

GOVERNMENT WASTE, FRAUD, AND ERROR REDUCTION
 ACT OF 1999

FEBRUARY 5, 1999.—Ordered to be printed

Mr. BURTON of Indiana, from the Committee on Reform, submitted
 the following

REPORT

[To accompany H.R. 436]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 436) to reduce waste, fraud, and error in Government programs by making improvements with respect to Federal management and debt collection practices, Federal payment systems, Federal benefit programs, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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I. BACKGROUND AND NEED FOR LEGISLATION

H.R. 436, the Government Waste, Fraud, and Error Reduction Act of 1999, amends title 5 and title 31 of the United States Code and builds upon earlier debt-collection authorities to improve the

collection of non-tax, delinquent debts owed the Federal Government. It also seeks to reduce waste, fraud, and error in Federal benefit and credit programs.

In April, 1996, Congress passed and the President signed into law the Debt Collection Improvement Act delegating significant responsibility to the Department of the Treasury to maximize the collection of delinquent, non-tax debts owed to the Federal Government.¹ The Debt Collection Improvement Act (DCIA) was designed to centralize management of Federal debt collection at the Department of the Treasury and to enhance the cooperation of Federal agencies in the collection of delinquent debt. To achieve these goals, the DCIA created cross-servicing and enhanced the Department of the Treasury's offset authority.

The offset system developed by the Department of the Treasury involves a process whereby Federal payments (including salaries and benefits) are matched against debts owed to the Federal Government. When a match occurs, a portion of the payment is intercepted to collect the debt that is owed. Certain benefit payments, including Veterans Administration benefits and means-tested benefits, are exempt from offset. Other benefit payments, including Social Security, Railroad Retirement, and Black Lung benefits, are subject to a \$9,000 annual benefit exemption from offset in order to prevent hardship upon beneficiaries.

Governmentwide cross-servicing, the second debt-collection tool, requires Federal agencies to refer debts that are over 180 days delinquent to the Department of the Treasury for centralized collection efforts. The Financial Management Service, a division of the Department of the Treasury, manages this process, utilizing a variety of collection tools and strategies, including private collection agencies, demand letters, administrative offsets and negotiated repayment agreements.

The DCIA also enhanced governmentwide debt collection by requiring agencies to obtain taxpayer identification numbers, by permitting the reporting of non-delinquent consumer debt to credit bureaus, and by authorizing Federal agencies to garnish the wages of delinquent debtors. Federal agencies were granted additional authority to sell delinquent debts. Federal agencies were also granted an incentive to collect delinquent debts by being allowed to retain a portion of their annual delinquent-debt collections. Under the DCIA, the Attorney General was granted authority to contract with private counsel to pursue claims of indebtedness on behalf of the United States.

Prior to the enactment of the DCIA in April, 1996, several other statutory authorities existed for the Federal Government to collect government claims. The Federal Claims Collection Act of 1966,² directed all agencies to pursue debt collection efforts and, subject to a ceiling, authorized compromise, suspension and termination of collection actions. A key component of the 1966 Act was to establish the policy of allowing payment by installments. A 1979 amend-

¹The Debt Collection Improvement Act of 1996, Pub. L. 104-134, 110 Stat. 1321-358. Representative Stephen Horn (R-CA) and Representative Carolyn Maloney (D-NY) were the principal cosponsors of this bi-partisan legislation.

²Federal Claims Collection Act of 1966, P.L. 97-258, 96 Stat. 877.

ment to the Act, authorized agencies to report delinquent debts to consumer reporting agencies.

The Debt Collection Act of 1982,³ provided a statutory basis for offsets—intercepting Federal payments owed to debtors to satisfy their debts owed the United States. The 1982 Act enhanced the authority of the United States to offset the salary payments due to its employees who are also Federal debtors. The 1982 Act also allowed the Federal Government to charge debtors for interest, administrative costs and penalties on claims. Finally, it established the authority for Federal agencies to use private collection agencies.

At the end of Fiscal Year 1997, the Federal Government reported over \$1 trillion in outstanding, non-tax receivables and guaranteed loans. According to the Department of the Treasury, \$51.9 billion, or approximately 5 percent of that amount, was delinquent. More than \$47.2 billion was delinquent for more than 180 days.⁴

H.R. 436, the Government Waste, Fraud, and Error Reduction Act of 1999, addresses the need to improve credit management and the collection of delinquent non-tax debt owed the Federal Government. This includes the need for improved reporting of delinquent debt, enhanced loan sales authority, and additional offset authority. The legislation was drafted in response to concerns about the implementation of the DCIA raised at a number of hearings held by the Subcommittee on Government Management, Information and Technology in the 105th Congress. Shortcomings in financial management at Federal agencies, including the screening of Federal benefit applicants, and timely referrals of delinquent debt to the Department of the Treasury for offset and cross-servicing also prompted the introduction of H.R. 436.

II. LEGISLATIVE HEARINGS AND COMMITTEE ACTIONS

H.R. 436 is identical to legislation passed in the 105th Congress, H.R. 4857.⁵ H.R. 436 was introduced on February 2, 1999, by Representative Stephen Horn (R-CA), Chairman of the Subcommittee

³Debt Collection Act of 1982, Pub.L. 97-365, Oct. 25, 1982, 96 Stat.1749; Pub.L. 103-272, Sec. 7(b), July 5, 1994, 18 Stat. 1393.

⁴Portfolio Analysis: Report on the Federal Government's Delinquent Non-Tax Debt, by Price Waterhouse LLP, under contract with the United States Department of the Treasury (1998).

⁵On March 2, 1998, the Government Reform and Oversight Committee's Subcommittee on Government Management, Information and Technology held a hearing on the proposal, that was introduced on July 16, 1998, as H.R. 4243, by Representative Stephen Horn. The subcommittee marked up the bill on June 16, 1998 and approved its passage by voice vote, with one amendment offered by Representative Carolyn Maloney (D-NY). Representative Maloney's amendment, the "Federal Benefit Verification and Integrity Act," was designed to focus increased attention on the screening of Federal benefit applicants to reduce waste, fraud and error in Federal credit programs. Representative Maloney's amendment was deleted from the bill prior to the bills passage by the House of Representatives. On July 23, 1998, the Committee on Government Reform and Oversight reported H.R. 4243 to the House of Representatives. The House of Representatives passed the measure under suspension of the rules, by voice vote, on October 14, 1998. Following discussions that included the majority and minority staff in the House of Representatives and the Senate, as well as Administration officials, including representatives from the Office of Management and Budget and the Department of the Treasury, technical changes were made to the bill. The bill was reintroduced as H.R. 4857, and passed the House under suspension of the rules on October 20, 1998. H.R. 4857 was received in the Senate the following day, it was not approved by the Senate prior to the adjournment of the Senate sine die.

on Government Management, Information, and Technology.⁶ The bill was considered by the Committee on Government Reform on February 3, 1999, and passed unanimously by voice vote.

