthermore, we feel that 180 days represents an appropriate amount of time by which creditor agencies should refer debts to the Treasury Department for collection. If the accounts are required to be referred earlier than the 180-day delinquency mark, there is a risk that borrower disputes over debts may not yet be resolved. Similarly, referral of such accounts later than 180 days would

unnecessarily delay the collection process and hence would decrease the chances for successful collection of the accounts. Without a deadline no urgency is created, follow-up is sporadic, and, therefore, results are poor.

Finally, in order to ensure that maximum efforts are put forth to collect delinquent Federal debts, it is our position that exceptions to the 180-day referral requirement be made only for: (1) accounts that are being collected by or have been referred to one of the other four (4) Federal agencies operating debt collection centers (ED, SBA, VA, HUD); (2) accounts for which it is determined that such referral would not be in the interest of national security or relations with other countries; or (3) accounts which, based on a written determination by the Treasury Department, would be more effectively collected by the creditor agency.

With regard to the mandatory referral of accounts to private collection agencies, we believe that such referral should be the first step in the collection process taken by the Treasury Department, as well as the other four (4) Federal agencies operating debt collection centers after the expiration of the 180-day referral period. The hiring of private collection agencies has proven to be extremely successful in the collection of delinquent debts owed the Department of Education. In order to ensure that other Federal debts are collected in an effective manner as well,

we believe that referral of accounts to private collection agencies must be mandatory.

As with the 180-day referral requirement, it is our position that exceptions to the mandatory referral to private collectors requirement be made only for: (1) accounts for which it is determined that such referral would not be in the interest of national security or relations with other countries; or (2) accounts which, based on a written determination by the Treasury Department, would be more effectively collected by the creditor agency.

In authorizing the use of collection agencies to collect Federal debts, it is essential that language be included that would allow collection agencies to charge on a contingency fee basis for their services. This pay-for-performance fee structure has proven to be the most effective method for compensating private collectors.

Measuring performance by the net-back return to the client is also standard procedure in the industry. It has been proven that in other industries (i.e., banks and major credit grantors), as well as in ED's own experience on earlier contracts, low commission rates do not yield the best results. It is essential that a commission fee structure be established which allows the collection agencies to invest the necessary resources to provide the optimal

return to the Federal government. Any low-bid type of contract award forces collection agencies to curb costs and allocate minimal resources in order to provide the services required. The end result is a "creaming" effort and a significant loss of net revenue to the Federal government.

It is also essential that language be included that would treat contingency fees as netted from the amount of money collected. This would eliminate the need for appropriations and would result in more accurate budget scoring for these activities.

We understand that the Subcommittee is considering a provision that would require mandatory sale of agency debts after a certain time period. DCS believes that such a provision would be detrimental to the government's efforts to enhance Federal debt collection activities through this legislation. First, most agency debts are not secured by real property and are virtually worthless at auction. Furthermore, we believe that individuals owing debt to the Federal government are significantly different from those owing more traditional consumer debts. Those individuals owing traditional consumer debts allow many creditors to go delinquent at one time, paying only those creditors that apply the most pressure. However, many individuals with a delinquent Federal debt will have little or no other delinquent debt. This being the case, time itself often is a good collector. As time passes quite often the debtor's ability to pay improves. For example, the unemployed

person gets a job, the failed business owner recovers, or the temporarily disabled returns to the workforce.

Data supplied by ED clearly show that private collection agencies are effective in collecting on accounts that have been placed for the 2nd, 3rd or even 4th time. A provision requiring that debts be sold after a short time period would preclude such placements and cost the government. Although DCS would not support the mandatory sale of debts after 18 months, we would support a provision that would permit the sale of agency debts only as an alternative to write-off at 48 months of delinquency.

Two substantive provisions that DCS feels would add significantly to the effectiveness of any Federal debt collection legislation are a provision that would prohibit borrowers from discharging debts in bankruptcy for a period of three (3) years after the first scheduled repayment unless prevention of such discharge poses an undue hardship for the debtor, and a provision that would authorize creditor agencies to administratively garnish the wages of debtors.

Currently, the U.S. Bankruptcy Code contains a provision that prohibits Federal student loan debtors from discharging debts in bankruptcy for a period of seven (7) years after the first scheduled repayment (see 11 USC §523(a)(8)) unless prevention of such discharge poses an undue hardship for the debtor. Because

this provision has been extremely successful in preventing fraud and abuse by Federal student loan borrowers, we recommend that a similar provision covering other Federal agency debts be included in this legislation. Our recommendation, however, would only prevent such a discharge for a period of 3 years after the first scheduled repayment rather than for a period of 7 years as is the case under current law for Federal student loan borrowers, in recognition of the inherent differences between Federal student aid debt and other types of Federal debt. Like the current Bankruptcy Code provision for Federal student loan debtors, our recommendation would exempt debtors for whom prevention of bankruptcy discharge would pose an undue hardship.

Inclusion of a provision authorizing creditor agencies to administratively garnish the wages of debtors should also be given serious consideration by the Subcommittee in formulating this legislation. Currently, the Higher Education Act of 1965, as amended (HEA), authorizes the Department of Education to employ administrative wage garnishment (AWG) procedures to collect from delinquent Federal student loan debtors (see 20 USC 1095a). Under these procedures, ED can administratively garnish the wages of debtors and thus need not obtain a court judgment on the debt before implementing garnishment proceedings. These procedures also provide reasonable notice to the debtor of the pending garnishment and sufficient time to make voluntary payment and/or request an administrative hearing before an impartial officer to resolve any

disputes related to the validity of the debt or the garnishment order. AWG, which relies on the premise that, if a debtor is working, then he/she should be able to repay his/her loan in a timely manner, has proven to be extremely successful in the collection of Federal student aid debt. The mere threat of administrative wage garnishment is often enough to motivate debtor repayment.

Although AWG can be an extremely powerful tool in the debt collection process, it is only effective if the debtor or his/her employer can be located. For this reason, we believe that, for the purpose of locating delinquent borrowers, it is essential that authority be given for creditor agencies to access information contained in the data bases at the Social Security Administration (SSA), the Department of Labor (DoL), and the Department of Health and Human Services (HHS). HHS' Parent Locator Service data base was established to provide information to those attempting to locate parents delinquent in their child support payments and would be an extremely useful resource to private collectors attempting to locate delinquent Federal debtors as well.

Finally, with regard to the hiring of private collectors to collect delinquent Federal debt, we believe that specific guidance should be provided by the Subcommittee in the bill or Committee Report as to how the collection agency contracts will be structured. To this end, we believe that the current ED Contract

would serve as an excellent model.

First, the ED Contract requires contractors to comply with all applicable Federal and State laws relating to debt collection activities including the Fair Debt Collection Practices Act (FDCPA) and the Privacy Act of 1974. These laws prohibit harassment of debtors and other unfair collection practices, as well as the unauthorized disclosure of debtor information to third parties. Second, the ED Contract is a performance-based contract in that it rewards those contractors that do the best job of collecting the debts. One way that it does this is through cash bonuses to the top contractors. Another way is through initially distributing accounts to contractors on a purely random basis and basing subsequent distributions of accounts on the contractors' performance in collecting the accounts they were initially provided. In addition, the contractors under the ED Contract are selected with major emphasis on corporate and project personnel experience in order to ensure that the debts will be collected by reputable agencies in an efficient and effective manner.

Once again, thank you Mr. Chairman for the opportunity to come before this Subcommittee. DCS pledges its active cooperation in working with you and the Subcommittee on this legislation.

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TESTIMONY OF THE
COMMERCIAL LAW LEAGUE OF AMERICA
BEFORE THE
HOUSE OF REPRESENTATIVES
GOVERNMENT REFORM AND OVERSIGHT COMMITTEE
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION AND TECHNOLOGY
SEPTEMBER 8, 1995

The Commercial Law League of America is pleased to have the opportunity to appear before the Government Reform and Oversight Committee Subcommittee on Government Management, Information, and Technology.

Founded in 1895, the Commercial Law League numbers nearly 5,000 professionals involved in the areas of commercial collections as well as bankruptcy and reorganization. Attorneys and collection agency personnel alike have been involved in enhancing the creditor community's efforts to turn delinquent debt into cash.

The League publishes the award winning Commercial Law Journal, a quarterly law review devoted to issues of commercial law along with the bimonthly newsmagazine called the Commercial Law Bulletin which provides insights into current state and future trends of the commercial law industry. In addition, the League's Academy of Commercial and Bankruptcy Law Specialists is accredited to certify attorneys in the fields of Creditors' Rights and Business Bankruptcy by the American Bar Association.

As North America's oldest creditors' rights organization, the League is in a unique position to be able to share the benefit of its 100 years of experience in the field of commercial collections.

1. THE "PILOT PROGRAM" FOR USE OF PRIVATE COUNSEL

Proposed legislation before the Subcommittee has among its purposes maximizing the collection of debts owed to the federal government.

It wishes to do so, in part by expediting the process of identifying delinquent debt and placing it into the collection process as soon as possible. Using all appropriate collection tools, while minimizing cost to the federal government is another goal. Relying on the experience and expertise of private sector professionals is specifically mentioned among the purposes outlined in draft legislation.

One of the ways to accomplish this goal is through the expansion of the so-called "pilot program" as created pursuant to the Federal Debt Recovery Act of 1986.

That program was designed to allow the federal

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government to identify law firms to whom non-tax delinquent debt of the federal government can be forwarded for legal attention. During Fiscal Year 1994, ten departments of the Federal Government and three agencies referred 305 claims (257 considered as "new debt" and 48 known as "backlog debts") to the 25 law firms in the seven pilot judicial districts.

The total amount of debt involved for fiscal year 1994 was $6,913,382.27 bringing the total since inception of the program in 1989 to $106,096,411 from 28,433 cases.

The overall collection rate since inception is 16% at an average cost of 32% making the net collection rate approximately 11% for counsel participating in the pilot program. Considering the age of the claims in question and the amount of previous collection work done by the federal agencies referring the cases, it is a good result. Recognizing as well that the federal government is not the typical credit grantor is an important consideration in evaluating the success of the pilot program.

If the federal government wishes to enhance its collection efforts, it would do well to expand the pilot program nationwide by allowing private counsel to be designated in all judicial districts and remove the designation as a pilot program by eliminating an expiration date for the program. The draft legislation includes provisions to do exactly that and the Commercial Law League is supportive of that effort.

