

Statewide Debt Collection

July 15, 1997

**A Report to the Executive Appropriations Committee
Office of the Legislative Fiscal Analyst**

STATEWIDE DEBT COLLECTION

Summary

The purpose of this report is to review previous and current efforts to maximize the collection of debt owed to the State. The State has a significant amount of outstanding accounts receivable. Concern has existed for a number of years that many of these receivables are not being collected in an expeditious manner. As a result, the State is being deprived of funding sources that could make additional General Fund available for appropriation.

Historical Overview

Prior to the 1995 General Session, the Division of Finance was responsible for the coordination and reporting of outstanding accounts receivable. Utah code required each state agency to submit quarterly reports of the agencies' accounts receivable to the Division of Finance. The Division would then use the information to compile a one page summary report of each agency.

Subsequently in response to the recommendations of the 1994 Asset Management Task Force, the 1995 Legislature established the Office of Debt Collection within the Department of Administrative Services. It was the determination of the Task Force that a significant number of accounts receivable were not being collected in a timely manner. As a result, the State was losing money and/or supplementing agency budgets with State funds.

The Office of Debt Collection was established during the 1995 Legislative Session through Senate Bill 235. The responsibilities are broad and include the following:

- a. Collecting and managing state receivables
- b. Developing consistent policies governing the collection and management of state receivables
- c. Overseeing and monitoring state receivables
- d. Developing policies, procedures and guidelines for accounting, reporting, and collecting monies owed to the State
- e. Providing information, training, and technical assistance to state agencies on collection-related topics
- f. Writing an inclusive receivables management and collection manual for use of state agencies
- g. Preparing quarterly and annual reports of the state's receivables
- h. Creating/coordinating a state accounts receivable database, information systems, and procedures
- i. Establishing an automated case receipt process between state agencies
- j. Establishing procedures for writing-off accounts receivable for accounting and collections purposes.

Since its inception in FY 1996, the Office of Debt Collection has been working to implement its statutory directives.

Recent Legislative Intent Language

As the Office of Debt Collection began to formulate policies, rules, and regulations to implement the statutory direction, a number of challenges began to surface. The 1997 Legislature passed the following intent language to assist the Office of Debt Collection to meet its statutory mission:

It is the intent of the Legislature that after administrative costs and disbursements to required restrictive accounts, all collections of accounts receivable by the State Office of Debt Collection shall be allocated to the revenue types that generated the receivable.

It is the intent of the Legislature that all state agencies, except institutions of higher education, are to work with the Office of State Debt Collection to aggressively collect, accurately account for, and report all state receivables. To effectively accomplish this, state agencies are to be brought onto the state's advanced accounts receivable system during FY 1998 unless the advisory board to the Office of State Debt Collection authorizes the use of in-house systems already in place. These systems must provide proper accounting and reporting of receivables and facilitate timely collection of monies due the state.

To insure consistency and help eliminate duplication of resources in the reporting and collecting of state receivables, the State Office of Debt Collection and its advisory board shall have the opportunity to review and comment on state agency budget requests for collection and receivable systems and functions.

It is the intent of the Legislature that the Office of State Debt Collection be authorized to establish by rule that reasonable cost of collection be passed on to the debtor including legal and administrative costs unless inappropriate or prohibited by law.

It is the intent of the Legislature that Courts implement the recommendation noted in the Annual Accounts Receivable Report and approved by the Advisory Board to the Office of State Debt Collection. Courts will work with the Office of State Debt Collection to develop a plan of action whereby delinquent accounts can be transferred to the Office of State Debt Collection or its designee. The time of transfer will be negotiated with the Courts based on a time determined to be in the state's best interest but not later than 60 days past the payment demand date. Because of the Courts primary focus of adjudication and limited collection resources, the Legislature

questions whether delinquent accounts can be collected timely if left with the Courts. The Office of State Debt Collection will be responsible to provide timely information as to the status of the transferred accounts so that appropriate judicial action can take place as required.

To provide the Tax Commission with additional resources to maximize the collection of delinquent accounts that are greater than 24 months old, the Tax Commission shall be included in the state's RFP process to solicit out-source collection services. Procedures shall be structured in such a way to allow the Tax Commission to work directly with the out-source vendors on the collection of delinquent taxes. It is the intent of the Legislature that the Tax Commission work toward out-sourcing all accounts over 24 months old that are not in litigation, under a payment agreement, assigned to a collector for active collection or whose out-sourcing would be in violation of state or federal law. The Tax Commission shall report the results of out-sourcing efforts to the Office of Debt Collection.

