

Liquidated & Delinquent Accounts

Legislative Update ~ May 14, 2015

Ways and Means SubCommittee on General Government

Exploring L & D Debt Status and Options

Liquidated & Delinquent Accounts

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Institute for Modern Government
CENTER FOR GOVERNANCE



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Presenting: Jon DuFrene

L & D Account Activity Update

How'd We Get Here?

- Secretary of State Audit #97-77 -
Nine Recommended Actions...
- Senate Interim Budget Comm. Report... \$1.8
Billion in Delinquent Debt @ 6/30/97
- HB3509 - Or. Law 1999, Chapter 1092
Two Significant New Requirements...
 - Assignment to DOR OAA & PCFs
 - Reporting to LFO & The Legislature
- Inter-Agency Receivables Concerns
- "The Oregonian" explains debt collection

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How'd We Get Here?

By Early 2001 we saw:

- Statewide Collection Committee -
A/R Core Committee - Accomplished
- Statewide Vendor Offset Program -
Collecting data for future proposal... (Ongoing)
- Statewide Master Collection Contract -
Contract in place - Accomplished
Includes access for use by 300 local governments
- Pilot Tests for Account Assignment -
Explore opportunities - automation...

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How'd We Get Here?

- Legislative Authority:
Sharing Agency Information -
Study for 2003 legislative session...
- Legislative Authority:
Administrative Garnishment -
Legislative concept...
- On-Line DMV Access -
Now available by PC-modem, by phone, by fax.

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How'd We Get Here?

- **Improve Automation -**

 - Explore opportunities now available with new technologies and collection software...

 - Providing training sessions and product demos

 - (Some Success)

- **Autodialer Systems -**

 - Studied Autodialer technology...

 - Developed comprehensive report on system use.

 - Pilot projects under consideration.

 - (Death by Cell Phone)

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How'd We Get Here?

- Surveyed most state agencies and found \$1.8 Billion in "Delinquent Debt"

Partial Detail:

- \$933 Million in Child Support (3rd-party)
- \$317 Million in (Income) Taxes
- \$200 Million at State Courts (restitution)
- \$189 Million in student loans, tuition, etc.

Circa 2001 Total = \$1.693 or **91%** of the Total State Debts

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How Do We Compare?

State versus Private ~ "Net" Receivables Ratio

\$ In Billions

| | Intel | Micro -soft | Oregon (w/ taxes) | Gannet | Nike |
|--------------------------|---------|----------------|----------------------|--------|--------|
| Revenue | \$29.39 | \$22.96 | \$13.21 | \$5.26 | \$9.00 |
| Receivables | \$ 3.70 | \$ 3.25 | \$2.22 | \$.88 | \$1.57 |
| A/R as a % of Revenue | 12.6% | 14.2% | 16.8% | 16.8% | 17.4% |
| Avg. Days Outstanding | 46 | 52 | 61 | 61 | 64 |

*NASC Presentation
March 2001*

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How Do We Compare?

Oregon Versus Other Western States "Net" Receivable Ratios

\$ In Billions

| | ID | AZ | CA | OR | WA | UT | NV |
|-----------------------|--------|--------|--------|--------|--------|--------|--------|
| Revenue | \$4.10 | \$13.8 | \$116. | \$13.2 | \$24.6 | \$6.61 | \$4.35 |
| Net A/R | \$0.24 | \$1.55 | \$13.2 | \$2.22 | \$4.32 | \$1.31 | \$0.87 |
| A/R % of Revenue | 5.9% | 11.3% | 11.4% | 16.8% | 17.6% | 19.7% | 20.1% |
| Avg. Days Outstanding | 22 | 41 | 42 | 61 | 64 | 72 | 73 |

Source: Western State's Comprehensive Annual Financial Reports

*NASC Presentation
March 2001*

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How Do We Compare?