2. HOW THE PRIVATE SECTOR COLLECTS DEBT

The Commercial Law League also believes that the federal government should not only use the private sector professionals but should adopt much of how the private sector handles the business of collections by identifying and retaining private debt collectors. Perhaps then the federal government might be able to approximate the collection rates enjoyed in the private sector.

It is accepted that the federal government may never be able to completely attain the success found in the private sector because of the inherent nature of the federal government's lending approach. As a general rule, the federal government is not afforded the luxury of picking and choosing its debtors based upon the types of analysis a credit grantor in the private sector may employ. While in some cases the federal government sets criteria for the making of loans it may ultimately guarantee, it is not the entity responsible for applying those criteria and reviewing the supporting data. In other cases, the federal government may actually be making loans to business enterprises that are

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considered unacceptable credit risks in the private sector.

Industry statistics show that on average, attorneys have a 34.3% collection rate when collecting commercial claims after attempts have been made by collection agencies to collect the claims. This compares favorably to the 34.5% success rate commercial collection agencies themselves normally achieve. Nearly 47% of the dollar amount of claims sent to a collection agency is ultimately collected between the efforts of the agency and/or the attorney.

What accounts for this high success rate? Much can be directly traced to the fact that the claims are received from the credit grantor earlier and forwarded to the attorney earlier than appears to be the case with the claims generated by the government. Another factor is that there is a recognition in the private sector of the capabilities that the collection agency can bring to the collection process as distinguished from that which attorneys may offer. They are different and each has its place in a well designed plan for converting delinquent debt into cash.

A look at debt collection in the private sector provides a good guide of how the federal government can maximize its collection efforts and achieve its other public policy goals.

The enormity of the debt collection problem in the private sector dwarfs that which the federal government faces. There were nearly 700,000 new bad debts created during the year. Over $3.4 BILLION of delinquent accounts needed to be collected. And this just from the commercial sector.

Another $65 BILLION in bad debts incurred by consumers have to be collected as well. These claims are due from millions of debtors throughout the country.

The granters of this credit have already made numerous attempts to collect these delinquent accounts. The billions needed to be collected now were the difficult ones those that the in house collectors for credit granters were unable to successfully pursue.

The amount that the federal government is seeking to collect pales in comparison to that which private enterprise must recoup annually. Although the federal government itself does not know the total amount of delinquent non-tax debt it needs to collect, some in the government estimate it at topping out at $50 Billion - and that includes debt that has been outstanding for years. This is less than the amount of new delinquent accounts pursued in the private section in any single year.

The private sector has been forced to deal with collecting enormous amounts of both commercial and consumer

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delinquent debt for years. A process for successfully doing so has been in place for the past 100 years. Interestingly enough, the way commercial collections business has transpired for the past 100 years meets the overall goals as outlined in Section 4 of the proposed draft legislation.

3. USE OF A REGISTRY OF PROFESSIONAL DEBT COLLECTORS

The Commercial Law League believes that much of what has worked in the private sector for 100 years can be used by the federal government to enhance its own collection efforts without shortchanging any additional public policy considerations it seeks to foster. In a nutshell, the approach would include:

A Registry of approved outside debt collectors would be developed by the federal government. It would be made available to every agency within the federal government. The Registry would include both attorneys and collection agencies. To become listed on the Registry, the debt collector must meet certain criteria to assure competency and integrity. Information would be required to provide a gauge of capabilities and pricing. This Registry or data base of eligible debt collectors would be the single source for all agencies when placing debt for outside collection. If the claim or package of claims would best be served by the services of a collection agency, the federal agency would be able to select one or more collection agencies from the registry. If after 120 days, the collection agency has not been successful in collecting or arranging for collection, the claim could be referred directly by the collection agency to an attorney on the Registry. If the claim needs services provided by an attorney from the outset or at any time as determined by the federal agency itself, the matter need only be referred to an attorney who is listed on the Registry. The Registry could be searched by price, location or capabilities, thus affording federal agencies with the ability to pinpoint and select the debt collector best suited to handle the types of claims in question.

Expansion of the pilot program coupled with a Registry of debt collectors furthers the various goals outlined in Section 4 of the proposed draft legislation.

4. HOW USE OF A REGISTRY INCREASES COLLECTIBILITY OF DEBT

Section 4(1) states in part that one of the purposes is to maximize collections "by ensuring quick action to enforce recovery of debts..." The Registry would eliminate the

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months and years it sometimes takes for the process to draft and publicize requests for proposals and evaluate them. In addition it would eliminate the time currently required to refer a claim. This is a recognition of what the private sector has understood for years - the older a debt is, the harder it is to collect.

This has been well established in both commercial and consumer debt collection. Studies have been undertaken by the Commercial Law League through its Commercial Collection Agency Section as well as by the American Collectors Association.

According to the most recent study conducted by the CLLA, even a 90 day delay after the due date can reduce collectibility of a commercial account to 72.7%. Waiting another nine months reduces it to a mere 28.6%.

In studies conducted by the ACA, consumer claims which are nine months delinquent are only 40% collectible and at the one year mark collectibility drops to only 20%.

Current federal practice virtually guarantees that collectibility will be reduced because of time factors.

It appears that the stigma of having delinquent accounts on the books of a federal agency makes it sometimes difficult for administrators to be willing to place claims in the existing federal pipeline for collection assistance.

While claims may be sent directly to private collection agencies the limitations involved points up another delay inherent in the government's efforts to enhance collections. After 120 days, the collection agency must return uncollected claims to the federal agency. If the claim needs legal attention, the process of forwarding the claim to either the U.S. Attorney or the pilot program begins. The collection agency may not forward the claim directly to an attorney for collection. Additional delay in getting that claim into the next step in the pipeline occurs.

When claims need the attention of the legal profession, they must either go to the United States Attorney or to a law firm that has been awarded a contract to perform collection services in seven pilot districts throughout the U.S. If placed with the U.S. Attorney, the claim must await attention from an overburdened assistant U. S. Attorney. If the claim because of the debtor's location and the dollar amount involved is placed into the pilot program, it receives the same attention that any other client of the firm deserves.

If the Registry, as suggested above were in place the claims needing legal attention could be immediately forwarded. If collection agencies were given the right to forward claims directly to attorneys on the Registry with the permission of the federal agency, the time from delinquency would be reduced and thus the collectibility increased.

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Thus a Registry reduces the administrative time for getting the delinquent account into the collection process thus increasing the collectibility of the account.

5. HOW USE OF REGISTRY ALLOWS USE OF ALL APPROPRIATE COLLECTION TOOLS

Section 4 , subsection (1) also calls for maximizing collections by "use of all appropriate collection tools." Again this is an underlying premise within the private sector. The credit grantor should have access to all legitimate tools of collection.

Once the internal collection efforts have reached a plateau, the federal agency as the credit grantor needs to be able to avail itself of the tools available for furthering the collection effort.

Generally there are two major categories of outside collection facilities available to any credit grantor - collection agencies and attorneys. Each brings unique and different capabilities to the marketplace. Within each category, there are those that are more focused on the consumer debtor and those whose expertise extends more to the commercial debtor. Geographic coverage, staffing, capacity, reporting capabilities, track record, etc. may distinguish among and between the categories as well.

Collection agencies and attorneys both have roles within the collection process. The federal agencies need to have access to both in an easy and straightforward manner so that the tools available from collection agencies and from attorneys can be best utilized to further the collection efforts.

6. HOW USE OF A REGISTRY HELPS MINIMIZE COST OF DEBT COLLECTION

Another purpose stated in subsection (2) of Section 4 is "To minimize the costs of debt collection..."

This is a valid and worthwhile goal. An understanding of what constitutes the "costs of debt collection" are imperative. Contingent fees are the norm in the collection industry. The government must recognize, as does the private sector, that cost is not necessarily measured simply by the rate to be charged. The cost can be greater for some debt collectors if they do not possess the same competence and capabilities as another. Therefore, the credit grantor must have available to it information about the capabilities of the debt collector as well so that the credit grantor may make an informed decision on how to minimize overall costs to collect the claim.

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7. HOW A REGISTRY ENCOURAGES BROAD PARTICIPATION OF PRIVATE DEBT COLLECTORS

Section 4 (7) encourages a reliance "on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies." To ensure that this is done in the most efficient manner while still safeguarding the interest of the federal government, the use of a Registry of debt collectors would encourage the broadest participation by those competent and capable of providing these necessary services.

A Registry would avoid what happened when the pilot program for legal counsel was begun. At that time while nearly 1,200 law firms requested information only 85 completed the bid process resulting in 25 law firms receiving approval. Only one was considered to be a "law firm owned and controlled by socially and economically disadvantaged individuals". The Registry would in all likelihood result in hundreds of qualified and competent attorneys and collection agencies in all parts of the country and from all social and economic strata applying and being selected for the approved list.

Simply encouraging a broad base of private debt collectors to participate is not sufficient. The criteria that are put in place must encourage not only competency but also integrity.

Within the private sector, there are methods in place that help to assure the integrity of those entrusted to collect funds. As a general rule all attorneys are required to maintain a trust account and of course of subject to the ethical provisions of the state or states in which they are admitted to practice law.

A number of states currently require the registration and bonding of collection agencies. Regardless of whether a state's provisions call for maintenance of a trust account for collection agencies, the Commercial Collection Agency Section of the CLLA requires it member agencies to maintain a trust account.

Without a doubt one of the criteria for acceptance onto the Registry would be the maintenance of a trust account - regardless of the lack of such requirement by the state where the collection agency is located. Evidence of the maintenance of a trust account probably should be a criterion despite the fact that a lock box system is used for the remittance of any funds collected by private debt collectors. It provides evidence of the desire of agencies, regardless of whether they are required to do so by their state, to avoid even the appearance of impropriety in their

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dealings with their customers.

Further, the federal government could have the right to review and audit the trust account (or obtain the audit performed by the appropriate state agency if one had been performed) so as to be able to assure itself of the integrity of the account in addition to its mere existence.

In addition the League would suggest that those accepted on the registry must post a bond in favor of the federal government to protect in the rare case of a defalcation. A similar system currently exists in the private sector - at least as it relates to commercial collection agencies and commercial collection attorneys.