It is the intent of the Legislature that state agencies provide to the Office of State Debt Collection current annotated law, either State or Federal, that prohibits the agency from complying with rules established by the Office of State Debt Collection for delinquent accounts receivable write off. In absence of such law it is the intent of the Legislature that state agencies will comply with rules established for write off. It is further the intent of the Legislature that accounts receivable, when written off, be pursued for collection by the Office of State Debt Collection or its designee(s) until all remedies for collection have been exhausted.

It is the intent of the Legislature that the Office of State Debt Collection designate by rule the policies and procedures to be followed by the Office of State Debt Collection in administering adjudicative proceedings as outlined in Title 63, Chapter 46b, Administrative Procedures Act. The Office of State Debt Collection will provide requested administrative hearings for state agencies transferring accounts to the Office of State Debt Collection or its designee when the state agency has no administrative hearing process. Accounts transferred from state agencies that have established administrative hearing processes will be referred back to the sending agency for handling.

In summary, the foregoing intent language would have the following impact:

- establishing write-off policies that supersede all other established procedures;
- allow passage of all collection and attorney costs on to the debtor.

Funding for the Office of Debt Collection

The Office of Debt Collection base budget is funded with General Fund and Dedicated Credits. The Dedicated Credits represent a percentage of the amounts collected, a portion of which is paid to private sector agencies under contract with the office.

The following chart represents the three year funding history:

Financing	FY 1995 Actual	FY 1996 Actual	FY 1997 Estimated	FY 1998 Approp.
General Fund		\$160,000	\$164,600	\$169,500
Dedicated Credits			29,300	509,500
Beg. Nonlapsing			68,500	
Ending Nonlapsing		(68,500)		
TOTAL		\$91,500	\$262,400	\$679,000
% Change			186.8	157.1

Programs	FY 1995 Actual	FY 1996 Actual	FY 1997 Estimated	FY 1998 Approp.
Debt Collection	\$0	\$91,500	\$262,400	\$679,000
TOTAL	\$0	\$91,500	\$262,400	\$679,000

Expenditures	FY 1995 Actual	FY 1996 Actual	FY 1997 Estimated	FY 1998 Approp.
Personal Services		\$77,100	\$147,900	\$170,200
Travel			3,700	3,700
Current Expense		10,900	96,500	43,000
Data Processing		3,500	14,300	8,100
Building Blocks				454,000
TOTAL	\$0	\$91,500	\$262,400	\$679,000
Standard FTE		2.00	2.00	3.00

Private Sector Firm to be hired as States' Collection Agency

As noted in the *Annual Accounts Receivable Report*, significant amounts of money are owed to the state. The Office of Debt Collection is in the process of initiating a pilot program wherein a private sector firm would be hired as

the State's collection agency.

The "Pilot Collection Project" will be the Office of State Debt Collection program to compare performance of current collection processes in the State against leading-edge industry options and to determine the most appropriate methods to collect the various types of receivables in the State. Originally included in the project was the option to collect nonsufficient funds checks electronically.

The "Pilot Collection Project" will include a combination of third party private sector collector(s), a private sector collector contracted with the Office of State Debt Collection as its designee, and current dedicated collection personnel in the Juvenile Courts, Office of Recovery Services, Tax Commission, and Workforce Services to achieve the following ends:

1. Evaluation of collection system(s) which automate such activities as personnel scheduling, telephone call management, correspondence-- legal and routine, consolidation of receivables so all money owed the state by an individual may be collected as a single account, and on-line access to data in external systems thereby introducing efficiencies into the collection process. Efficiencies of some systems, both in other states and the private sector are purported to achieve productivity gains significantly greater than are being experienced by the State today.
2. Flexibility to customize the collection process for the various types of receivables that exist in the state today. This customization, along with proposed legislative changes will give a full test to the system and measure the effectiveness of the remedies available to the State.
3. Capability to interface with Financial Institutions for the purpose of collecting NSF checks electronically and notifying, assessing and collecting the service charge electronically. (Note - The Office of State Debt Collection has reported that this option would require a legislative change to implement.)
4. Focusing on immediate collection of past due receivables for agencies as they are transferred to the office.
5. The results of the Pilot Project would be used to benchmark against current performance measurements to determine the effectiveness of the system and/or other processes in the state.
6. The experience with the Pilot Project would be used to formulate future management strategies for the collection work of the state including the development of such options as the formation of a Centralized Collection Unit for the state.