III. COMMITTEE HEARINGS AND WRITTEN TESTIMONY

In the 105th Congress, the Subcommittee on Government Management, Information and Technology held six hearings examining various aspects of the implementation of the DCIA.⁷ A subcommittee hearing held on April 18, 1997, demonstrated weaknesses in the implementation of the Act, particularly on the part of the Department of the Treasury. The subcommittee held another oversight hearing on November 12, 1997, to examine further progress in implementing the law. This hearing once again unearthed major problems with the Department of the Treasury's implementation of the DCIA. The hearing revealed that while the Treasury Department's Financial Management Service had spent between \$20 million and \$30 million implementing the DCIA, actual collections amounted to less than \$3 million. Additionally, the Department of the Treasury was slow in drafting and publishing regulations to implement the DCIA.

The subcommittee held another oversight hearing on the implementation of the DCIA on June 5, 1998, obtaining testimony from officials of the Department of the Treasury's Financial Management Service and the Office of Inspector General. The subcommittee also received testimony from witnesses representing the General Accounting Office (GAO), the Department of Veterans Affairs, and the Department of Defense. The Inspector General of the Department of the Treasury testified that the difficulties in implementing the DCIA at the Treasury Department were symptomatic of weaknesses in the overall strategic planning process. Witnesses from GAO identified systems development problems as weaknesses that affected the development of a merged administrative, tax and salary offset program. GAO also testified that the Treasury Department's failure to complete a risk management plan was critical, because such a plan provides information necessary to focus efforts on areas that pose the greatest risks, and it outlines the actions taken to mitigate those risks. Officials from the Department of the Treasury agreed to take corrective action and establish time frames to meet their objectives.⁸

⁶H.R. 436, introduced by Representative Stephen Horn (R-CA), was cosponsored by Representative Henry Waxman (D-CA), Representative Thomas Davis (R-VA), Representative Judy Biggert (R-IL), Representative Pete Sessions (R-TX), and Representative Jim Davis (D-FL).

⁷The Subcommittee on Government Management, Information and Technology chaired by Congressman Stephen Horn (R-CA) held the following hearings on the implementation of the Debt Collection Improvement Act of 1996 in the 105th Congress: Implementation of the Debt Collection Improvement Act of 1996, 105-45, April 18, 1997; Implementation of the Electronic Funds Transfer Provisions of the Debt Collection Improvement Act of 1996, 105-63, June 18, 1997; Oversight of Federal Debt Collection Practices, 105-121, November 12, 1997; Legislative Hearing on the Government Waste, Fraud and Error Reduction Act of 1998, H.R. 2347 the Federal Benefit Verification and Integrity Act, and H.R. 2063 the Debt Collection Wage Information Act of 1997, 105-143, March 2, 1998; Improving Federal Debt Collection Practices at the Department of Agriculture, 105-172, March 30, 1998; and Oversight of the Debt Collection Improvement Act of 1996, held on June 5, 1998.

⁸Witnesses at the June 5, 1998, hearing on Oversight of the Implementation of the Debt Collection Improvement Act included John Hawke, Undersecretary, Department of the Treasury; Mr. Richard Gregg, Commissioner Financial Management Service; Richard Calahan, Acting Inspector General, Department of the Treasury; Gary Engel, Associate Director, Accounting and Information Management Division, General Accounting Office; Mark Catlett, Chief Financial Of-

The subcommittee also heard testimony from officials of the Department of the Treasury who stated that the use of private collection agencies (PCAs) greatly enhanced the collection of delinquent debts. Treasury Department officials testified that PCAs were selected on a competitive basis and were continuously evaluated on their debt-collection performance.

Officials from the Treasury Department also testified that agencies have been slow to refer delinquent debts to the Treasury Department for cross-servicing. This is significant since, roughly one-half of the Federal portfolio of debts over 180 days delinquent had been delinquent for four years or more, according to a report compiled at the request of the Department of the Treasury.⁹

In response to the problems identified at these hearings, the subcommittee held a hearing on March 2, 1998, to consider legislation, including the Government Waste, Fraud and Error Reduction Act, designed to improve debt collection and reduce waste, fraud and error in Federal benefit and credit programs. The Government Waste, Fraud, and Error Reduction Act of 1998, sponsored by subcommittee Chairman Horn, was numbered H.R. 4243 in the 105th Congress and H.R. 436 in the 106th Congress.

IV. EXPLANATION OF THE BILL

A. OVERVIEW

H.R. 436, the Government Waste, Fraud, and Error Reduction Act of 1999, seeks to reduce waste, fraud, and error in Federal benefit and credit programs. The bill focuses management attention on high-risk programs and builds upon prior debt-collection initiatives to improve Federal debt-collection practices.

In addition to improving debt collection practices, the bill improves financial management by adding Congress, in addition to the Office of Management and Budget, as the entities that are to receive Federal agencies' annual audited financial statements. Audited financial statements shall be submitted to the relevant authorizing and appropriations Committees in the House of Representatives and the Senate, in addition to the Government Reform Committee in the House of Representatives and the Governmental Affairs Committee in the Senate.

The bill seeks to improve travel management by requiring that Federal employees use travel management centers, authorized travel agents, and electronic reservation and payment systems. The bill requires the Administrator of General Services to develop a mechanism to ensure that Federal employees are not charged state and local taxes during official travel. The Administrator shall submit a plan to Congress on the implementation of this provision no later than March 31, 2000.

H.R. 436 addresses the collection of non-tax debt. The bill is not intended to address the collection of tax debt or otherwise affect the provisions of the Internal Revenue Code. The bill improves Federal debt collection by building upon prior debt-collection initia-

ficer, Department of Veterans Affairs; and Nelson Toye, Deputy Comptroller, Department of Defense.

⁹Portfolio Analysis: Report on the Federal Government's Delinquent Non-Tax Debt, by Price Waterhouse LLP, under contract with the United States Department of the Treasury (1998).

tives such as the DCIA and makes a number of technical corrections to that Act.