Oregon Versus Other Western States Tax Collection Sources

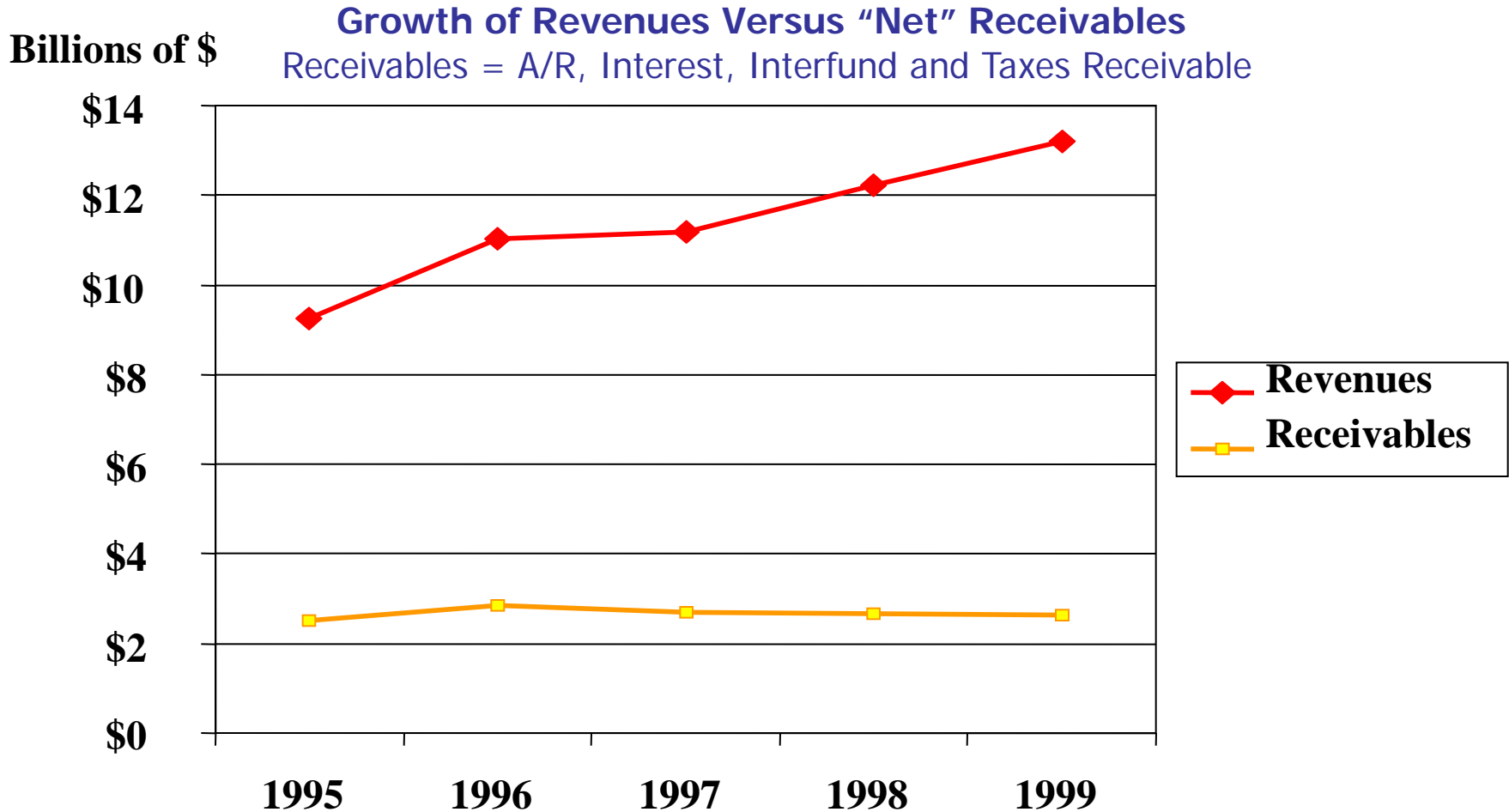
| State: | ID | AZ | CA | WA | OR | UT | NV |
|---------------|-----------------|-----------------|-----------------|-------------|----------------------------|-----------------|-------------|
| Property Tax | No | Yes | Yes | Yes | No | No | Yes |
| | | | | | No "State" Property Tax | | |
| Income Tax | Yes | Yes | Yes | No | Yes | Yes | No |
| | 1.6-7.8% | 2.9-5.0% | 1.0-9.3% | | 5.0-9.0% | 2.3-7.0% | |
| Sales Tax | Yes | Yes | Yes | Yes | No | Yes | Yes |
| | 5.0% | 5.6% | 6.0% | 6.5% | | 4.75% | 6.5% |
| Population | 1.3m | 5.3m | 34.5m | 6.0m | 3.5m | 2.3m | 2.1m |

Source: Federation of Tax Administrators/US Census

AGA Winter Conference
February 2004

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How Do We Compare?