Attorneys who regularly accept commercial collection cases on a contingent fee basis may apply to be listed in what is known as a "law list". These "law lists" - approximately eleven in number -determine whether the attorney should be listed and once listed, provides a bond on any claim sent to that attorney over that list. Evidence that the collection matter is being forwarded to the attorney because of the list in question must be provided at the time the claim is sent to the attorney. Once that is done, the bond is effective and in the rare case of a defalcation, the law list and/or the bond will cover any loss up to the policy limits. Currently, policy limits on the bond are $1,000,000.

Thus either a separate bond should be required or the attorney should provide evidence of coverage under a bond issued by one of the law lists. If evidence of coverage under a bond issued by a law list is to be accepted, then the collection agency or the federal agency referring the claim would be required to designate and report that the claim was forwarded using a law list so that the law list bond would be effective for those claims in question.

Bonds are required for collection agencies as well. Those agencies seeking to obtain or thereafter maintain the Certificate of Compliance issued by the Commercial Law League of America through its Commercial Collection Agency Section must qualify for and maintain a bond in favor of its customers. Providing a bond in favor of the United States government should be a requirement for collection agencies as well.

8. CRITERIA TO QUALIFY FOR THE REGISTRY

A. CRITERIA TENDING TO PROVIDE EVIDENCE OF COMPETENCY:

1) Number of years in the business or practice of collections

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A minimum number of years in the business of collections or in the practice of law should be established. If a company has been in business for at least five years or an attorney in the practice for that time period, then a track record has been established among other clients and the company is more likely to have weathered the economic, organizational and management problems that might tend to negatively impact a company in business for a shorter period of time. It is more likely that a company that has survived for five years will continue to be a viable enterprise.

2) Substantial involvement in the field of collections

Both agencies and attorneys must provide evidence that at least one third of the practice/business is devoted to the area of collections by providing information about the types of cases handled by the debt collector during the five year period immediately preceding application to be approved on the Registry. Evidence must be provided on an annual basis thereafter. If the law firm cannot comply with the substantial involvement criterion, then an individual attorney within that firm may apply for the Registry.

3) Evidence of ongoing education of debt collector

In the case of attorneys, evidence of completion of a minimum amount of Continuing Legal Education in fields of law related to the collection practice should be provided. This should be true regardless of whether the attorney practices in a state that has a mandatory CLE requirement or not. At least eight hours per year for each of the five years prior to application for inclusion in the Registry should have been attained. To maintain a spot on the Registry, the attorney should annually provide evidence of attendance at an additional eight hours of CLE.

Both collection agencies and attorneys must provide evidence of existing procedures in their office for the handling of collection matters, compliance with various federal and state statutes relating to collection of claims and evidence of an ongoing training program for their paraprofessional support staff.

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4) References from peers, clients and courts

Attorneys and agencies alike must provide a minimum of 10 favorable reference from peers, clients and the courts with no more than five and no less than three from any one category.

5) Certification as a specialist as evidence of competency

In lieu of all of the above, an attorney may provide evidence of certification as a specialist in the field of creditors' rights, collections or an allied field of law in order to establish competency, provided that certification was issued by an organization accredited to certify attorneys by the American Bar Association.

B. CRITERIA TENDING TO SHOW EVIDENCE OF INTEGRITY

1) Standing to practice law or perform business services

Provide evidence of maintenance of licence to practice law and evidence that no sanctions have been issued against the attorney by the disciplinary body in any state in which the attorney is admitted to practice. Agencies must provide evidence of registration in any state in which registration is required for the domicile of the agency or in any state in which the agency indicates it is capable of undertaking collection services on behalf of the federal government and that no sanctions have been issued against it by the regulatory body in any state.

2) Maintenance of a trust account

Provide evidence of maintenance of a trust account. Regardless of whether this is required by the state in which the agency or attorney conducts business, the existence and use of a trust account is evidence of the company placing the client and its own integrity first.

3) Indemnification to the United States Government

Provide a bond in an amount equal to $50,000 in

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favor of the United States Government and agree to indemnify the federal government for any torts committed or for penalties imposed as a result of the actions of the debt collector. In the alternative, attorneys may provide evidence of maintenance of a current listing on a reputable law list, provided however that the forwarding agency (collection or federal) refers the claim specifically over the law list that bonds the attorney.

4) Maintenance of professional responsibility insurance/errors and omissions insurance

Attorneys must maintain a minimum of $100,000 in professional responsibility coverage and provide evidence of that coverage on an ongoing basis. Collection agencies must provide similar evidence of errors and omissions coverage in a comparable amount.

C. CRITERIA TENDING TO PROVIDE INFORMATION ABOUT THE CAPABILITIES OF THE DEBT COLLECTOR

1) Geographic areas covered by the debt collector

Provide information about those areas in which the debt collector is licensed to conduct business and provide a report showing the locations of debtors from which the debt collector has attempted collections and successfully completed collections. In the case of collection agencies, this information does not include those cases referred to an attorney for collection. The report should cover the five year period immediately prior to application for inclusion in the Registry.

2) Types of cases handled

Information should be provided as to the mix between commercial or consumer. In addition the specific type of claims should be detailed (e.g. medical claims, credit card claims; durable goods; floor inventory; jewelry; perishable goods; etc.). This should cover the five year period prior to application.

3) Size of claims handled

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A summary report analyzing the size of claims, including average dollar amount, range of dollar amounts and percentage in each quadrant should be provided. This should cover the five year period prior to application.

4) Collection rate

Information as to the number and aggregate dollar value of claims placed with the debt collector each year and the number and dollar value of collections made each year during the five year period prior to application should be provided.

5) Staff size and background of staff members

Information should be provided as to the total number of employees -full and part time -as well as independent contractors should be provided. A brief summary of their professional background and the responsibilities should be included.

D. CRITERIA TENDING TO PROVIDE INFORMATION ABOUT COSTS OF SERVICES.

1) Fees for collection

Debt collectors should provide a copy of their published fee schedule regardless of whether that fee schedule is made available to the public. Debt collectors should be required to present a summary of the amount charged for various types of collection cases collected by it over the five years prior to application. For fees that were contingent in nature, the report should provide an average of the contingent percentage for cases split between consumer and commercial. In addition, the debt collector should detail any hourly or non-contingent rates indicating the average charged for cases billed on a non contingent fee basis in terms of both rate and amount of time billed by the debt collector. The debt collector should then provide information as to what would be charged for the collection of government debt. Attorneys should be required to provide rates they would charge for claims placed directly as well as for those forwarded by the collection agency with whom the account had been originally placed.

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9. CONCLUSION

The Commercial Law League believes that the collection efforts of the federal government would be enhanced if it expanded and made permanent the pilot program while changing it from a bid process to a Registry of approved debt collectors. The Registry would include attorneys as well as collection agencies. Collection agencies should be given the right to forward debt received from federal agencies directly to attorneys on the Registry with the consent of the federal agency. We believe that this type of process will result in an increased number of approved private debt collectors available to the federal government for enhancing its collection efforts. In addition, it will encourage those debt collectors "owned and controlled by socially or economically disadvantaged individuals". Finally, it should increase collections by reducing significantly the time the delinquent debt is not being pursued because of the administrative time of placing the claim into the collection process. This in and of itself should significantly increase the amount of cash collected by the federal government.

The Commercial Law League appreciates the opportunity to provide its input and stands ready to provide any further information the Subcommittee may desire.

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Mr. HORN. Well, we very much appreciate that testimony. It has been very helpful. Staff have had an opportunity to review the other testimony. Before we close, I'm going to ask each of you other three gentlemen to give us at least 1 minute, if there's some issue we haven't covered that you think we ought to cover. But I would like to ask a few questions at this time.

No. 1—just go down the line—do any of you have contracts with Federal agencies? Mr. Bernstein.

Mr. BERNSTEIN. No, sir, we do not.

Mr. HORN. You do not.

Mr. GILLESPIE. Yes, we do.

Mr. HORN. Mr. Gillespie, you do. Which agencies are those with?

Mr. GILLESPIE. We have GSA contracts regarding the collection of medical debt, medical billing and also this demand letter program.

Mr. HORN. How are you compensated? Is it a contingency fee or an hourly rate or what?

Mr. GILLESPIE. On the current contracts that we have on both the demand letter program and the medical billing program for DOD military facilities, it is a fixed price per unit contract.

Mr. HORN. And how would—give me an example of how that would work.

Mr. GILLESPIE. Well, for example, in the demand letter program, if a Federal agency wants to send a demand letter, for every letter that they want sent, it costs them 54 cents per unit.

In our medical billing contract with DOD, if they want us to bill a third-party insurance account to a third party insurance carrier, there is a price per unit that they pay for each account that they send us.

Mr. HORN. Any other things on the compensation? Are those the standard forms of compensation within your industry?

Mr. GILLESPIE. Sir, most of the compensation in typical debt collection is done on a contingency basis when accounts get older. In the earliest stages of collection, in the first 30, 60, 90 days, there is more and more outsourcing in our industry today where large companies are outsourcing their entire receivable departments. In many cases, those contracts can be on a fixed unit cost, in some cases, even an hourly cost per employee. And as the accounts get older, many times as it gets into the later stages of collection, after 90 days when, you know, a lot of the skip tracing and the real hard work begins, many times it goes to a contingency fee because it's more economical for the client that way.

Mr. HORN. What is the typical contingency fee? Does this vary substantially between firms or is there an average in the industry? What?

Mr. GILLESPIE. Well, it varies depending on the type of debts that are—that are referred. Commercial debts, for example, tend to be lower in compensation than consumer debts. I would say that if you were to say, what is the standard rate in our industry, typically, 33 percent to 35 percent in the consumer debt is a standard rate before discounts and usually 25 percent is a standard rate in the commercial arena. We would then look at the collectibility of the debt, what we think the eventual success rate would be, obvi-

ously, the volume that the client wants to place in negotiating contracts for lower fees.

Mr. HORN. Let me ask Mr. Tracy, what is your practice? Do you have any contracts with any Federal agencies?

Mr. TRACEY. Yes. We have a contract with the Education Department. I guess they handle about 40 percent of the nontax debt.

Mr. HORN. And how are you compensated by Education. Contingency fee, hourly rate, what?

Mr. TRACEY. Contingency fee.