The bill authorizes the offset of Social Security, Black Lung and Railroad Retirement benefits to satisfy past-due child support owed to a state in the same manner and under the same conditions as those benefits can be offset for debts owed the United States. The bill also expands the application of gainsharing—allowing Federal agencies to retain a portion of debt they collect—to include all delinquent debts owed to the Federal Government. Under the DCIA, agencies are authorized to retain a percentage of the delinquent loans they collect.

The bill contains several provisions related to the use and evaluation of PCAs in the collection of non-tax delinquent debts owed the Federal Government. The first provision clarifies the authority of PCAs to obtain necessary information about delinquent debtors in order to collect delinquent debts owed the Federal Government. A PCA, attempting to collect a debt owed the United States through the use of garnishment, cannot be precluded from verifying employment information of the debtor, including the debtor's place of employment, location of payroll office, period of debtor's employment, and the amount of compensation received by the debtor.

The bill also includes a provision mandating the Secretary of the Treasury, or the head of an executive, legislative or judicial agency, to consider the collection performance of PCAs in evaluating their overall performance for the purpose of allocating accounts or awarding bonuses. The Committee on Government Reform is committed to ensuring that, as in the private sector, a PCA's performance is evaluated, allowing sufficient weight to be afforded to the PCA's prior collection performance. Similarly, in awarding contracts to PCAs, Federal agencies should base the award on a formula that considers a bidder's prior performance in terms of net amounts collected under collection contracts of similar size.

Consideration of past collection performance in the selection and evaluation of PCAs is essential if the Federal Government is to maximize returns of outstanding debt. Also, when evaluating the performance and awarding contracts to PCAs, the bill requires that the frequency of valid debtor complaints should be taken into consideration.¹⁰

The bill clarifies that it, as well as the Debt Collection Improvement Act of 1996, is not intended to apply to any activities of the Federal Deposit Insurance Corporation associated with its statutorily mandated duties to protect, operate, and administer the deposit insurance funds. These activities include the resolution and liquidation of failed or failing insured depository institutions.

H.R. 436 authorizes the Department of Justice, under conditions the Attorney General considers appropriate, to obtain the assistance of private—non-governmental—counsel to pursue monetary claims on behalf of the Federal Government. In some instances, private firms may have knowledge or expertise that would be helpful to the Department of Justice when pursuing such claims.

¹⁰The term "Frequency" refers to the number of valid debtor complaints as a percentage of the volume of debtor contacts made by the contractor.

H.R. 436 builds upon the provisions of the DCIA that bar delinquent debtors from obtaining loans, loan insurance or loan guarantees. Under this bill, a delinquent debtor may not obtain financial assistance in the form of a loan (other than a disaster loan), loan insurance, loan guarantee, or Federal permit or license. This provision provides agencies with increased leverage to collect debts from self-employed professionals who are delinquent on their debt to the Federal Government by denying them the ability to obtain Federal licenses or permits.

The bill requires the Secretary of the Treasury to maintain a schedule of eligible PCAs and debt collection centers and to refer delinquent non-tax debts promptly in order to maximize collections. The bill also requires PCAs to be responsible for any administrative costs associated with a collection contract.

The legislation prohibits agencies from writing off or discharging debts prior to the initiation of collection activity. The bill specifically requires that prior to discharging a debt, a Federal agency must attempt one of a number of debt-collection activities, including referring the debt to a PCA or debt collection center, referring the debt to the Attorney General for litigation, selling the debt, or administratively garnishing the debtor.

This bill promotes the sale of non-tax debts owed the Federal Government. The sale of loans would allow Federal agencies to obtain the maximum value for loans and debt assets. The sale of loans is necessary because Federal agencies have performed poorly in their credit management and loan administration. According to a 1998 Department of the Treasury report, roughly half of the Federal portfolio of delinquent debts has been delinquent for four years or more.¹¹

Federal loan programs have also been a major focus of the General Accounting Office's "High-Risk Series."¹² Specifically, GAO has assigned high-risk status to the Department of Education's student financial aid programs and the Department of Agriculture's Farm Loan programs. GAO has also designated the Department of Housing and Urban Development, a major creditor agency, at high risk for waste, fraud and mismanagement. It should be noted, however, that of all the major credit agencies, only HUD, through implementation of an asset sales program for both current and delinquent loans, showed a significant decrease in total receivables and in the rate of delinquencies as a percentage of receivables.

Loan sale programs would benefit the Federal Government in a number of ways. The sale of loans in a competitive market could yield substantial proceeds. Loan sales would also reduce Federal agencies' administrative costs and permit them to focus limited resources on other programs. The bill authorizes Federal agencies to exempt specific loan programs or classes of debt from the sales requirement if the sale would interfere with the mission of the agency.

In an effort to expose debtors who are delinquent on non-tax debt exceeding \$1 million, H.R. 436 requires agencies to submit annual

¹¹ Portfolio Analysis: Report on the Federal Government's Delinquent Non-Tax Debt, by Price Waterhouse LLP, under contract with the United States Department of the Treasury (1998).

¹² GAO/HR-97, GAO High-Risk Series, February, 1997; and GAO/HR-99, GAO High-Risk Series An Update, January, 1999.

reports to Congress, listing the name of the debtor, the amount of the debt, collection actions taken by the Federal agency, specification of any portion of the debt written-down, and an assessment of why the borrower defaulted. Where appropriate, Federal agencies are also authorized to seize assets pledged to secure the delinquent high-value, non-tax debt.

Inspectors General of each agency are required to review these reports and make recommendations on ways to improve performance in the collection of these high-value, non-tax debt. Inspectors General are also required to review and report to Congress on Federal agencies' non-tax debt collection practices.

In order to promote the use of electronic payments by the Federal Government, the bill authorizes Federal agencies to provide for early payment of vendors if they use electronic payment technology that improves their cash management and business practices. Federal agencies are also authorized to accept payment electronically, including debit and credit cards, to satisfy a non-tax debt owed to the Federal agency.

B. SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents

The short title of this Act is the "Government Waste, Fraud, and Error Reduction Act of 1999." The table of contents lists the sections and titles of the bill.

Section 2. Purposes

The purposes of the Act are:

- (1) To reduce waste, fraud, and error in Federal benefit programs;
- (2) To focus management attention on high-risk programs;
- (3) To improve Federal debt-collection practices;
- (4) To improve Federal payment systems; and
- (5) To improve the reporting on government operations.

Section 3. Definition

Limits the type of debt covered by this bill to "non-tax debt."

Section 4. Application of act

This section states that no provision of the Act applies to the Department of the Treasury or the Internal Revenue Service to the extent that such provision involves the administration of the internal revenue laws or conflicts with the tax law.