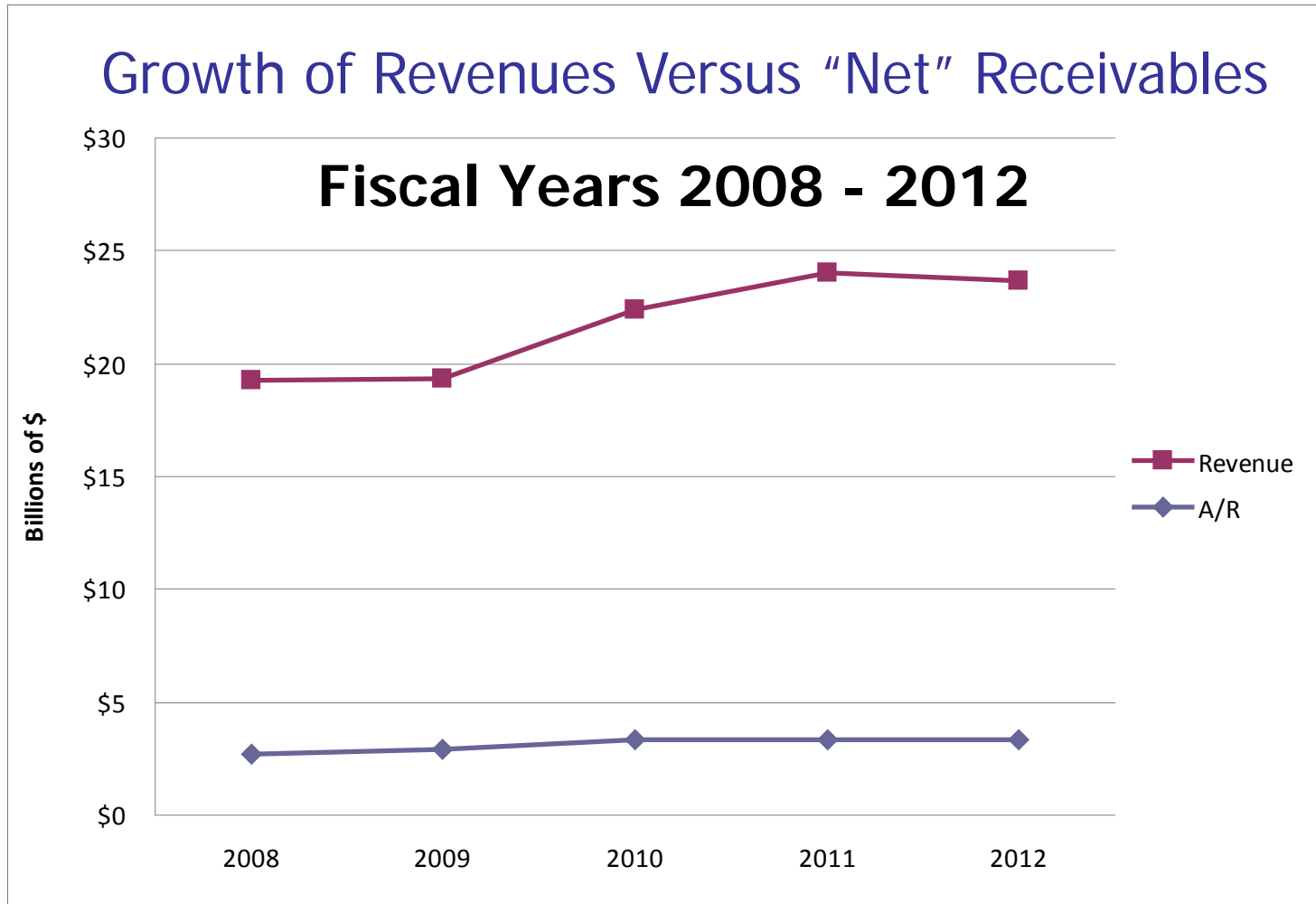


Source: Oregon's Comprehensive Annual Financial Reports

*NASC Presentation