**Centralized Debt
Collection is needed**

The above referenced pilot program is being implemented to begin immediate collection of older outstanding receivables, to strengthen the role of the Office of State Debt Collection and determine the best techniques to collect the State debts.

The Analyst is concerned that large amounts of funding are still going into other agencies for accounts receivable systems. For example, to date, Courts and Corrections do not have a system that can deliver quarterly reports as required by statute despite significant expenditures for Management Information Systems. This reporting requirement goes back to House Bill 348 in the 1992 Legislative Session. The Office of Debt Collection superseded House Bill 348 with the Debt Coordination and Collection Act.

Estimate of Utah's Outstanding Debt

According to the 1996 *Annual Accounts Receivable Report* prepared by the Office of State Debt Collection, Utah has more than \$923 million in short term receivables and almost \$445 million long term known receivables. (See Appendix I for a complete listing of reported receivables taken from the *Annual Accounts Receivable Report*.) More than \$756 million of the \$923 million short term receivables are past due more than 31 or more days. Of that amount, more than \$356 million is owed directly to the State. (Courts and Corrections Field Operations are not included.) Over 95 percent of the State's outstanding accounts receivable is estimated to be owed through three agencies, 1) the Utah State Tax Commission, 2) Office of Recovery Services, and 3) Utah Courts. Each of these organizations have unique circumstances, none of which should stop timely and effective collection of outstanding receivables.

Assessment of the Duties of the Office of State Debt Collection

The duties of the Office of State Debt Collection has been established by statute 63A-8-201(3). The statutory provision and the current assessment status of each required duty is listed below. The Office shall:

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

Assessment: the Office is working to implement the provisions of this statute to assume total responsibility for the outstanding accounts receivable for the State.

- b) develop consistent policies governing the collection and management of state receivables;

Assessment: An advisory board to the Office has been established, meets when requested, and has reviewed the draft policies and procedures developed by the Office that are expressed in a "Draft Policy and Procedure Guidelines" manual. Three rules are proceeding through the Administrative Rules process. They are out for comment to agencies and the general public.

- c) oversee and monitor state receivables to ensure that state agencies are:
 - (i) implementing all appropriate collection methods;
 - (ii) following established receivables guidelines; and
 - (iii) accounting for and reporting receivables in its appropriate

manner;

Assessment: Guidelines are being established. The Office is currently making information available to organizations and gathering data on the methods that are currently being used by the agencies. Assurance of use of the best methods and technical assistance are not being done.

- d) develop policies, procedures, and guidelines for accounting, reporting, and collecting monies owed to the state;

Assessment: the first Draft for Agency Comment of “Statewide Policies, Procedures and Guidelines for Accounting, Reporting and Collecting Accounts Receivable” has been distributed for comment. (July 1997)

- e) provide information, training, and technical assistance to all state agencies on various collection-related topics;

Assessment: Information meetings have been held with all state agencies being invited. No specific training has been developed or presented. No technical assistance has been developed or presented.

- f) Write an inclusive receivables management and collection manual for use by all state agencies;

Assessment: Manual has been started in house.

- g) prepare quarterly and annual reports of the state’s receivables;

Assessment: the Office prepares both the quarterly report and the Annual Report. Not all State agencies contribute to the report as required by law. **Courts have never submitted their outstanding receivables report.** They have indicated to the Analyst that they should bring a system on line that will enable them to gather and report this information sometime in the next 12 to 18 months.

- h) create or coordinate a state accounts receivable data base;

Assessment: The ARS (Advanced Receivable Subsystem) is being developed and a pilot project initiated. It is estimated that the project will be fully implemented and functional by December 1, 1997.

- i) develop reasonable criteria to gauge state agencies’ efforts in maintaining an effective accounts receivable program;

Assessment: Nothing has been developed for this area as of publication of

this study. The Analyst believes this is a critical area of concern.

- j) identify those state agencies that are not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

Assessment: An assessment was done with each of the participating agencies. Without effective data and criteria by which to evaluate progress, the value of the assessment is questionable.

- k) coordinate information, systems and procedures between state agencies to maximize the collection of past-due accounts receivable;

Assessment: A centralized collection contract is currently being established. The Advanced Receivable Subsystem as part of FINET is in development. Information can be exchanged in other ways to enhance coordination of efforts both within agencies and between agencies.

- l) establish an automated cash receipt process between state agencies;

Assessment: the IAT (Inter-Agency Transfer) process is in place and operating.