Mr. HORN. And what is that average fee or how is that structured, just flat across the board or does it depend on the aging of the debt?

Mr. TRACEY. It is flat across the board pretty much. Most of their accounts are second, third, fourth placements. They have a different rate per agency based on the bid process they have right now. They may go to a more standard rate. They have incentives built in, too. The No. 1 agency gets an extra 2 percent commission. The No. 2 agency in a region gets 1 percent and the rest get whatever rate that they were charging when they evaluate collection agencies on the net back.

In addition to the 2 percent and 1 percent rewards, they also offer the volume of placement you get on the next placement, based on how you've been performing for them.

Mr. HORN. Any other type of fee and approach that ought to be used besides these two? I'll get to Mr. Sale in a minute. But is this about the way we do business or is there some other way?

Mr. TRACEY. That's about it. I think the contingency fee-based system is pay for performance. You either get results and you earn a fee or you don't get results and you don't earn a fee. That's standard in the industry and that's what really works. Competition breeds excellence. Lack of competition breeds complacency. Having built in rewards and penalties, I think, are key to high performance.

Mr. HORN. Mr. Sale, how about your situation? Any contracts with Federal agencies, and what agencies are they?

Mr. SALE. Yes, I represent CSC Credit Services, a computer sciences company here in Washington. CSC has two contracts with the Department of Education, a contract with the Department of Defense, too.

Mr. HORN. Excuse me. I am going to have to declare a recess. I have a vote next door in Transportation.

[Recess.]

Mr. HORN. OK, the subcommittee will resume and we will keep going with you, Mr. Sale.

Mr. SALE. Thank you, Mr. Chairman. As I was saying CSC Credit Services has a contract with the Department of Education for two of their regions out of their three regions, has a contract with the Department of Defense to collect debts owed to the Morale Welfare Recreation Command to the four service branches, has two contracts with GSA, one for governmentwide debt collection and another one for medical collections. And to respond to your question, all of those are on a contingent fee.

Mr. HORN. Very good.

Now, just in general, among you, how should the contracts be structured if we have contracts with Federal agencies? I mean, is there something we should put in the law as basic fundamentals, or should we simply leave it up to the agency to work it out with the private agencies, assuming we authorize debt collection by private agencies, which I think we will. Then the question we will have to look at is, what is the current Federal system for collection? Should there be any differentiation between the age of the debt before it's turned over to private industry—agencies? And do you have any just general advice on that?

Mr. TRACEY. Can I?

Mr. GILLESPIE. Please.

Mr. TRACEY. My suggestion would be, you've got the Education Department over there is having a great deal of success. They've collected, brought back to the Treasury some $440 million on their accounts and that's since November 1992. I think that they've got 30 years of experience in contracting out. They've gone through their trial-and-error phases. It's working extremely well, and I think it's a good contract to be copied throughout government.

In terms of your question about how soon they should give them out, we may vary slightly different here. I believe that 6 months the government should spend trying to collect it itself. Getting the easiest collected accounts, working out some of the disputes and what have you, and at that point it should go out to the collection agencies in a competitive environment.

Mr. HORN. How do you others—Mr. Bernstein—feel about that suggestion, government collects it for 6 months and if they can't get the job done, turn it over to private collectors?

Mr. BERNSTEIN. Six months is not an unreasonable time. However, the Commercial Law League has a little different perspective on it. You've heard many times this morning that time is what is important. We say around our office that debt is not like wine, it doesn't get better with age. We would suggest that there be considered the creation of what we call a registry of professional debt collectors, a prequalification, if you will, so that the government does not have to go through the time-consuming RFP process each time an agency wants to enter into a contract.

In the private sector, there are things that we call bonded law lists which contain lists of attorneys who are prequalified. There is a bond, an insurance policy attached to protect the creditor. But the most important part of that is that the creditor can go to a list and find someone who is a professional in this industry quickly and easily and without taking months and months to search for them. There are lists of qualified, reputable collection agencies also that can be used.

But our suggestion, the Commercial Law League's suggestion is that in addition to requiring a program of getting the debt out to the private sector for collection, whether it is collection agencies or attorneys—and each has an appropriate place—in addition to that, a prequalification process, this registry process will cut the time substantially; and it's time that's most important in collecting of debt.

Mr. HORN. Very interesting.

Mr. Sale.

Mr. SALE. Yes, Mr. Chairman. Basically, my response to that is, I think what the gentleman is saying is exactly correct, how the private litigation of accounts should be, that they should get out the private attorneys as soon as possible when that occurs.

I think that when you're looking at collection, however, I think the 180-day timeframe is a good one. The subcommittee has looked at the issue of 90 days after it's delinquent. That would be very close to 180 days as far as length of the debt, in toto, because it would probably take 60 to 90 days to become delinquent.

I think what the subcommittee is looking at here, centralization, is exactly what's happening in the States today. As we speak, it's happening in terms of State tax collection and all other debts; and certainly basically what you do is you have the area of the government that has the core competency in debt collection and fiscal management, which here is the Financial Management Service. You have them follow their competency; and someone who is responsible for making sure mines are correctly built and safely administered isn't responsible for debt collection. That's not their job. That is not their core competency, and to force them into that competency by picking their own debt collection agent and the like locally, I don't think that is going to work as successfully as centralization with the model that the gentleman Mr. Tracey referred to, the Department of Education model, because that has worked very, very well.

Mr. HORN. Mr. Gillespie, do you have a point?

Mr. GILLESPIE. Mr. Chairman, I would just like to make a distinction with respect to student loan debt versus other general debts of the government. In the case of a student loan debt, the account sometimes gets more collectible 180 days after it becomes delinquent, because when it becomes delinquent, the student doesn't have a job. He gets a job 6 months later and then he becomes a wage earner.

In many cases, I would agree with these gentlemen that 180 days is a good time period to place those accounts. I would strongly suggest that you solicit some advice from FMS, who has been very intimately involved in the debt collection contract and trying to motivate government agencies to place accounts earlier. This has been the biggest problem in the previous debt collection contracts in that—and one reason why the results of those contracts have not been as good as expected. In the private sector, it is not uncommon today for debts other than student loan debts to be placed within 90 days of becoming delinquent.

Major corporations and major credit granters recognize the fact that they need to get those accounts out into the hands of professional collectors as quickly as possible in order to expedite recovery. If, for example, someone skips town and leaves no forwarding address, as you've heard here today, the sooner that we can start to attempt to locate that individual, the better chance we have of collecting the debt.

Mr. HORN. It seems to me we've got some choices here in the law of saying, should one agency be the clearance agency for certification, or through some method, such as you're suggesting, of all people in the private sector that might be in for debt collection.

Now, the General Services Administration historically has sort of been the general services agency for the executive branch and even serves the legislative branch. Do you have any feelings as to whether Treasury and the Financial Management Service ought to have that particular hat, or the Office of Management and Budget, which represents the whole executive branch, or the General Services agency? I don't know if you've had dealings with any of them, but——

Mr. GILLESPIE. I have some very strong feelings, Mr. Chairman.

Mr. HORN. We are open to suggestion.

Mr. GILLESPIE. I have some very strong feelings with regard to that, because I have worked personally with FMS over the last several years and found those employees to be the most dedicated government employees that I have ever encountered. These people really care about the money that is owed the Federal Government and have a real passion for improving the debt collection practices within the government.

They are also now up to speed on what individual agencies are doing and they have had collection seminars to try and train agencies on how to do a better job; and clearly, at this point, in my opinion, they would be the best choice for centralizing.

I'd like to make one other comment, if I may, in that this is also a general trend in the private sector and in State governments. Companies that traditionally were decentralized, that had 5 or 10 collection centers throughout the country, or 5 or 10 different decisionmakers, have found that because of control and accountability factors and more efficiency and with the increase of technology, centralizing those functions into one location provides them with many more efficiencies of scale, much more accountability, much more control.

Mr. HORN. How do you react, gentlemen, to that question that I put to Mr. Gillespie?

I want to start with Mr. Bernstein.

Mr. BERNSTEIN. Mr. Chairman, we don't have a position as to which agency should do it. We think it should be centralized and we think there are economies that come with that. One point I would like to focus some attention on is, there seems to be an assumption that the debt we're talking about can all be collected by collection agencies or government agencies and that's—that's obviously not true. There is debt that has to go into the hands of attorneys for legal action. Obviously, some of the small debts, it wouldn't pay to do that; but some of the larger debts, it would. So there has to be a system that would allow the Federal agencies to not only place the claims with private debt collection agencies but with private counsel.

The Justice Department's pilot program has been working, such as it is. It's our recommendation that that be expanded. It's our recommendation that it be made permanent and, along with some of the other suggestions, that this be made mandatory.

Mr. HORN. At what level of debt would the Commercial Law League have that cutoff where it would go to? I'm not saying it would. But among the options open to, let's say, the Financial Management Service, where would you draw the line?

Mr. BERNSTEIN. It differs by State because of the court costs involved. Some States, an action can be filed and served for $25 or $35. Some States, like my own, Pennsylvania, it can get as high as $150 or $200. So State by State, it would have to—there would have to be a differentiation.

Generally speaking, accounts under $1,000 wouldn't be worth a lawsuit. In some States, that might be higher, it might be $1,500 or $2,000.

Mr. HORN. $1,500 to $2,000.

Mr. BERNSTEIN. That would be a general—a general guideline, depending upon the State.

Mr. HORN. Mr. Gillespie.

Mr. GILLESPIE. Mr. Chairman, if I may clarify something for a minute, the 5,700 members of the American Collectors Association, as part of their service to their clients, do litigation and actually work with members of the Commercial Law League and the law list on a daily basis litigating thousands of accounts throughout the country.

The—what we see as a problem in that approach is the fact that if an agency of the government is going out and contracting with many, many, many different attorneys, they now have to set up a whole new infrastructure to manage that themselves. If they use collection companies as a conduit and let us manage it for them, we can still get the accounts to the attorneys in a timely fashion, we can provide them with reporting; we can manage the process for them and, in essence, make their job a lot easier.

Mr. BERNSTEIN. Mr. Chairman, I don't disagree at all with Mr. Gillespie and that is exactly the process we would like to see. I just wanted to point out that eventually some of these things must go to attorneys and rather than having them leave the collection agency and go back to the Federal agency and get caught up in that morass of regulation or distribution, we would like to see a streamlined process to get to the end result, whether the collection agency could do it or the collection agency working with a lawyer in tandem.