March 2001*

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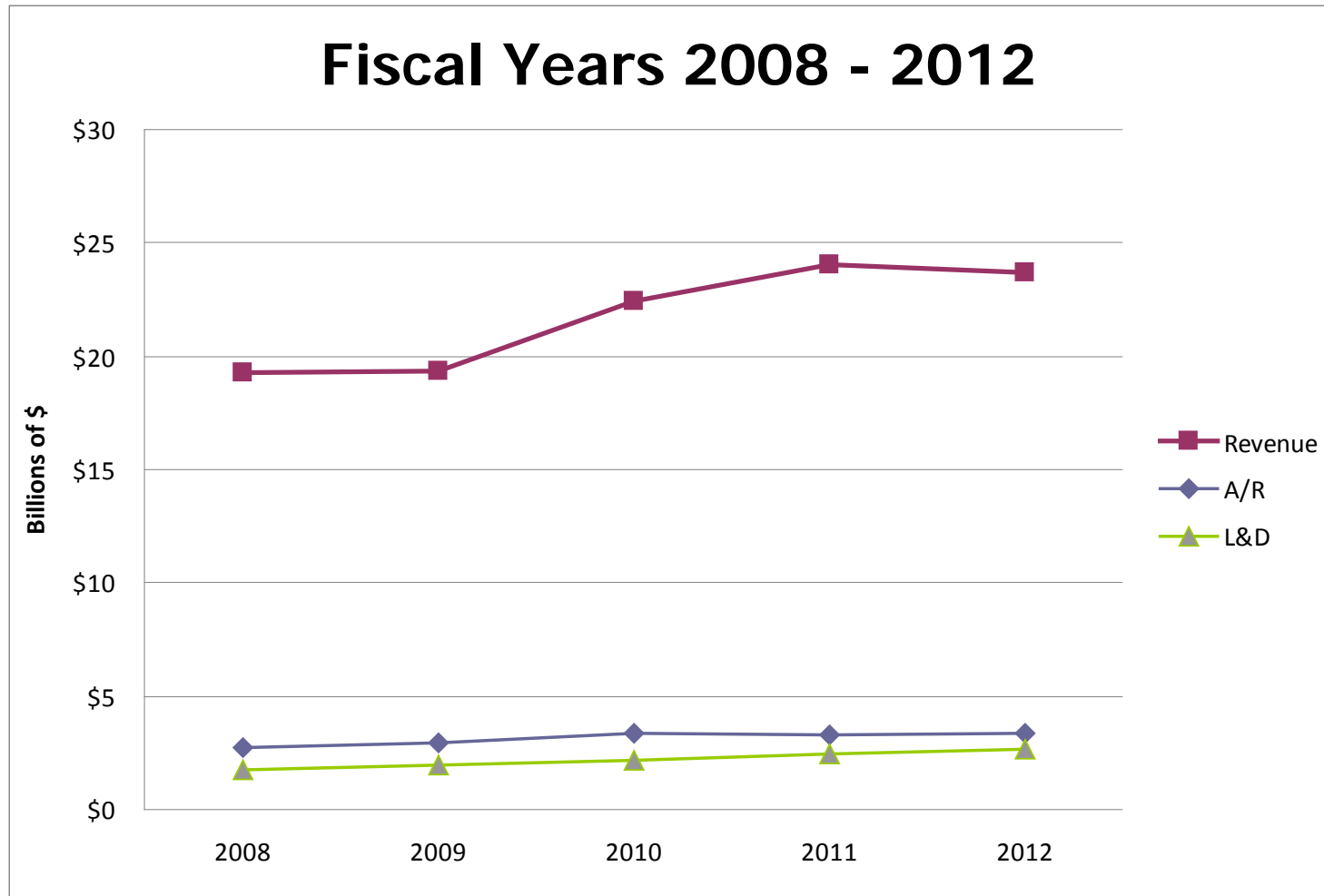
How Do We Compare?