Title I—General Management Improvements

Section 101. Improving financial management

This section adds Congress in addition to the Office of Management and Budget as the entities that are to receive annual agency audited financial statements.

Section 102. Improving travel management

Subsection (a) Makes 5 U.S.C. 5911(e) inapplicable to the lodging provisions of Chapter 57 of title 5 dealing with Federal employee travel. This provision would allow GSA to offer temporary lodging

to Federal employees at locations where GSA has negotiated discount rates.

Subsection (b) Requires Federal employees to use travel management centers, authorized travel agents, and electronic reservation and payment systems for the purpose of improving the efficiency and economy of Federal agency travel practices. Requires the Administrator of General Services to submit a plan, no later than March 31, 2000, on the implementation of this provision.

Subsection (c) Requires the Administrator of General Services to develop a mechanism to ensure that Federal employees are not charged state and local taxes during travel. Requires the Administrator of General Services to develop and submit to Congress a plan on the implementation of this provision, no later than March 31, 2000.

Title II—Improving Federal Debt Collection Practices

Section 201. Miscellaneous technical corrections to subchapter II of chapter 37 of title 31 of the United States Code

Subsection (a) of this section clarifies a glitch in the DCIA by authorizing the offset of Social Security, Black Lung, and Railroad Retirement benefits to satisfy past-due child support owed to a state in the same manner and under the same conditions as those benefits can be offset for debts owed the United States.

Subsection (b) strikes the provision of 31 U.S.C. 3711 that authorizes an agency to sell any non-tax delinquent debts. Title III of this bill creates a comprehensive debt and loan sale framework.

Subsection (c) Makes a technical correction to 31 U.S.C. 3720C(b)(2)(D) by applying gainsharing to delinquent debts as well as delinquent loans.

Subsection (d) Provisions relating to Private Collection Contractors.

(1) Collection by the Secretary of the Treasury.

A private collection contractor, attempting to collect a debt owed the United States, cannot be precluded from verifying a delinquent debtor's current employer, payroll office location, period of debtor's employment with current employer, and the amount of compensation the debtor receives from employer.

Requires the Secretary of the Treasury to consider a contractor's gross collections and the frequency of debtor complaints when evaluating the collection contractor's performance. Requires a consideration of a collection contractor's prior performance under government collection contracts when selecting contractors, if applicable. Also requires a consideration of the frequency of valid debtor complaints against the contractor.

(2) Collection by a Program Agency. Adds the following to the end of 31 U.S.C. 3718: Authorizes a private collection contractor, attempting to collect a debt owed the United States, to verify the debtor's current employer, payroll office location, period of debtor's employment with current employer, and amount of compensation debtor receives from employer.

Requires an agency to consider a contractor's gross collections and the frequency of debtor complaints when evaluating the collection contractor's performance. Requires a consideration of a collec-

tion contractors prior performance under government collection contracts when selecting contractors, if applicable. Also requires a consideration of the frequency of valid debtor complaints against the contractor.

Subsections (e) and (f) make clerical amendments to the Debt Collection Improvement Act of 1996 (P.L. 104–134).

Subsection (g) Clarification of Inapplicability of Act to Certain Agencies—Makes this Act and the DCIA inapplicable to activities carried out pursuant to a law enacted to protect, operate, and administer any deposit insurance funds, including the resolution and liquidation of failed or failing insured depository institutions. This subsection would expressly protect those assets collected by the Federal Deposit Insurance Corporation, from failed financial institutions, from the scope of the DCIA or this Act. Claims made against such property are receivership claims.

Subsection (h) Contracts for Collection Services. This section would amend 31 U.S.C. 3718 by authorizing the Attorney General to retain private counsel to pursue cases involving “any claim of indebtedness, or any monetary claim, including any claims for civil fines or penalties, asserted by the Attorney General.” Under the existing section the Attorney General is authorized to retain private counsel only to “pursue a claim of indebtedness owed the United States.” Private—non-governmental—attorneys, under this section, could be paid out of the proceeds of any recovery.

Section 202. Barring delinquent federal debtors from obtaining federal benefits

Under this section, a delinquent debtor may not obtain financial assistance in the form of a loan (other than a disaster loan), loan insurance, loan guarantee, Federal permit or license. The Secretary of the Treasury may exempt any class of claims from the application of this section. An agency may also waive the application of this section for benefits administered by the agency. The head of an agency may delegate the waiver authority to the Chief Financial Officer.

Section 203. Collection and compromise of non-tax debts and claims

Subsection (a) Use of Private Collection Contractors and Federal Debt Collection Centers.

Requires the Secretary of the Treasury to maintain a schedule of eligible private collection contractors and debt collection centers and to refer delinquent non-tax debts promptly in order to maximize collections. Also requires the private collection contractor to be responsible for any administrative costs associated with the collection contract.

Subsection (b) Limitation on Discharge Before Use of Private Collection Contractor or Debt Collection Center.

Precludes an agency from discharging a debt or terminating a collection action unless the debt has been referred to a private collection contractor or debt collection center, referred to the Attorney General for litigation, the debt has been sold, administrative wage garnishment has been undertaken, or in the event of bankruptcy, death, or disability. An agency may waive the application of this

provision if doing so would be in the best interest of the United States.

Title III—Sale of Debts Owed to the United States

Sec. 301. Authority to sell non-tax debts

The head of an agency is authorized, using competitive procedures, to sell any non-tax debt owed to the United States and administered by the agency. Agencies are also allowed to recover certain costs associated with such sales.

Sec. 302. Requirement to sell certain non-tax debts

Subsection (a) Requires an agency to sell a non-tax loan by the later of the date on which the debt becomes 24-months delinquent or 24 months after the debt is referred to the Secretary of the Treasury.

Subsection (b) Requires an agency to sell new loans no later than 6 months after the loan is disbursed. An agency may waive application of this requirement if it is determined, by the agency, that the sale would interfere with the mission of the agency administering the program under which the loan was disbursed.

Subsection (c) After terminating collection action, an agency shall sell any non-tax debt unless the agency determines that the sale is not in the best interests of the United States. An agency may exempt from sale any class of debt if the agency determines that the sale would interfere with the mission of the agency. An agency shall not sell a debt that is under investigation for fraud or has been referred to the Justice Department for litigation.

Title IV—Treatment of High Value Non-tax Debts

Sec. 401. Annual report on high value non-tax debts

Requires an agency to submit a report to Congress listing each delinquent debt over \$1 million, not later than 90 days after the end of each fiscal year. The report shall list for each debt the name of the person(s) liable for the debt, the amount of the debt, the actions the agency has taken to collect the debt, specification of any portion of the debt written-down, and an assessment of why the borrower defaulted.