Mr. HORN. OK.

Mr. Tracey.

Mr. TRACEY. Several issues here. First of all, litigation is not the best tool in collecting and the Education Department has a good track record with its administrative wage garnishment program that is much more expeditious, much more cost effective, adds no cost to the debtor, who has already got problems—been extremely effective. Most of the people we can't get to pay, that we put in the administrative wage garnishment, their job is their only asset. And having that tool to go in and—as being proposed, hit 15 percent of their wages on people that refuse to pay otherwise is an excellent tool, much simpler, much more streamlined, much more cost effective. It also offers resolution capabilities. They have the option to have a hearing. It provides a number of tools. It makes it good for both the defaulter and for getting the job done. I think it's a good alternative.

Additionally, you asked a couple of things here before we left off, and you were talking about how they contract out. The Education Department, when you talk about doing RFP or doing these dif-

ferent things, it is important to understand that they don't contract out with agencies just based on whatever commission rate they are going to charge. There are a number of criteria when you go through an RFP that makes a lot of sense. They look at their financial condition, they look at their work schedule, they look at their computerization capabilities, their staffing capabilities, their history of performance, checking references and what have you. So they are not just randomly selecting people based on a rate, which they shouldn't do. And I think they are possibly going to add on this next go-round—I understand they very well might. They will select qualified agencies and they will have some standby agencies as alternates in case some agencies don't perform.

So ED has a good history, good track record. They've gone through the trial and error. It's working. I think it could be copied as far as how it is contracted out.

Mr. HORN. Mr. Sale.

Mr. SALE. Yes, Mr. Chairman. I want to underscore, I agree, the centralization model is the only one that is going to work. What the committee has heard this morning is, there are very disparate models for debt forgiveness, sometimes possibly those models are corrupted by being too close to the program constituents.

If all the debt goes to the Department of the Treasury, you're taking all of those policies, all those social policies—if all the debt were to go to the Department of the Treasury, all those social policies are out the window. You're going to get consistency. You are going to get decisions based on sound fiscal management, not based upon any relationship to Members of people in the programs. So if you want to end the system whereby there are disparate requirements and there is a writeoff tendency in some agencies and not in others, then you need to go with the professionals. They are going to make a cold, hard, financial management decision, and those are the people at the Financial Management Service.

Mr. HORN. That is very helpful.

I am going to have to declare a temporary recess. They've started another vote about 300 feet from here, so we'll probably be in recess till about 1.

[Recess.]

Mr. HORN. OK. Go ahead.

Mr. SALE. Yes, Mr. Chairman, just to finish, what I was emphasizing is that centralization, in addition to making the process more efficient, more certain, and more economical and remunerative for the government, will have a collateral benefit in that it will eliminate the possibility of any abuses as we heard discussed early, especially from the minority side of the aisle. And basically those abuses are when you have program people who are making loans, have a constituent group, and then they decide who gets forgiveness, by taking the accounts away, giving them to the green eye shade people at the financial management service, those decisions will be made on basic sound fiscal criteria, not on the basis of gleaning favors from program constituents through a mutual situation whereby one helps the other. And so that will also improve government management and will ensure that decisions are made for the right financial management reasons.

Mr. HORN. Well, that is very helpful.

Any other comments anyone wishes to make on that general area? If not, we are going to move to another area.

I mentioned how the contract should be structured. I take it besides the contingency fee or hourly rate or whatever approach that is standard in the industry, is there anything else that is essential to be in such a contract? Yes, Mr. Gillespie.

Mr. GILLESPIE. Mr. Chairman, I would recommend that the contract for collection services be a fixed fee for all companies, not be a competitive bid situation. And the reason for that is in collection services, the amount of money that is invested back into collecting the debt is in direct relation to the amount of revenue that the agency can generate in attempting to collect the debt.

What has happened in the past with competitive bidding is that contracts have been let and the prices continue to get lower and lower and lower and lower, and pretty soon the quality aspect of the job is very difficult to perform. Because the amount of work required to collect the maximum percentage can't be achieved at that rate structure. And FMS has actually had conversations about that and talked about that and again something I think that should be considered.

Mr. TRACEY. I would like to add on to that. Essentially it is correct, but it should be tied together with significant rewards and penalties.

Mr. GILLESPIE. I would agree with that.

Mr. TRACEY. So that if you have a fixed rate, say 25 percent, and your No. 1 agency, say you pick 10 agencies, can earn an extra 4 percent or some amount for being the No. 1 competitor, No. 1 in terms of dollars net back to the government, 3 percent to the next and so on, you create a very significant competitive environment to get those extra rewards. And you have to complement that with penalties at the bottom. And you also use not just in percent of rewards for money, it is also dollars assigned. So that you are assigning most of your accounts to the agency giving you the best returns, which is only good common sense. So when you have a significant reward penalty you are dealing with, and if you have some alternates to back up very poor performers, the government is left with less options. If they have somebody that is repeatedly a poor performer, they can just quit giving them placements all together and bring on an alternative, an alternate to replace that agency and without going after an RFP. So the fixed bid does make a lot of sense.

There is a lot of history right now, the Education Department says that their actual costs are in the low 20 percent, and there is a lot of history there where they have seen where they have had low bidders come in and perform very low. Ten percent of a little is still a very little net back to the government. Twenty percent of a lot, obviously that is more money back to the government. So the rate is a significant issue.

Mr. HORN. I understand. I mean, I have had as a university president architects tell me they have to absolutely all have the same fees and so forth, and I realize you get some awful messes on some aspects of competition. Generally competition, however, is very good for the public interest. But there is no question a few people will bid very low and then steal you blind trying to work

their fees up through one gimmick or another, because they bid so low they couldn't cover their basic costs. And I have been through that mess with the irresponsible bidders.

I guess I would like to know how an agency, let's say it is the Financial Management Service, makes the judgment between collectors, if you are all in for fixed fee. Is it just who said the most nice things about FMS in this hearing this morning, and the 30 pretty words over the 20 words over the 10 words? I mean what is your criteria?

Mr. TRACEY. Well, there is—I think that there is, you know, a little story that sometimes history doesn't teach us. History teaches us it doesn't teach us, in many cases. But if you look at the history of performance from the collection agency you are selecting, there is a pattern there. If they performed well elsewhere, they are probably going to perform well in this contract. So they have to look at the history of performance by the various agencies.

They have to look at their financial capabilities, their staffing, their work schedule. They have to look at their computerized capabilities. All those factors will tell you what they are likely to do on the contract. And you are further protected with the reward penalty. You pay well for the person who is giving you the best return.

Mr. HORN. I understand the reward. I am not quite clear on the penalty. Tell me how somebody really suffers under that fixed fee if they don't produce?

Mr. TRACEY. Well, they don't get any extra fee, No. 1. Your bottom 60 percent of your agencies, say it is 10, would get no extra fees, and also your bottom agencies would get no future placements until they bring their recovery up to speed.

Mr. HORN. So that based on a percent of recovery, then?

Mr. TRACEY. Correct, it is a percent of recovery, which is what is important. It is the percent of dollars you are recovering that makes the most significant impact in terms of return to the government and so if their percent of recovering the dollars that has been placed with them is significantly lower than the other people, those agencies have to come up to speed. They get no future placements. And if they don't come up to speed, they get a warning and then you bring in an alternative agency to replace them if they are not giving the government the return it deserves. So it is a self—it takes care of itself, the whole system.

Mr. HORN. How many potential collectors do we have in this country?

Mr. GILLESPIE. 5,700 members of the American Collectors Association.

Mr. HORN. And how about for the ones that aren't members that might be doing a good job, how do we——

Mr. BERNSTEIN. Mr. Chairman, the Commercial Law League has almost 5,000 members.

Mr. HORN. So we have got now 10,700 that are potential collectors here.

Mr. BERNSTEIN. At least.

Mr. HORN. What is beyond that that aren't in either of your organizations?

Mr. TRACEY. There is not much.

Mr. GILLESPIE. No, there really isn't.

Mr. HORN. Not 50,000?

Mr. BERNSTEIN. No.

Mr. HORN. So just give everybody sort of 100 million to worry about.

Mr. BERNSTEIN. Well, Mr. Chairman, that was sort of the idea behind the Commercial Law League's recommendation of the registry.

We also in our written testimony that has been submitted have a list of 18 or 19 different criteria that would tend to show integrity, competence, things like maintenance of a trust account, an auditing ability, experience, references, things like that, that would let the government know that they are not buying a pig in a poke, so to speak.

Mr. HORN. All right. So what degree would however often an individual collector, be it an attorney or nonattorney, was sued and lost, for shall we say reprehensible harassment and practices? I read a case the other day that I couldn't believe, a couple of million dollars going to a victim. She had been harassed at work for not paying her debts and so forth and so on.

Mr. TRACEY. That certainly should be a factor, yes, that is one of the criterion. ED, as a matter of fact, to answer this question, when they went out for their bids the last few times, they have had the same issues. There was always the Law League personnel, there is always the ACA people, there is always these tens of thousands of people who can bid. The fact of the matter is their bid is restrictive enough and requires such compliance that the vast majority of people are incapable of bidding on a contract of this magnitude. And so they end up with just, I don't know what it was any more, 100, 200 people max would bid on a contract of this nature. Because they can't handle it. And so I don't think that is really as big an issue as it might seem on the surface. But certainly, the reputation and any legal practices and those kind of things should and would be held against them.

Mr. HORN. Yes, sir, Mr. Sale.

Mr. SALE. Yes, Mr. Chairman, every government contract I have seen requires disclosure to the government of security and clients. So your clients with the Federal Debt Collection Practices Act, the Privacy Act, and in some cases with the Internal Revenue Code, has to be disclosed today, and I have seen that audited. I have been with Federal officials from Treasury and General Services Administration when they have audited security and compliance disclosure by a contractor. So I think the government does take that very seriously.

Mr. HORN. Well, I am interested in your touching on privacy, because one of the questions I was going to ask you is what precautions do you take to ensure that debtor privacy is not violated? What are the penalties for violating those provisions?