Source: Oregon's Comprehensive Annual Financial Reports

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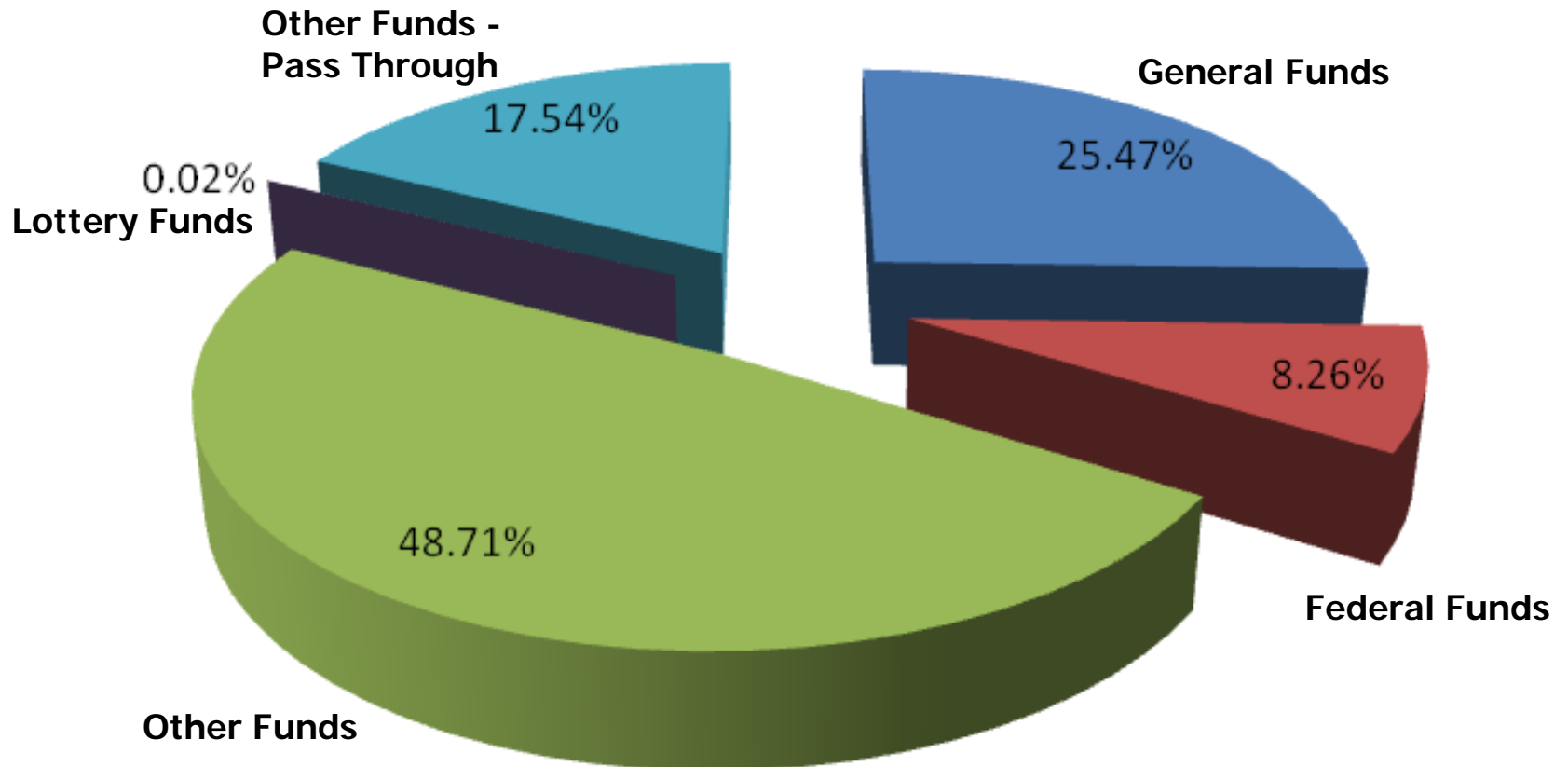
How Do We Compare?



Source: Oregon's Comprehensive Annual Financial Reports

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How Do We Compare?



Liquidated & Delinquent Debt by Fund Type

Source: LFO Report
Revised August 2013

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How Do We Follow The Laws?