Sec. 402. Review by inspectors general

Requires Inspectors General of each agency to review the report and make recommendations on ways to improve agency performance in the collection of high-value non-tax debt. Requires the Inspectors General to review and report to Congress on the agency's non-tax debt collection practices.

Sec. 403. Requirement to seek seizure and forfeiture of assets securing high-value non-tax debt

Authorizes an agency, where appropriate, to seize assets pledged to secure a delinquent high-value non-tax debt owed the agency.

Title V—Federal Payments

Sec. 501. Promoting electronic payments

Subsection (a) Authorizes an agency to provide for early payment of vendors in cases where an agency will implement an electronic payment technology that improves agency cash management and business practice.

Subsection (b) Authorizes an agency to accept payment electronically, including debit and credit cards, to satisfy a non-tax debt owed to the agency.

V. COMMITTEE OVERSIGHT FINDINGS

Pursuant to rule XIII, clause 3(c)(1), of the Rules of the House of Representatives, the results and findings for those oversight activities are incorporated in the recommendations found in the bill and in this report.

VI. BUDGET ANALYSIS AND PROJECTIONS

Clause 3(c)(2) of rule XIII, of the Rules of the House of Representatives, is inapplicable because the bill does not provide new budget authority, new spending authority, new credit authority, or an increase or decrease in revenues or tax expenditures.

VII. COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 5, 1999.

Hon. DAN BURTON,
*Chairman, Committee on Government Reform,
U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 436, the Government Waste, Fraud, and Error Reduction Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for federal costs are John R. Righter and Sheila Dacey. The contact for the state and local impact is Susan Sieg.

Sincerely,

(For Dan L. Crippen, Director.)

Enclosure.

H.R. 436—Government Waste, Fraud, and Error Reduction Act of 1999

Summary: H.R. 436 would amend the Debt Collection Improvement Act (DCIA) of 1996. The bill would bar delinquent debtors from obtaining certain federal benefits, authorize the Financial Management Service (FMS) of the Department of the Treasury to offset certain benefit payments to collect past-due child support, and require federal agencies to sell certain assets and to report annually to the Congress on debts over \$1 million.

Enacting H.R. 436 would affect direct spending, and pay-as-you-go procedures would apply to the bill. Specifically, CBO estimates that offsetting Social Security payments to collect past-due child support would increase federal collections by less than \$500,000 in fiscal year 1999, by \$2 million in fiscal year 2000, and by \$4 million each year thereafter. In addition, subject to the availability of appropriated funds, CBO estimates that implementing H.R. 436 would increase federal reporting costs by less than \$500,000 in fiscal year 1999, by about \$1 million in fiscal year 2000, and by less than \$500,000 each year thereafter.

H.R. 436 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no additional costs on the budgets of state, local, or tribal governments.

Estimated cost to the federal government: The estimated budget impact of H.R. 436 is shown in the following table. For the purposes of this estimate, CBO assumes the bill will be enacted by the summer of 1999 and that the amounts necessary to implement the bill will be appropriated for each year. The costs of this legislation fall within multiple budget functions.

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003	2004
Changes in direct spending:						
Estimated budget authority	a	-2	-4	-4	-4	-4
Estimated outlays	a	-2	-4	-4	-4	-4
Changes in spending subject to appropriation:						
Estimated authorization level	a	1	a	a	a	a
Estimated outlays	a	1	a	a	a	a

^a Less than \$500,000.

Basis of estimate

Direct spending

While much of H.R. 436 would codify current practice, a few provisions would affect collections of the federal government from both past-due child support and delinquent nontax debt. In total, CBO estimates that implementing these provisions would decrease direct spending by \$18 million over the 1999–2004 period.

Increasing the Federal Share of Collections from Past-Due Child Support. H.R. 436 would allow states to collect past-due child support by withholding Social Security, Black Lung, and Railroad Retirement Board (RRB) payments. CBO estimates that adding past-due child support to the list of debts that can be administratively offset from those payments would result in \$10 million more in annual child support collections, of which the federal government would, on average, retain \$4 million. We expect those levels to apply beginning in fiscal year 2001, with smaller effects in earlier years.

The Social Security Administration can withhold past-due child support payments from monthly checks under current law, but the process is not used much and an insignificant amount is collected annually. H.R. 436 would make the process easier to administer and would thus result in higher child support collections.

Based on data from the Survey of Income and Program Participation (SIPP) and calculations by the Urban Institute, CBO estimates that 25,000 noncustodial parents both receive Social Security benefits and have unpaid child support. Because parents affected by the legislation are generally younger than 62, we assume that most of them receive Social Security benefits under the Disability Insurance (DI) program rather than the retirement or survivors programs. (As with the collection of delinquent federal debt, we assume that payments made under the Supplemental Security Income program would be exempt from the administrative offset.) The DCIA limits the amount that can be withheld annually from an individual's Social Security checks to the lesser of any amount over \$9,000 or 15 percent of the benefits. Only one-half of the noncustodial parents are assumed to receive benefits high enough to allow FMS to offset their payments. On average, those offsets could amount to about \$1,600 annually and could yield \$20 million in collections for child support from Social Security payments. (CBO expects that the annual increase in collections from RRB and Black Lung payments would be insignificant.)

CBO estimates that the additional collections under H.R. 436 would be only about one-half of the potential \$20 million because of several factors. First, noncustodial parents are younger than average DI recipients, and younger men receive lower DI benefits than older men. Second, children of DI recipients are entitled to a benefit from Social Security that averages more than \$2,000 annually. Some states consider these benefits in determining the amount of the child support owed by the noncustodial parent. Consequently, those children probably have lower-than-average child support awards and the Social Security offset would be lower than average. Finally, CBO assumes that a small percentage of all noncustodial parents owing past-due child support would slip through the administrative offset process.

The estimated \$10 million in additional child support collections each year would result in a net increase in federal offsetting receipts of \$4 million annually. The estimate assumes that 70 percent of new collections would be on behalf of families that receive or formerly received cash assistance from the federal government's Temporary Assistance to Needy Families (TANF) program or its predecessors. Such collections are retained by federal and state governments as reimbursements for past cash assistance paid to families. The federal share of TANF collections is 53 percent.

CBO assumes that states would not fully participate in the program until 2001. Increases in DI benefit levels and the amounts required for child support under court orders would result in higher federal receipts over time, but new rules affecting how much of the child support payments the federal government can retain would have an opposite effect. CBO estimates that those two effects would offset each other.