Mr. SALE. Yes, I think that is a very good question, Mr. Chairman. I think the way the statute is written today provides a very good safeguard. The Privacy Act as we look at it today treats the employees of a private collection agency, contracted by the government, as Federal employees. For that purpose alone, for purposes of coverage by the Privacy Act, what does that mean?

It means the private collection agency employee is subject to the same criminal and civil penalties as any government for breach of that privacy. The contractors in every contract I have ever seen, and I probably have seen 20 or 30 Federal collection contracts, have been required to provide training on the Privacy Act.

There is another statute involved that the agencies also disclose. Some Federal agencies go to the IRS already, as we speak, to find out the debtor's last address. That address is gained from the income tax return filed in the last year by the debtor. That is called the IRS locator service. It does a match on three things: social security number, name, and address. The agency then has the ability to give that information over to the contractor, the private collection agency.

The Department of Education has been so successful because they have routinely used that service and they turn that information over to the collection agency. They then advise the collection agency that you are now subject to the strictures of the Internal Revenue Code.

So I also do training for CSC in this area and every other contractor must do the same. The contractor for the private collection agency is subject to the same penalties under the Internal Revenue Code, including criminal penalties and a felony with imprisonment up to 5 years if that information were wrongly disclosed. As someone here mentioned, there has been no documented breach of the Privacy Act or the Internal Revenue Code in the 15 years that private collection agencies have represented the government, even though tens of millions of accounts have been placed.

Mr. HORN. In other words, if you knew of a debt by, say, an ex-student who is now 2 or 3 years out into the work place, and you are trying to collect, it would be a violation of the law if you told even her mother, or her father, or whoever, that she has a debt? Who could you tell, anyone?

Mr. SALE. You only could tell an attorney or a spouse with the written approval of the debtor. Or if the debtor has someone like a guardian ad litem, they had been hurt in an accident, something like that, if someone shows you legal papers because the individual is incapacitated, but that sort of proof is required by contract and regulation under the agency's provisos.

Mr. HORN. In other words, you could only seek contact with the debtor and tell her the reason, nobody else?

Mr. SALE. Absolutely.

Mr. HORN. If you did, you are subject to a little bit of trouble?

Mr. SALE. Absolutely. And when you are calling, you don't disclose information, you get information, if you are trying to locate, for example. Yes, that is exactly right, Mr. Chairman.

Mr. HORN. Yes.

Mr. BERNSTEIN. Mr. Chairman, that kind of conduct is also proscribed by the Fair Debt Collection Practices Act, which we have all been living under for several years and seems to be working to curtail that kind of activity.

Mr. HORN. Now, speaking of the Fair Debt Collection Practices Act, is there any difference between that and the Taxpayer Bill of Rights?

Mr. TRACEY. Yes.

Mr. HORN. What is the difference?

Mr. TRACEY. Well, the Fair Debt Collection Practices Act has more areas, more specificity probably, than the Privacy Act. The collector has—can't disclose information to any third parties, we have already covered that. When we notify on the first notification, and in every communication, we have to notify the debtor of either the mini Miranda or the Miranda. And that means that on the first contact, you have to give the debtor 30 days to dispute the debt before any further action is taken. All written correspondence must include the amount of the debt, the name of the original creditor, the full name and address of the collection company. The collector must also indicate the collector is attempting to collect a debt.

In every telephone contact with a debtor, the debtor can only be called between 8 a.m. and 9 p.m. local times. Debtor may not call—collector may not call a debtor when it is known to be inconvenient for the debtor. If the debtor—if the collector is told to cease contact in writing by the debtor, the collector can no longer contact the borrower.

There is harassment provisions. They can't engage in any harassment activities. They can't engage in any threats such as threatening to file suit unless they intend to do so. And the penalties are rather significant.

So we take it very seriously. Every collector comes into our firm, that is the first thing we teach them. They learn about the laws and rules and regulations; they are tested. If they don't pass the test, they can't work in our company. If anybody violates the act, they are subject to being fined individually, because the Fair Debt Practices Act allows them to be fined individually, as well as termination. And we have had to terminate collectors for breaches in the past.

Mr. GILLESPIE. Mr. Chairman, if I may just add to that statement, the companies represented here today and most of the firms represented by the American Collectors Association take great pride in the fact that we spend thousands, tens of thousands of dollars collectively training our employees. There is probably more training that goes on to do a bill collection job up front than goes on to do lots and lots of other jobs out there in industry today. The average time in many companies before a collector makes his first telephone call may be 2 to 3 weeks or longer. And they have to pass tests.

In our company, for example, there are three tests that the collector must pass before we ever let that collector get on the floor. We use close supervision techniques in our industry. Supervisor-to-collector ratio may be 1 to 10 people. Those supervisors are there to make sure that, first of all, they assist the person in doing their job, and, second, to monitor that person. These are very basic things in the collection industry and, you know, these gentlemen, myself, I am sure I have been in this business 17 years, and in fact when I entered this industry, it was when the FDC—FTCPA was passed. I can tell you from both a small company perspective and a large company perspective, that these laws are taken very seriously. I take offense to coming here today, as someone who is very proud of his profession, and picking up a statement and the first thing it says is horror stories about abuses. Those are scare tactics

that are employed against our industry, that quite frankly I do not appreciate.

On the other hand, I have some comments from clients. And I don't read these in the testimony for our company, but as an example, but we could bring many, many examples before you today of the 32 State governments that currently use collection companies, and all the private sector companies that use collection companies today.

Mr. HORN. We are going to have to recess a few minutes. We have a vote under way. I shall return.

Mr. GILLESPIE. I will finish up right now. For example, one of our State clients—I am sorry.

Mr. HORN. We will be back.

[Brief Recess.]

Mr. HORN. The subcommittee will resume.

And did I catch you in the middle of a sentence?

Mr. GILLESPIE. Yes, sir.

Mr. HORN. Finish the sentence.

Mr. GILLESPIE. Sorry, Mr. Chairman.

Mr. HORN. We won't have that interruption any more. The Committee on Transportation and Infrastructure has finally passed its bill and adjourned. So please proceed.

Mr. GILLESPIE. Thank you, Mr. Chairman.

The point that I was attempting to make was that there are many positive aspects of utilizing private collection firms, and I would just like to read a few comments received from State governments in areas where delinquent taxes are being collected. We appreciate the many reports, information supplied, time spent, patience, and most important, the extra care you have shown in professionally dealing with our taxpayers. Your people have been understanding of our needs to have delinquent income taxes collected in a manner which would provide results but at the same time not elicit any undue taxpayer complaints. And the important thing here, Mr. Chairman, is that——

Mr. HORN. I will be glad to have the rest of those go in the record in the interest of time. I have got a few more questions.

Mr. GILLESPIE. Thank you.

Mr. HORN. Just file them with the clerk.

Go ahead on your comments.

Mr. GILLESPIE. The interesting thing there is that this is not indicative of our company, but it is indicative of our industry. And we work very hard in our industry to put forth a positive, professional image at all times. And, you know, we are working very diligently to make sure that those isolated cases are a thing of the past.

Mr. TRACEY. In reference to your question about the Taxpayer Bill of Rights, there is one major difference. If a debtor is harassed or something happened with the Federal Government, they are—they can sue up to $100,000. If it happens in the private sector, as you saw in the El Paso, TX, case, it was millions. So we take these kind of complaints or any wrongdoing very seriously. We just can't have it.

Mr. HORN. If you were under contract then, you say, with the Federal Government, you would be protected by the Federal law on that, or you suddenly become unprotected?

Mr. TRACEY. No, we are still unprotected. We still have to adhere to the Fair Debt Collection Practices Act.

Mr. HORN. OK. And have you had any very high claims recently with your firm, say, on handling that government contract, with the Department of Education?

Mr. TRACEY. No, absolutely not.

Mr. HORN. OK. Let me ask one last question. And it is of you, Mr. Tracey. Explain to me the benefits of allowing agencies to garnish the wages of debtors, and how successful has that been in the case of Department of Education claims?

Mr. TRACEY. It has been tremendously successful. Of the people that we can't get to pay voluntarily, 95 percent of the people that we go to administrative wage garnishment, the job is their main asset. We are collecting between 85 and 90 percent from people that we move to administrative wage garnishment. A lot of them just because the mere suggestion that we are going to do it, they get a letter, they have 30 days to respond, we have an administrative law judge that holds a hearing and what have you where they resolve disputes, a lot of disputes are resolved with us prior to the wage garnishment. And the employers have been extremely cooperative in actually sending us thank you letters and telling us what a great thing it is and so forth. So it has been working very well. And there is no balance limits and there is no cost to the employer added on.

Mr. HORN. OK. Let me ask two last questions, then. I promised a reaction if any of you have it to Mr. Tobias' testimony.

You heard the emphasis on letting government employees collect and the fact that more money could be returned to the Treasury and thus solve some of our balance of payment or debt deficit and get a balanced budget out of that result. Because of the fees, they claim, are less. Do you have any reaction to that?

Let's start right down the line, Mr. Bernstein.

Mr. BERNSTEIN. Well, Mr. Gillespie indicated earlier that he had calculated that the fee average, the average cost for collection agencies was less than that, than Mr. Tobias is suggesting. I will—my other reaction is, there is $70 billion of tax debt out there that is not being collected. And I am not sure personally that the solution is throw more money at it, putting it out on contingent fee doesn't cost the government any more.

Mr. HORN. OK. Mr. Gillespie, any thoughts?

Mr. GILLESPIE. In following up on that, Mr. Chairman, I guess I am appalled personally as a taxpayer that the IRS' attitude toward this whole thing is that they are above everyone else in the government. And based on the history since 1990 of $750 million being appropriated for additional steps, and yet the delinquency rate continues to rise every year, we keep hearing it is getting better, it is getting better. But yet, it is not.

And the other thing that is very disturbing is that Congress appropriated, I believe, $13 or $15 million for a pilot project which the IRS just decided they weren't going to do. There was a perfect

opportunity for the IRS to have a fair test between collection agencies and their employees.

What we in the collection industry would ask, Mr. Chairman, is that we be given the opportunity in a fair, competitive basis, and the word "fair" is very important, because if we are going to do a good test, then we have to have the same kinds of accounts that the IRS employees have to collect. But all we are really asking for is the chance to prove to the Federal Government that we can do the job more effectively and at a better cost.

Mr. HORN. Very good. Mr. Tracey.