- US Constitutional Due Process Clause:
 - 5th Amendment ~ Directed at Federal Agencies
 - 14th Amendment ~ Directed at State Agencies
 - No one shall be . . . “deprived of life, liberty, or property without due process of law.”
 - Same eleven words in both Constitutional Amendments.
- Oregon Constitutional Clauses:
 - Article I, § 10:
 - “Every man shall have remedy by due course of law for injury done him in his person, property, or reputation.”
 - Article I, § 19:
 - “There shall be no imprisonment for debt,”

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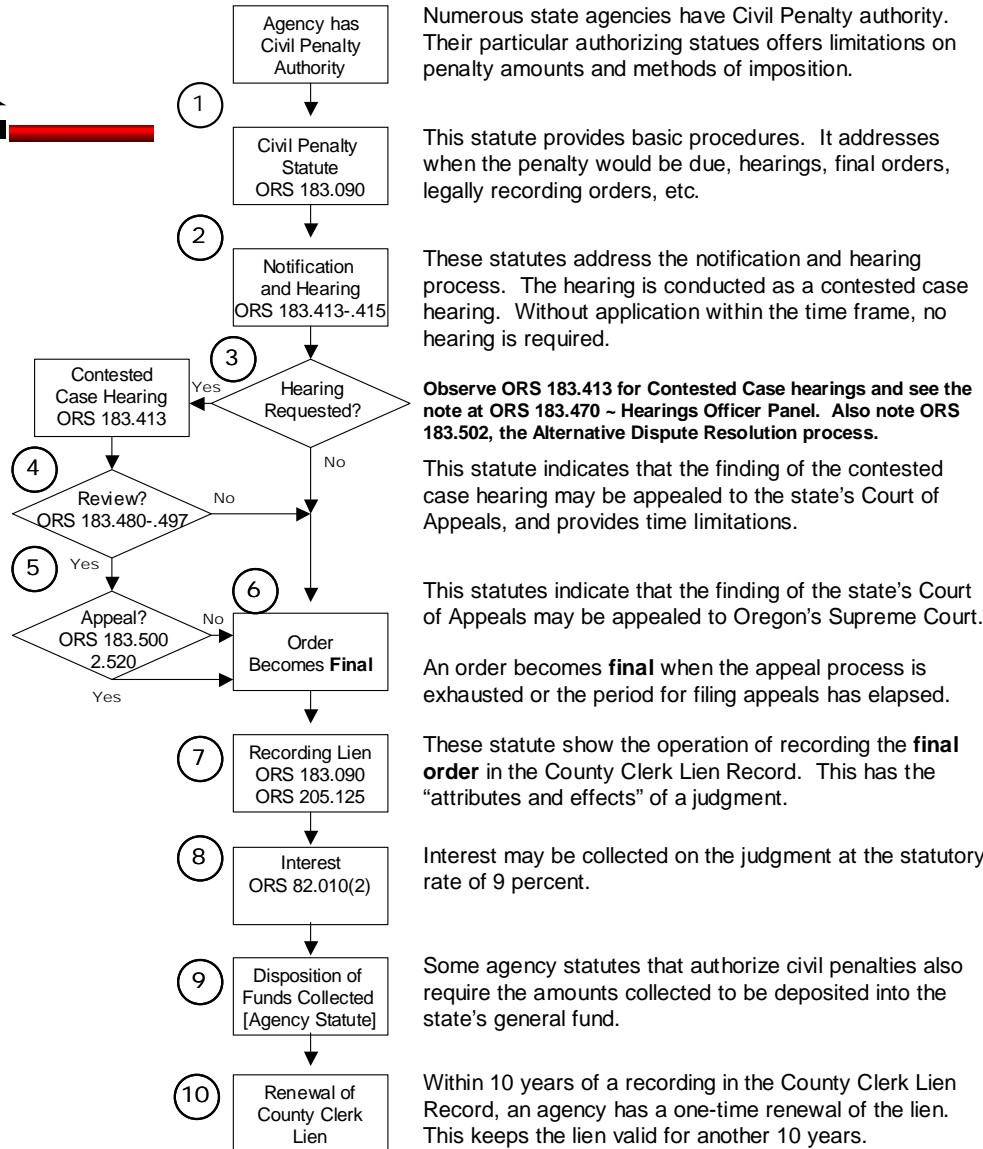
How Do We Follow The Laws?