- m) establish procedures for writing-off accounts receivable for accounting and collection purposes; and

Assessment: work has been done with a few specific agencies e.g. the Department of Commerce as a pilot project. Writing-off procedures are part of the policy and procedures manual currently in first draft format.

- n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or its designee.

Assessment: One set standard time limit is not workable given the various agencies and the different circumstances under which the funds are owed to and through the State. A basic standard may be set for most Agencies with notable exceptions in some Agencies holding the most outstanding debt. Some of these Agencies already have a time limit established by law within the Agency statute.

**Specific Agency
Assessment: Tax
Commission**

The Utah State Tax Commission's primary mission is to collect revenue for the State. Statute requires them to keep outstanding receivables at least twenty-four (24) months. Many accounts are long past due after 24 months. Legal requirements and concern about confidential information have prevented most accounts from being turned over to the Office of State Debt Collection. Negotiations are in process to work out the issues.

Tax Commission Agreement with OSDC

A final agreement between the Tax Commission and the Office of State Debt Collection has not been reached. The Tax Commission seems to welcome the potential resources to enhance their collection activities. Time frames for referring and transferring overdue accounts and write-off procedures are still being negotiated. Progress appears being made in many areas of policies and procedures.

Specific Agency Assessment: Office of Recovery Services

Another State entity established primarily to collect revenue is the Office of Recovery Services (ORS). Notwithstanding additional staff and increased authority, some accounts are still going uncollected after an extended period of time (more than 2 years). Approximately 28 percent of ORS receivables are funds that could be returned to the State General Fund. Welfare reform, federal regulations, and federal and state law changes make successful collection more challenging.

Office of Recovery Services (ORS) Agreement with OSDC

At the present time, an agreement between the Office of Recovery Services and the Office of State Debt Collection does not exist. ORS does not age its receivables in the traditional sense. This Office is also required to meet Federal regulations on many of their procedures and policies. Though not in full compliance at the present time, negotiations are taking place between the offices to work out the issues and details.

Specific Agency Assessment: Courts

The “Accounts Receivable” in the Utah State Courts were established by policy and procedures originally set by individual city and county operated courts. These individual policies and procedures were brought over to the State when the old City Courts became State Circuit Courts (1978-79) and the State acquired full control of the District Courts (1989). When the Trial Court Information System (TCIS) (mid 80s) and the District Court Information System (DCIS) were designed by the Court’s Data Processing Department, the practices of the local courts were incorporated into the design. No accounting personnel were involved in the design of the TCIS/DCIS systems. As a result, many of the flows from local government accounting were brought into the state system and never corrected. Consequently, the Courts have not been able to accurately report their accounts receivable and they cannot age the accounts.

Courts system still not complete

In a 1993 report to the Legislature, as required by House Bill 348, the Division of Finance noted, “The State Court System was unable to comply with the request for quarterly reports of accounts receivable. They are currently developing a new courts data processing system that will enable them to generate the information necessary for quarterly reports in the future.” **However, as noted in the annual report, the court data is not complete.** It is interesting to note that courts have a base budget for Information Technology of approximately \$4.5 million annually.

The problem of noncollection of Court funds is not unique to Utah. In the July issue of The Council of State Governments publication, Jay Wax, media relations director for the Missouri Bar, stated: “Millions --possibly billions-- of dollars are missing from our nation’s 16,000 state and local courthouses. The money hasn’t been stolen: it just hasn’t been collected. Many courts can’t even calculate their collection rates because they don’t know how much money individual defendants owe them and how old the debts are. ‘Very few courts have good data on that,’ Mohaney said.”

The Analyst believes Courts must focus on this issue.

Court Remedy?

The State Court system is currently implementing a new computer program (CORIS) which has a data base which will provide the information needed for a viable Accounts Receivable System. The module for the receivable system will be designed and implemented upon completion of the activation of CORIS statewide. Currently CORIS is operating in the Court Districts Five through Eight. Training has begun in District One with implementation to follow shortly thereafter, and Districts Two, Three and Four will be implemented within the next 12 to 18 months.

Courts Collection Agreement with OSDC

The Courts have agreed to handle past-due debts in the following manner:

- courts will continue to adopt and improve procedures to provide for collection efforts within the first 60 days; and
- debts that are 60-90 days past due will be converted from a criminal judgement to a civil judgement and transferred to the Office of State Debt Collection in accordance with the FY 1998 legislative intent language.