Mr. TRACEY. We all know for a fact that no world records are set in a one-man race. And the IRS, for example, doing their own collections, what do you compare their success against? Out in the private sector, where you have heavy competition, you can measure performance. And competition breeds excellence. Lack of competition breeds complacency, and life is just that simple. And I think that speaks for itself.

Mr. HORN. Mr. Sale.

Mr. SALE. Yes, Mr. Chairman, I think the GAO report on canvasing State collection efforts was very effective and did show in a vast majority of the States that it was cost effective to contract out. I think the IRS is unfortunately taking the all or none or us against them approach, or at least the employees union is, and that need not be the case at all. They have got a finite number of employees, they have got a finite amount of resources. It is clear they are not going to be able to collect the very old or the small balance debts, but they insist that those not be contracted out to a private collection agency. It certainly makes no sense that those debts that they have absolutely no ability to get to, or that are very low on their priority list, that those debts remain in house to be simply unworked. So it certainly would help the IRS and would augment their collections if they would simply give the oldest and the lower balance accounts to private collection agencies and prioritize their work in house.

I don't see that employees have to be let go; I don't see that resources have to be shifted. It never helps the private sector if an agency guts its own collection program to contract out, because then there is no one then to coordinate the work coming out to the contractor. So I don't believe that is what anyone here is advocating. I don't believe it is in the interest of the people at the panel here. But I do believe that the IRS could work with the private sector, knock down that backlog to a great extent simply by getting rid of its oldest and lowest balance accounts that it can't work anyway.

Mr. HORN. You suggest to me an interesting idea here. And I wonder what you think about it. Years ago, how many I am not sure, before my time, which is 2½ years ago in this august body, the Navy decided on a split and Congress agreed between private and public shipyards, of X amount of percentage. Now the Navy has violated that regularly since the law doesn't seem to apply to the Navy. But—and I would just raise this with this group. I mean, suppose we said it had to be 50/50? I mean, if you got an established government collection program and it is working, fine, you do 50 percent of it. But maybe what we ought to say at least 50

percent ought to be contracted out to private agencies. How does that strike you?

Mr. SALE. Well, it strikes me very well. You have a situation where they had $115 or $117 billion last year, $50 billion of that was written off. We are still looking at $70 billion. There is simply not—they don't have the systems to get at every account every day. The people here at this table, they have systems that give them, pulling together credit bureau reports, data base reports, all sorts of logistical information on each and every account that the contractor pays for. And you heard the gentleman say that they can't pull up any contact—any taxpayer information while they are trying to collect an account. So some sort of division that could test what they are saying certainly makes sense, whether that is 50/50 or 60/40. That would draw the line, and I think you do need to draw a line.

I think the problem is if you say give them your lowest and oldest accounts you are not working, they are not going to give you anything, they are going to claim they are working everything. But if you say 50 percent, let them pick it, then they will end up giving you their oldest and lowest balance accounts, which are their lowest priority. It gets the contractor somewhat of a disadvantage because the contractor has accounts hardest to collect. But I think this industry is willing to accept that challenge.

Mr. HORN. Let me now ask the very last question. And that is, I said I would give you 1 minute at the end for anything you think we ought to know and have been too dumb to ask it, tell us. And you got 1 minute do it in and I am going to go backwards this time. Mr. Sale, you are first at bat.

Mr. SALE. Thank you. Mr. Chairman, I think this has been a tremendous hearing and I just would like to stress, to the extent we have digressed into IRS, I don't think that should be the total focus. If you look at nontax debt, as we speak, no more than 13 percent of that debt is ever attempted to be collected by a private collection agency before it is written off. In the private sector, any business that only gave 13 percent of their debts to a collection agency before writing them off would not long be in business. They would be mismanaging their receivables and they would be out of business very quickly.

I think of the tools you are looking at a good start was the Debt Collection Act of 1982. I think that needs to be expanded to include the tools that they have over at the Education Department. Administrative wage garnishment is a very, very good start. I think now the tools are discretionary. There is no requirement in law that the agencies use them. OMB and FMS and GAO have been fighting for years to get the agencies to use these tools and they won't use them. I think it has to be mandatory, across the board, that they use all the debt collection tools, not simply authority. The current statute gives authority, that is ineffective. You have to make it mandatory.

Last, I would just say that by the universal application of the tools and by expansion of the tools, you can collect the money. It has been proven to date that based on all placements with contractors the average recovery by a private collection agency is in the neighborhood of 10 percent. It may not sound like much, but you

have got to realize they have gotten the oldest debt, oftentimes written off debt. It is usually—for example, the Education Department, we have heard how good that has been happening. It is 8.75 per placement. They place an average of three times. But before it got to these contractors, the school had to use a private collection agency, the lender had to use a private collection agency, and the guarantee agency had to use a private collection agency. All required under due diligence. Still the Department of Education gets, from contractors, 8.75 and places that an average of three times. I don't know if that is doable governmentwide. I think 10 percent is on the numbers we are talking about here. It certainly can add to the deficit reduction. Thank you.

Mr. HORN. We thank you, Mr. Sale. That is in the House known as a long minute. Mr. Tracey.

Mr. TRACEY. Thank you, Mr. Chairman. Couple things I would like to touch on is the 50/50 kind of runoff or contest with the IRS. Certainly proof is in the pudding, we will find out what works better. Other agencies, probably 100 percent there, because I don't think you are going to get the same issues you have with the IRS.

In terms of information we need or possible Privacy Act disclosures, those kind of things, we need the name, the address, phone numbers, the employer, the amount owed, type of debt it is. We don't need all the other stuff that somebody is worried about us disclosing. That is what we need.

As far as what information the government can do to help us get that information, we would like to have those—they can certainly access IRS data base to get some of that address, current addresses or employers or what have you, the Department of Labor, and HHS. That would be sources that would be helpful in giving us some information to be more effective.

Mr. HORN. Very good. Mr. Gillespie.

Mr. GILLESPIE. Mr. Chairman, I have nothing more to add to my statement and I will give up my minute to——

Mr. HORN. Mr. Bernstein can add it on to his.

Mr. BERNSTEIN. Thank you, Mr. Chairman. We covered a lot of ground here today, and I think you have heard from the private debt collectors that there are tools that they can provide, there are things that should be concentrated on. The timeframe of getting these accounts out into the collection stream, whether it is inside or outside, that is critical. Providing more tools for the government is also crucial. The collection agencies can do that, working in tandem with the attorneys. More and more of this debt can be collected at less and less cost to the government. And I think that is really the focus of what you have heard from this panel. Thank you.

Mr. HORN. Well, we thank all of you. Particularly grateful you would take the time and tolerate all the interruptions we have had between floor votes and committee votes. We made it through it and we thank you for the knowledge you bring to this legislation. And we shall take appropriate action. We are hoping this measure will move fairly rapidly since it is bipartisan and ought to be noncontroversial, when you are talking about saving billions of dollars for the taxpayers. Although some taxpayers are going to be paying that. So there is an irony there.

I want to thank the staff that worked on this hearing, to my immediate left is Mark Brasher, professional staff member on the subcommittee, who has had the primary responsibility; J. Russell George, the staff director, overall responsibility; Anna Young, professional staff member; Tony Polzak, legis fellow with us for a year; Cheri Tillett, assistant chief clerk of the full committee; and Cissy Mittleman, a professional staff member of the full committee helped us immensely; Dan Lickel, our faithful intern, who we hope will return to college with some knowledge of Congress that doesn't discourage him from ever studying politics any more.

And then on the minority staff, very able staff of David McMillen and Mark Guigon. And needless to say, we thank our two reporters, Donna McCalley and Sara Watt. Thank you very much. The meeting is adjourned.

[Whereupon, at 1:41 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Mr. Chairman, members of the sub-committee, I am Gerald M. Stern, Special Counsel for Financial Institution Fraud for the Department of Justice. The Attorney General has designated me to oversee the Department's efforts in debt collection. I appreciate the opportunity to provide testimony to the Committee on the Department's debt collection programs and the effect of H.R. 2234, the Debt Collection Improvement Act of 1995, on the Department. The Department of Justice strongly supports this bill, which, we are pleased to note, you elected to sponsor, Mr. Chairman, along with an impressive, bipartisan group of cosponsors, including Ranking Member Maloney. I would like to address specific provisions of particular importance to the Department.

BACKGROUND

The Department of Justice has multiple debt collection responsibilities. On the civil side the Department is the collector of last resort. After a debtor has failed to pay an agency and the agency's efforts to collect are unsuccessful, the agency may refer the matter to the Department for litigation and enforced collection. The Department will file a law suit and obtain a judgment. Once a judgment is obtained the debtor is given the opportunity to pay voluntarily. If this does not occur, or if the debtor after starting to pay voluntarily again defaults, the Department uses the postjudgment remedies provided by the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. § 3001, et seq., to enforce the judgment. These include garnishing wages and bank accounts. In addition, in appropriate

cases, the debtor's property may be seized by the United States Marshal and sold to pay the debt.

Virtually any agency program may generate a debt to the United States, and the Department of Justice may be called upon to enforce collection of that debt. Examples of debts currently being enforced by the Department include loans to health care professionals guaranteed by the Department of Health and Human Services, commercial and disaster loans guaranteed by the Small Business Administration (SBA), overpayments of benefits by the Department of Veterans Affairs (VA), home improvement loans guaranteed by the Department of Housing and Urban Development (HUD), mortgage loans guaranteed or insured by VA, farm loans made by the Department of Agriculture and student loans guaranteed by the Department of Education. The Department also enforces civil penalties imposed pursuant to statute, including mine safety violations, airline safety regulations and employer sanctions for immigration law violations, to name just three. In addition, the Department enforces judgments for fines and restitution imposed in criminal cases. Usually the Department enforces these criminal debts in the same manner as a civil judgment. Thus, the provisions in this bill will assist the Department in collecting criminal, as well as civil debts.

PRIVATE COUNSEL DEBT COLLECTION

Included in HR 2234 is a provision[1] to amend Title 31, United States Code to make permanent the authority of the

[1] Section 1101

Attorney General to hire private law firms to collect civil debt due the United States and to remove some of the restrictions on this authority. The Federal Debt Recovery Act of 1986[2] gave the Attorney General the authority and required the development of a pilot program to contract with private counsel to collect delinquent nontax civil debt owed to the United States. Private counsel are currently employed in 12 judicial districts, with an additional district in the procurement process. The authorization for this program will expire on September 30, 1996.