- Due Process Means:
 - Notification ~
 - Notice properly contemplated to effect the attention of the person(s) affected as to the nature and gravity of the case
 - Opportunity to be heard ~
 - Remedy by due course of law – having one’s day in court.
 - Purpose ~
 - “...to prevent the arbitrary use of government power” - AmJur
- Upon achieving due process, the account becomes “liquidated.”
- Add procedurals statutes to Due Process and Liquidation can go from relatively easy to pretty complicated . . .

Civil Penalties

Collection Processes

Following All The Laws
~ The Hard Way ~



"Procedural due process is not intended to promote efficiency or accommodate all possible interests; instead, it is intended to protect the particular interests of the person whose possessions are about to be taken."

Fuentes v. Shevin
407 U.S. 67, 92 S.Ct. 1983

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How Do We Follow The Laws?

The Oregon Accounting Manual

OAM Policy 35.30.50

(Circa 2013)

101. Agency management must ensure that agency personnel employ appropriate and lawful practices in the collection of accounts receivable.

102. State agencies must comply with the **Oregon Unlawful Debt Collection Practices** statute, **ORS 646.639**, related to consumer debt. Agency staff undertaking letter collections must read, understand, and comply with the provisions of ORS 646.639.

103. State employees who collect debt during the performance of their official duties are specifically exempt from coverage under the **Federal Debt Collections Practices law (15 U.S.C. §§1692a (6)(C))**. This law does not bind state employees whose specific job entails collecting debt; however, the State of Oregon sees the value of the Federal Debt Collections Practices law and recommends that all agencies voluntarily comply. Many provisions of the state and federal laws overlap.

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How Do We Follow The Laws?

- Dealing with the Debts - Terminology;
 - Adjustments – resolution of an improper billing –
 - I.e. you billed the wrong amount, **adjust** the dollar amount.
 - Compromise / Settlement –
 - I.e. resolution of a liability through an amicable agreement.
 - Cancel, Release, Discharge –
 - I.e. the extinguishments of all legal liability.
 - Bankruptcy –
 - When concluded by the court, “[s]uch debts are not ‘uncollectible;’ rather, such debts are nonexistent.”
 - Write-Off –
 - A bookkeeping removal of debt, not a removal of legal liability.

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How Do We Follow The Laws?

| Action | Accounting | Legal |
|-------------------|-----------------------------------|---|
| <i>Write-Off</i> | Yes Remove from books. | No Remains a legal liability |
| <i>Adjust-Off</i> | Yes Books are adjusted. | Yes Liability is adjusted. |
| <i>Cancel</i> | Yes Remove from books. | Yes* Liability is extinguished. |

* The cancellation or forgiveness of debt can have tax consequences.

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How Do We Follow Accounting Rules?

- What is a “Receivable”
 - Amounts owing to the State including accounts receivable, loans, notes receivable, and interest. Receivables can be due from private persons, firms, corporations, other agencies, employees, and the federal government.
- What is an “Allowance for Doubtful Accounts”
 - Allowance for Doubtful Accounts is a contra current asset account associated with Accounts Receivable. This amount represents an estimate of the level of Bad Debts contained with the Accounts Receivable. The amount in this entry may be a percentage of sales/revenues or it might be based on an aging analysis of the accounts receivables (also referred to as a percentage of receivables).
- What is a “Net Receivables”
 - This is the Accounts Receivable “netted” by the Allowance for Doubtful Accounts. This adjustment presumes that the receivable is now stated on the books at the Fair Market Value of the asset.

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How Do We Follow Accounting Rules?

- Reality Versus Perception (Simulation)
 - How do we reconcile CAFR debt versus LFO debt?
 - What is the “projected” collections of the LFO numbers?

| Agency | CAFR Gross A/R | AFDA Per cent | LFO L&D Accounts | Projected Collections |
|--------------------------------|------------------|---------------|------------------|-----------------------|
| Judicial | \$ 1,468,179,899 | 76.95% | \$ 1,391,981,298 | \$ 320,820,113 |
| Dept. of Revenue | \$ 1,144,089,910 | 9.63% | \$738,268,631 | \$ 667,209,461 |
| Dept. of Justice | \$ 394,801,975 | 97.75% | \$391,087,970 | \$ 8,813,332 |
| Totals | \$ 3,007,071,784 | | \$ 2,521,337,899 | |
| Projected Collectable Amount > | | | 39.54% | \$ 996,842,906 |