Decreasing the Collection of Delinquent Nontax Debt. Allowing FMS to offset Social Security, Black Lung, and RRB payments to collect past-due child support payments would decrease the collection of delinquent nontax debt. CBO estimates, however, that this change would increase direct spending by less than \$500,000 annually.

Under existing law, the collection of child support on behalf of a family that receives or formerly received TANF benefits takes precedence over the collection of delinquent federal debt in the payment offset process. That is, if before making a federal salary or pension payment, FMS discovers that the payee owes past-due child support, received TANF benefits, and is delinquent on a federal loan, then FMS must first offset the salary or pension payment to collect the child support. Once the child support is collected, FMS can then further offset the payment to collect the delinquent debt, provided that sufficient funds remain. CBO assumes that same order of priority would apply to collections involving Social Security and the other payments.

The DCIA allows the use of offsets against Social Security payments to collect delinquent nontax debt; FMS expects to implement that authority by the spring of 1999. According to the Department of the Treasury and Price Waterhouse, which conducted a test matching a month's worth of Social Security payments against the database of debts referred to FMS, between \$37 million and \$61 million in delinquent federal debts could eventually be collected from Social Security payments each year. Based on information from that test and CBO's estimate of the increased collection of past-due child support, CBO estimates that the collection of federal debt—primarily for loan repayments and recoveries for defaults on loan guarantees—would decline by less than \$500,000 a year.

The Federal Credit Reform Act of 1990 requires that legislation altering the estimated subsidy cost for direct loans and loan guarantees be scored on a present-value basis. For existing loans and guarantees, the amount of an estimated change in the present value of credit cash flows is recorded in the budget in the year in which the legislation is enacted—in this case, in fiscal year 1999. Based on CBO's estimate of the cash value of the foregone collections, we estimate that the provision's effect on delinquent nontax debt would increase direct spending by less than \$500,000.

Authorizing Private Collection Agencies to Verify Employment Information. H.R. 436 could increase the collection of federal debt by clarifying that private collection agencies can verify the employment information of a federal debtor for the purpose of garnishing the individual's wages. FMS only recently issued the final regulations to implement the authority provided under the DCIA; thus, private collection agencies have yet to use wage garnishment to collect delinquent federal debts assigned to them. In addition, the DCIA authorizes restrict this authority. CBO estimates that any increase in collections from enacting the provision would be negligible.

Barring Delinquent Nontax Debtors from Obtaining Federal Benefits. Finally, the bill would amend the provision in the DCIA banning delinquent nontax debtors from obtaining certain federal benefits. Specifically, the bill would broaden the definition of benefits to include federal licenses and fees. The bill would allow the Secretary of the Treasury to exempt certain debts and would allow agencies that issue permits and licenses to exempt those items from the ban. Adding federal licenses and fees to the definition of benefits could increase collections of delinquent debt. In addition, to the extent that a delinquent high-value debtor does not obtain

a license or permit, the provision would decrease the collection of fees. CBO estimates that the changes would have a negligible effect on direct spending.

Spending subject to appropriation

H.R. 436 also would affect agencies' discretionary costs for collecting debts and for managing federal travel. In total, CBO estimated that, subject to the availability of appropriated funds, implementing H.R. 436 would increase federal costs by less than \$500,000 in fiscal year 1999, by less than \$1 million in fiscal year 2000, and by less than \$500,000 each year thereafter. In addition, requiring that agencies sell certain debts and allowing them to recoup more of their costs from the proceeds of such sales could further affect discretionary costs, but we have no basis for estimating the impact from any potential sales that might arise under the bill.

Reports and Regulations. H.R. 436 would require (1) GSA to write regulations and file both a plan and a report with the Congress by March 31, 2000, on improving the management of federal travel; (2) FMS to revise several of the regulations it has issued for implementing provisions of the DCIA; (3) agencies to report to the Congress each year nontax debts of more than \$1 million; and (4) the inspectors general at such agencies to periodically review and report to the Congress on the agencies' efforts to collect nontax debt, particularly debts of more than \$1 million. In total, CBO estimates that implementing these provisions would increase administrative costs at agencies by less than \$500,000 in fiscal year 1999, by \$1 million in fiscal year 2000, and by less than \$500,000 in fiscal year 1999, by \$1 million in fiscal year 2000, and by less than \$500,000 each year thereafter. Based on information provided by GSA, CBO estimates that any savings in federal travel costs from the new regulations would be small.

Security Clearances. The bill would clarify that, to the maximum extent practicable, private collection agencies are responsible for all administrative costs related to their servicing of federal debts. The federal government is currently paying the costs to obtain special security clearances for certain, high-level employees at collection agencies. Because the clearances are a one-time requirement for a few employees at each collection agency, CBO estimates that the savings from enacting this provision would be negligible.

Asset Sales. H.R. 436 could further affect discretionary costs because it would amend the existing authority for agencies to sell assets. Specifically, subject to appropriation, it would allow agencies to sell any nontax debt and would, in general, require that agencies sell any loan that is more than two years delinquent and any new loan within six months of its disbursement. The bill would provide broad authority for agencies to exempt loans from the requirement. Currently, agencies can sell debts that are more than 90 days delinquent and are generally required to sell debts for which they have terminated their collection efforts. In addition, H.R. 436 would expand the type of expenses for which agencies can retain a portion of the proceeds from such sales, including the costs of contracts for collection services; fees of appraisers, auctioneers, and realty brokers; and costs of advertising and surveying. CBO has no

basis for predicting how these changes would affect agencies' asset sales and related spending.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays ..	0	-2	-4	-4	-4	-4	-4	-4	-4	-4	-4
Changes in receipts	Not applicable										

Estimated impact on state, local, and tribal governments: H.R. 436 contains no intergovernmental mandates as defined in UMRA. Provisions in the bill that would allow states to collect past-due child support from certain types of federal benefit payments would result in net additional state collections totaling about \$3 million annually.

Estimated impact on the private sector: The bill contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: John R. Righter and Sheila Dacey. Impact on State, Local and Tribal Governments: Susan Sieg.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

VIII. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to rule XIII, clause 3(d)(1), the Committee finds that clauses 14 and 18 of Article I, Section 8 of the U.S. Constitution authorizes Congress to create a Chief Financial Officer in the Executive Office of the President. Clause 1 and 18 of Article I, Section 8 of the Constitution grants Congress the power to enact this law.

IX. COMMITTEE RECOMMENDATION

On February 3, 1999, a quorum being present, the Committee ordered the bill favorably reported to the House for consideration by voice vote.