Specific Agency Assessment: Corrections Systems are in, but, not yet reliable

Also noted in the *Annual Accounts Receivable Report* is the fact that Field Operations in the Department of Corrections is not represented. Despite the installation of a new Management Information System, Corrections has indicated that the data will not be reliable for another year. They are working with the Office of State Debt Collection to more fully collect outstanding receivables.

General Assessment of other Agencies

Most other state agencies have few or no long-term accounts receivables outstanding more than twelve months. The accounts they do have are required to be included in a quarterly and annual report to the Office of State Debt Collection. Most are collected in less than six months. For these agencies, a central collection activity should reduce agency workload, enhance collection efforts, and increase revenue to the State.

**Other Agency
Agreements with
OSDC**

Employment Security - After an account is 180 days past due, it will be transferred to the Office of Debt Collection. The status of this procedure must be reviewed in light of the creation of the new Department of Workforce Services.

All Other Agencies - All other agencies will transfer accounts after they are sixty days past due.

Legislation Request

In addition to the duties the Office of State Debt Collection shall perform, there are a number of functions the office “may” perform. One function is to “4) (a) recommend to the Legislature new laws to enhance collection of past due accounts by state agencies.” The Office has requested that some of the Legislative Intent Language submitted during the 1997 Legislative Session be put into statute. (This language appears in the first section of this report, pages 2 to 3). A number of statutory changes may be necessary to enable and facilitate the collection efforts in the State. Some items such as that of being able to collect from “individuals” or for the Office to “act as a bank” for specific purposes are important to successful execution of the mission of the Office. These should be considered by the Legislature at a future time.

**Overall Assessment
and Findings**

The Office has been established for more than one year. The following has been determined:

- 1) The Office has established a business plan.
- 2) The Office is working with all State agencies to enhance the collections of the State.
- 3) The ARS (Advanced Receivable Subsystem) is being implemented statewide on December 1, 1997 with exemptions for a few select agencies.
- 4) The Policy and Procedures manual is in draft form and out to the public for comment.
- 5) Three rules are in the final stage of comment and approval.
- 6) Active negotiations are proceeding with the agencies with the most outstanding receivables regarding time limits and collection procedures.
- 7) Vendors have been selected to establish a centralized collection function. A meeting has been held with agency representatives and the vendor/contract debt collection agencies to whom contracts will be awarded. The vendors are: GC Services to establish and operate a Central Collections Unit and Equifax and GC Services to collect on traditional accounts.
- 8) Some agencies have been resistant to transferring accounts to the Office of Debt Collection. Negotiations are being held with individual agencies to address specific needs and assess the need for exemptions.
- 9) The Office has drafted proposed legislation which may facilitate its debt collection efforts.

Recommendations

The Office of State Debt Collection is just finalizing its policies and procedures and bringing its Accounts Receivable Subsystem online. It is difficult to assess the impact and effectiveness of these until they are fully implemented. However, there are a few recommendations that can be made which should improve operations and enhance collections.

- 1) The Analyst recommends that the Office of State Debt Collection devote time and resources to the development of criteria to evaluate State Agency efforts in operating and maintaining an effective accounts receivable program. (Criteria and a baseline are required for each agency.)
- 2) The Analyst recommends that technical assistance and training be established and provided by the Office of State Debt Collection to State Agencies to improve and enhance collection activities at the agency level. (The Analyst believes the primary responsibility for debt collection lies within the original agency.)
- 3) The Analyst recommends that Courts comply with current statute regarding accounts receivable collections and report appropriate data now in a timely manner, even if only estimated.
- 4) The Analyst recommends that the Courts give a full and detailed update on the status of their computer system and its ability to respond to debt collection reporting and other requirements to the Executive Offices and Criminal Justice Appropriations Subcommittee at the next General Session.
- 5) The Analyst recommends that the Office of the Legislative Fiscal Analyst review accounts receivable collection and compliance for each agency during the annual budget review during the Legislative Session. The Office of State Debt Collection should submit a report to the appropriate Subcommittee for each agency indicating the outstanding accounts receivable, changes in rates of collection and the agencies compliance with debt collection's policies and procedures.
- 6) The Analyst recommends that the Legislature require that implementing procedures and policies be approved by the Office of State Debt Collection Advisory Board by September 1, 1997 and implemented by State Agencies within 90 days thereafter.
- 7) The Analyst recommends that changes to the Office of State Debt Collection legislation be considered after the Collection Manual and the Policies and Procedures Manuals are distributed, implemented and evaluated.