In its September 14, 1994 report on the Private Counsel Pilot Program, the General Accounting Office (GAO), found that the pilot program has generally been a successful and cost-effective tool in collecting nontax civil debt.[3]

The pilot project was also audited by the Department of Justice's Office of the Inspector General, which found that the Department satisfied the contracting provisions of the Act, that private counsel participants collected a significant amount of debt owed to the United States, and that private counsel augmented the debt collection activities of the United States Attorneys' offices in a cost-effective manner.[4]

In its report, the GAO recommended that the Congress give the Attorney General permanent statutory authority to contract

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[2] Pub. L. N. 99-578

[3] Civil Debt Collection, Justice's Private Counsel Pilot Program Should Be Expanded (GAO/GGD-94-195, September 1994).

[4] Audit Report, The Department's Private Counsel Debt Collection Program, (95-26, June 1995).

with private counsel to collect delinquent nontax civil debt on an as needed basis. The GAO also recommended removing certain of the restrictions on the pilot program under existing law. HR 2234 adopts both of these recommendations.

Under the pilot program, the Attorney General may only contract with private counsel in 15 judicial districts. The program can not be used to assist all United States Attorneys. If there were, for example, a nationwide influx of student loan referrals from the Department of Education, only a small number of districts could look to private counsel for assistance. Each United States Attorney should have the opportunity to use this program when it would enhance the district's debt collection efforts. The bill resolves this problem by authorizing the Attorney General to contract with private counsel in all 94 Federal judicial districts.

In the pilot districts, the Attorney General is currently required to use her best efforts to enter into at least four contracts with private counsel in each and every district in which she wants to use private counsel to help the United States Attorney collect delinquent nontax civil debts. The bill removes this limitation. The private counsel firms each need a relatively large volume of new referrals to ensure profitable operations. The number of cases referred to Justice by the Federal agencies each year is not predictable, and may not result in sufficient volume to attract four private counsel firms in each district. HR 2234 authorizes the Attorney General to assess

the needs of each district, and to contract with as many, or as few, firms as may be justified by the volume of the district's nontax civil debt. This gives the Attorney General the flexibility she needs to maintain a successful private counsel program under the authority provided by the bill.

Recently, your colleagues on the Budget Conference Committee suggested "that the appropriate committees of jurisdiction look into implementing a program that follows the General Accounting Office's recommendation to expand the Department of Justice pilot program to all federal judicial districts and to allow the Attorney General to contract with private counsel firms on an as needed basis to collect delinquent debt."[5] For these reasons, we request that Congress enact the proposed legislation and grant the Attorney General permanent authority to hire private counsel.

NONJUDICIAL FORECLOSURE

There is an additional provision of the bill[6] that I would like to address today. The bill adds a new subchapter to Chapter 176 of Title 28, United States Code, the Federal Debt Collection Procedures Act (FDCPA) of 1990. This new subchapter will permit Federal agencies to foreclose mortgages nonjudicially when foreclosure is appropriate. Approximately one-half of the States and the District of Columbia provide for nonjudicial foreclosure of security property. This new subchapter will permit Federal

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[5] 104th Cong., 1st Session, Cong. Rec. H 6298 (daily ed. June 26, 1995).

[6] Section 1201

agencies to foreclose without referring the matter to the United States Attorneys for litigation and judicial foreclosure. Similarly, sales would not need to be conducted by the United States Marshals.

The nonjudicial foreclosure provision in the bill provides a vehicle for promoting judicial economy and reducing litigation in the Federal courts. Each year the Department of Justice files more than 5,000 foreclosure actions in the United States District Courts on behalf of Federal agencies. While few foreclosures are contested, the impact of these filings on the Federal bench is significant. The Federal Rules of Civil Procedure mandate scheduling conferences and oversight of the status of litigation. Judgments must be entered, and the mechanics of the sale must be incorporated in court orders. Reports of sale must be reviewed, and sales must be confirmed by the courts. These proceedings are routine in nature, but they nonetheless consume judicial resources and extend the time needed to foreclose on security properties. States that provide for nonjudicial foreclosure have virtually eliminated these costly burdens on their judicial systems without adversely affecting the rights of mortgagors, or the validity of foreclosure sales. The bill similarly reduces Federal litigation, and promotes more efficient use of judicial resources. Under HR 2234, United States Attorneys' resources also may be more effectively used for debt collection or other priorities of the Attorney General.

The bill is modeled on an existing Federal statute that

authorizes nonjudicial foreclosure of mortgages held by the Department of Housing and Urban Development (HUD) on multifamily dwellings.[7] The provisions of this bill are largely comparable to the HUD statute, but each provision has been adapted to meet the government-wide objectives of this legislation. The bill creates an additional foreclosure remedy that will be available to all Federal agencies for any Federal program that authorizes agencies to secure debts with mortgages. The bill will provide the Federal agencies with simpler, more streamlined procedures for the foreclosure of their mortgages. The bill authorizes deficiency judgments, and it preempts rights of redemption that might otherwise be available under other Federal and State laws.

The Federal agencies typically have program-specific forbearance regulations that provide substantial rights to debtors if they default on their mortgages. Counseling, reduced or deferred payments, moratoriums, reinstatement agreements and recasting agreements are among the alternatives offered to these debtors. Under these regulations, the debtors are offered numerous opportunities not only to challenge notices of default, but to cure their defaults prior to acceleration and foreclosure. The bill does not modify or limit the applicability of these Federal program requirements in any way. Once a determination

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[7] Multifamily Mortgage Foreclosure Act of 1981, 12 U.S.C. §§ 3701, et seq. The 103rd Congress enacted similar legislation for the nonjudicial foreclosure of HUD single family mortgages. Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. §§ 3751, et seq. The draft bill would extend this authority to all Federal agencies.

has been made that foreclosure is the only viable means of resolving the indebtedness or other default, the bill provides simple and inexpensive procedures for accomplishing this.

Federal mortgage lending programs have a substantial effect on the national economy. The underlying purpose of many Federal lending programs is to ensure the availability of safe and decent housing for qualified individuals. Security properties are frequently abandoned by defaulting mortgagors. Once abandoned, security property is at much greater risk from vandalism and fire loss. Security properties that are not abandoned often deteriorate from lack of adequate maintenance. Owners of neighboring properties, who may be honoring their own mortgage commitments, find their property values declining, and also become vulnerable to vandalism and related criminal activities. Vandalism, waste, fire loss and inadequate maintenance of security properties reduce the Nation's housing stock. The impact of this loss is greatest on the housing stock that can be made affordable for persons of limited means through Federal assistance. The bill limits the amount of time that security properties are subject to these risks and promotes the Federal interest in preserving and protecting the Nation's housing supply by streamlining the foreclosure process.

The United States incurs costs during the pendency of judicial foreclosure proceedings that are often paid by the Federal taxpayers. Property management, repair and maintenance expenses are incurred when the Federal agencies attempt to

minimize damage to the properties during foreclosure litigation. In addition, many Federal agencies are liable for State and local real estate taxes under waivers of sovereign immunity, and significant funds are expended each year to meet these financial obligations. More timely foreclosure will reduce these expenses and provide the Federal agencies with additional funds for loans to qualified individuals.

Nonjudicial foreclosure is cost-effective, conserves scarce resources and promotes the economic objectives of Federal loan programs. Enactment of this proposal would benefit the Department of Justice and add an important debt collection tool for creditor agencies.

ADDITIONAL PROVISIONS

In addition, the Department supports and looks forward to the enactment of many other provisions of the bill. We believe that the bill will expedite referrals of delinquent debt to the Department for litigation. Statistics from the Department's Nationwide Central Intake Facility show that in more than 30 percent of the cases the debtor had defaulted more than five years prior to the referral to the Department.[8] Shortening the time between default and referral to the Department will enable the Department to pursue assets before they are hidden or dissipated.

The bill also addresses another important and recurring

[8] The debtors' date of default appears on 50% of the Claims Collection Litigation Reports (CCLRs) received by the Nationwide Central Intake Facility.

problem: the United States is often both a creditor and a debtor. For example, we may have a judgment against a Government contractor who is receiving progress payments under a different contract. The United States has traditionally enjoyed the same right of offset as any other debtor. In order to offset, however, the government needs to know that it is owed a debt prior to issuing a payment to the debtor. The size and complexity of Federal payment operations today make it difficult for the government to exercise this right. The exception to this is the IRS Tax Refund Offset Program in which the Government has the information it needs to offset the amount of a Federal debt prior to issuing a tax refund. The IRS Tax Refund Offset Program assisted the Department of Justice by collecting almost 2 million dollars in criminal debt in fiscal year 1994 and 2.7 million dollars in civil debt. Neither the Department of Justice nor other executive agencies have this same access to information when the debtor is a Federal employee or the recipient of other types of Federal payments. The bill will permit the development of the same type of program that is now used for IRS offset. The bill preserves the rights of debtors created by the Debt Collection Act of 1982[9], including the right to written notice of the type and the amount of the claim, an opportunity to inspect and copy the records of the agency related to the claim, an opportunity for a hearing on the claim and an opportunity to make a written agreement with the head of the agency to repay the

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[9] 37 U.S.C. § 3716

amount of the claim. The bill will amend the Privacy Act to facilitate the type of computer matches that will allow the United States to exercise its traditional and statutory rights of offset.

Attorney General Janet Reno has established debt collection as a high priority for all U.S. Attorneys and litigating divisions in the Department with financial litigation responsibilities. The Administration will transmit to Congress in the near future a proposed bill, the Federal Debt Collection Procedures Improvements Act, amending the Federal Debt Collection Procedures Act and related statutes to assist the Department's debt collectors by improving their ability to collect both civil and criminal debts. The Attorney General supports the proposed bill and believes that it will have a significant impact on the Department's ability to collect fines and restitution in criminal cases. We hope that the members of this subcommittee will also support this legislative initiative.

We welcome the subcommittee's interest and assistance in ensuring that this Department and other Federal agencies have the tools we need to enforce collection from those debtors able to satisfy their obligations to the United States.

Mr. Chairman, I would be pleased at this time to answer any questions you or the members have.