X. CONGRESSIONAL ACCOUNTABILITY ACT; PUBLIC LAW 104-1

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(B)(3) of the Congressional Accountability Act (P.L. 104-1).

XI. UNFUNDED MANDATES REFORM ACT; PUBLIC LAW 104-4, SECTION 423

The Committee finds that the legislation does not impose any Federal mandates within the meaning of section 423 of the Unfunded Mandates Reform Act (P.L. 104-4).

XII. FEDERAL ADVISORY COMMITTEE ACT (5 U.S.C. APP.) SECTION 5(B)

The Committee finds that the legislation does not establish or authorize establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

XIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(g) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

* * * * *

SUBTITLE III—FINANCIAL MANAGEMENT

* * * * *

CHAPTER 35—ACCOUNTING AND COLLECTION

* * * * *

SUBCHAPTER II—ACCOUNTING REQUIREMENTS, SYSTEMS, AND INFORMATION

* * * * *

§ 3515. Financial statements of agencies

(a) Not later than March 1 of **[1997]** 2000 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to *Congress and* the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

* * * * *

[(e)] The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

[(f)] Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

[(g)] Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

[(1) each revolving fund and trust fund of the agency; and
[(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

[(h) For purposes of subsection (g), the term “commercial functions” includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.]

* * * * *

CHAPTER 37—CLAIMS

* * * * *

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

3711. Collection and compromise.

* * * * *

[3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees.]

3720B. *Barring delinquent Federal debtors from obtaining Federal benefits.*

* * * * *

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

§ 3711. Collection and compromise

(a) * * *

* * * * *

(g)(1) * * *

* * * * *

(5) [Nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

[(A) maintain competition in carrying out this subsection;

[(B) maximize collections of delinquent debts by placing delinquent debts quickly;

[(C) maintain a schedule of private collection contractors and debt collection centers eligible for referral of claims; and

[(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.]

(5)(A) *Nontax debts referred or transferred under this subsection shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities.*

(B) *The head of each executive agency that operates a debt collection center may enter into an agreement with the Secretary of the Treasury to carry out the purposes of this subsection.*

(C) *The Secretary of the Treasury shall—*

(i) maintain a schedule of private collection contractors and debt collection centers operated by agencies that are eligible for referral of claims under this subsection;

(ii) maximize collections of delinquent nontax debts by referring delinquent nontax debts to private collection contractors promptly;

(iii) maintain competition between private collection contractors;

(iv) ensure, to the maximum extent practicable, that a private collection contractor to which a nontax debt is referred is responsible for any administrative costs associated with the contract under which the referral is made.

(D) As used in this paragraph, the term “nontax debt” means any debt other than a debt under the Internal Revenue Code of 1986 or the Tariff Act of 1930.

* * * * *

(9)(A) Before discharging any delinquent debt owed to any executive, judicial, or legislative agency, the head of such agency shall take all appropriate steps to collect such debt, including (as applicable and subject to subparagraph (B))—

[(A)] (i) administrative offset,

[(B)] (ii) tax refund offset,

[(C)] (iii) Federal salary offset,

[(D)] (iv) referral to private collection contractors,

[(E)] (v) referral to agencies operating a debt collection center,

[(F)] (vi) reporting delinquencies to credit reporting bureaus,

[(G)] (vii) garnishing the wages of delinquent debtors, and

[(H)] (viii) litigation or foreclosure.

(B)(i) The head of an executive, judicial, or legislative agency may not discharge a nontax debt or terminate collection action on a nontax debt unless the debt has been referred to a private collection contractor or a debt collection center, referred to the Attorney General for litigation, sold without recourse, administrative wage garnishment has been undertaken, or in the event of bankruptcy, death, or disability.

(ii) The head of an executive, judicial, or legislative agency may waive the application of clause (i) to any nontax debt, or class of nontax debts if the head of the agency determines that the waiver is in the best interest of the United States.

(iii) As used in this subparagraph, the term “nontax debt” means any debt other than a debt under the Internal Revenue Code of 1986 or the Tariff Act of 1930.

* * * * *

(11) In attempting to collect under this subsection through the use of garnishment any debt owed to the United States, a private collection contractor shall not be precluded from verifying the debtor’s current employer, the location of the payroll office of the debtor’s current employer, the period the debtor has been employed by the current employer of the debtor, and the compensation received by the debtor from the current employer of the debtor.

(12)(A) The Secretary of the Treasury shall provide that any contract with a private collection contractor under this subsection shall

include a provision in the contract that the contractor shall be subject to penalties under the contract—

(i) if the contractor fails to comply with any restrictions imposed under applicable law regarding the collection activities of debt collectors; or

(ii) if the contractor engages in unreasonable or abusive debt collection practices in connection with the collection of debt under the contract.

(B) Notwithstanding any other provision of law, a private collection contractor under this subsection shall not be subject to any liability or contract penalties in connection with efforts to collect a debt pursuant to a contract under this subsection by reason of actions that are required by the contract or by applicable law or regulations.

(13) In evaluating the performance of a contractor under any contract entered into under this subsection, the Secretary of the Treasury shall consider the contractor's gross collections net of commissions (as a percentage of account amounts placed with the contractor) under the contract. The frequency of valid debtor complaints shall also be considered in the evaluation criteria.

(14) In selecting contractors for performance of collection services, the Secretary of the Treasury shall evaluate bids received through a methodology that considers the bidder's prior performance in terms of net amounts collected under Government collection contracts of similar size, if applicable. The frequency of valid debtor complaints shall also be considered in the evaluation criteria.

* * * * *

[(i)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

[(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interests of the United States.

[(3) Sales of nontax debt under this subsection—

[(A) shall be for—

[(i) cash, or

[(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

[(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

[(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

[(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1996, each executive agency with current and delinquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans,

notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

[(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

[(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

[(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

[(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

[(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

[(v) The marketability of all debts.

[(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.]

* * * * *

§ 3716. Administrative offset

(a) * * *

* * * * *

(c)(1) * * *

* * * * *

(6) Any [Federal agency] *executive, judicial, or legislative agency* that is owed by a person a 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, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

(h)(1) * * *

(2) This subsection does not apply to—

(A) * * *

* * * * *

(C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of [a Federal agency] *an executive, judicial, or legislative agency.*

[(3) In applying this section with respect to any debt owed to a State, subsection (c)(3)(A) shall not apply.]

(3) In applying this subsection with respect to any debt owed to a State, other than past due support being enforced by the State, subsection (c)(3)(A) shall not apply.

* * * * *

§ 3718. Contracts for collection services

(a) * * *

* * * * *

(b)(1)(A) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in the case of any claim of indebtedness owed the United States, *or any monetary claim, including any claims for civil fines or penalties, asserted by the Attorney General.* Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services in the collection of claims of indebtedness *or in connection with other monetary claims*, as determined by the Attorney General, considering the amount, age, and nature of the indebtedness *or claim* and whether the debtor *or other person* is an individual or a business entity. Nothing in this subparagraph shall relieve the Attorney General of the competition requirements set forth in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following).

* * * * *

(d) Notwithstanding section 3302(b) of this title, a contract under subsection (a) or (b) of this section may provide that a fee a person charges to recover indebtedness owed *or any other monetary claim of*, or to locate or recover assets of, the United States Government is payable from the amount recovered.

* * * * *

(h) In attempting to collect under this subsection through the use of garnishment any debt owed to the United States, a private collection contractor shall not be precluded from verifying the current place of employment of the debtor, the location of the payroll office of the debtor's current employer, the period the debtor has been em-

ployed by the current employer of the debtor, and the compensation received by the debtor from the current employer of the debtor.

(i)(1) *The head of an executive, judicial, or legislative agency that contracts with a private collection contractor to collect a debt owed to the agency, or a guaranty agency or institution of higher education that contracts with a private collection contractor to collect a debt owed under any loan program authorized under title IV of the Higher Education Act of 1965, shall include a provision in the contract that the contractor shall be subject to penalties under the contract—*

(A) if the contractor fails to comply with any restrictions imposed under applicable law on the collection activities of debt collectors; or

(B) if the contractor engages in unreasonable or abusive debt collection practices in connection with the collection of debt under the contract.

(2) *Notwithstanding any other provision of law, a private collection contractor under this section shall not be subject to any liability or contract penalties in connection with efforts to collect a debt owed to an executive, judicial, or legislative agency, or owed under any loan program authorized under title IV of the Higher Education Act of 1965, by reason of actions required by the contract, or by applicable law or regulations.*

(j) *In evaluating the performance of a contractor under any contract for the performance of debt collection services entered into by an executive, judicial, or legislative agency, the head of the agency shall consider the contractor’s gross collections net of commissions (as a percentage of account amounts placed with the contractor) under the contract. The frequency of valid debtor complaints shall also be considered in the evaluation criteria.*

(k) *In selecting contractors for performance of collection services, the head of an executive, judicial, or legislative agency shall evaluate bids received through a methodology that considers the bidder’s prior performance in terms of net amounts collected under government collection contracts of similar size, if applicable. The frequency of valid debtor complaints shall also be considered in the evaluation criteria.*

* * * * *

§ 3720A. Reduction of tax refund by amount of debt

(a) Any **【Federal agency】** *executive, judicial, or legislative agency* that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.

(b) No **【Federal agency】** *executive, judicial, or legislative agency* may take action pursuant to subsection (a) with respect to any debt until such agency—

(1) * * *

* * * * *

(c) Upon receiving notice from any **【Federal agency】** *executive, judicial, or legislative agency* that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

* * * * *

(e) Any **【Federal agency】** *executive, judicial, or legislative agency* receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

(h)(1) The disbursing official of the Department of the Treasury—
(1) * * *

* * * * *

(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers.【”

【(h)(2) The term “disbursing official” of the Department of the Treasury means the Secretary or his designee.】

For purposes of this subsection, the disbursing official for the Department of the Treasury is the Secretary of the Treasury or his or her designee.

* * * * *

【§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees

【(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan) or loan insurance or guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

【(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.】

§ 3720B. Barring delinquent Federal debtors from obtaining Federal benefits

(a)(1) A person shall not be eligible for the award or renewal of any Federal benefit described in paragraph (2) if the person has an outstanding nontax debt that is in a delinquent status with any executive, judicial, or legislative agency, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional Federal benefits described in paragraph (2) only after such delinquency is resolved in accordance with those standards.

(2) The Federal benefits referred to in paragraph (1) are the following:

(A) Financial assistance in the form of a loan (other than a disaster loan) or loan insurance or guarantee.

(B) Any Federal permit or license otherwise required by law.

(b) The Secretary of the Treasury may exempt any class of claims from the application of subsection (a) at the request of an executive, judicial, or legislative agency.

(c)(1) The head of any executive, judicial, or legislative agency may waive the application of subsection (a) to any Federal benefit that is administered by the agency based on standards promulgated by the Secretary of the Treasury.

(2) The head of an executive, judicial, or legislative agency may delegate the waiver authority under paragraph (1) to the chief financial officer of the agency.

(3) The chief financial officer of an agency to whom waiver authority is delegated under paragraph (2) may redelegate that authority only to the deputy chief financial officer of the agency. The deputy chief financial officer may not redelegate such authority.

(d) As used in this section, the term “nontax debt” means any debt other than a debt under the Internal Revenue Code of 1986 or the Tariff Act of 1930.

§ 3720C. Debt Collection Improvement Account

(a) * * *

(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

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

(A) * * *

* * * * *

(D) sales of [delinquent loans] debts; and

* * * * *

CHAPTER 39—PROMPT PAYMENT

* * * * *

§ 3903. Regulations

(a) The Director of the Office of Management and Budget shall prescribe regulations to carry out section 3902 of this title. The regulations shall—

[(1) provide that the required payment date is—
[(A) the date payment is due under the contract for the item of property or service provided; or
[(B) 30 days after a proper invoice for the amount due is received if a specific payment date is not established by contract;]

(1) provide that the required payment date is—
(A) the date payment is due under the contract for the item of property or service provided; or
(B) no later than 30 days after a proper invoice for the amount due is received if a specific payment date is not established by contract;

* * * * *

(8) permit an agency to make payment up to 7 days prior to the required payment date, or earlier as determined by the agency to be necessary on a case-by-case basis; [and]

(9) prescribe the methods for computing interest under section 3903(c) of this title[.]; and

(10) provide that the Director of the Office of Management and Budget may waive the application of requirements under paragraph (1) to provide for early payment of vendors in cases where an agency will implement an electronic payment technology which improves agency cash management and business practice.

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CHAPTER 59 OF TITLE 5, UNITED STATES CODE

CHAPTER 59—ALLOWANCES

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SUBCHAPTER II—QUARTERS

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§ 5911. Quarters and facilities; employees in the United States

(a) * * *

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(e) The head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis, unless the agency head determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise. *The preceding sentence shall not apply with respect to lodging provided under chapter 57 of this title.*

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