AFDA = Allowance For Doubtful Accounts

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Obstacles & Opportunities

- **Cost of Due Process Collections - Examples**
 - **Staffing – having the knowledge, skills, & abilities to follow the law and deal with debtors in a sometimes hostile environment**
 - **Credit & Collection Manager Salary: \$68,250 - \$99,000 (PEMF – R35)***
 - **Credit & Collection Clerk Salary: \$34,250 – \$45,750 (RA2 – R19)***
 - **Processing – IT systems that track debtor transactions, account balances, contact information, interactions, monitors payment plans, generates letters, etc.**
 - **Administrative – consider the costs of overhead. Collect penalties and interest when imposed as opposed to manually adjusting them away to promote a concession for payment.**
 - **Cost of hearings – in some cases, the costs associated with the due process hearings born by the agency can exceed the civil penalty action that generated the hearing.**
 - **Establishing and enforcing adequate internal controls to protect the payment path from the payor to the bank.**

**Source : Robert Half
2013 Salary Guide*

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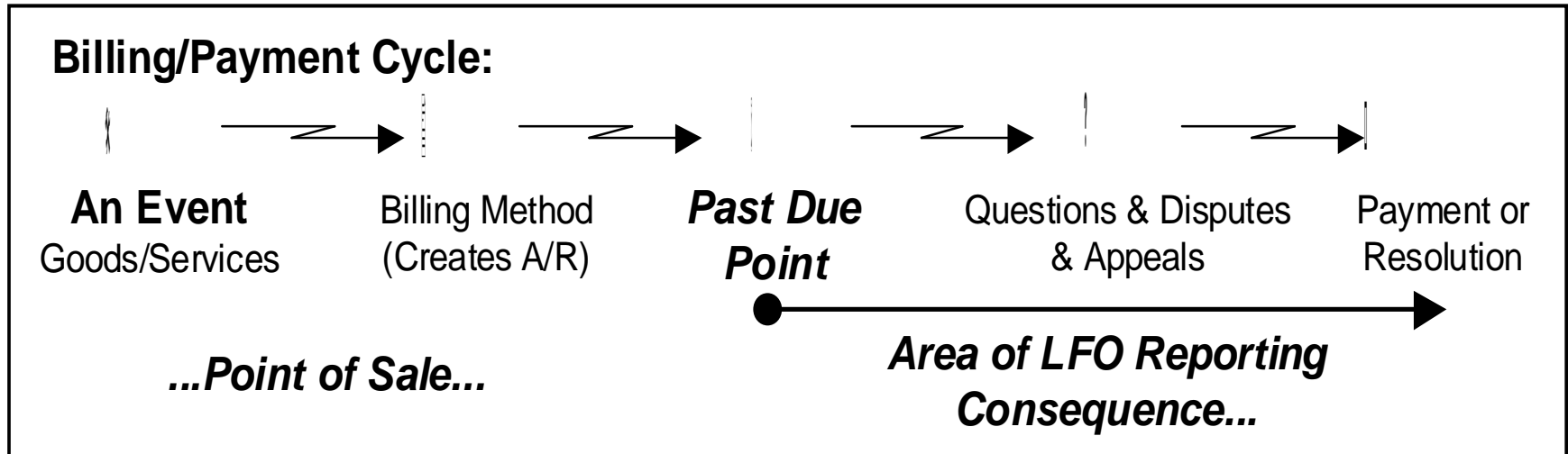
Obstacles & Opportunities

- Accepting & Banking the Funds:
 - Take payments in all forms:
 - Credit & Debit Cards
 - Cash & Checks
 - Process payments using multiple methods:
 - On-line & In-line payments
 - Establish an e-Commerce presence
 - Check conversion
 - At the counter ~ ACH (e-checks) Payments
 - In the back-office ~ thru OED – Online Electronic Deposit
 - Pay by Phone
 - M-Commerce (Mobile Commerce)
 - IVR – Interactive Voice Response
 - Third party processing
 - Lockbox
 - Kiosks

State Agencies that have not "updated" their agency banking for the 21st century need to contact the Oregon State Treasury.

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Obstacles & Opportunities



To reduce the number and amount of accounts receivable owed to the state, it is important to look at the way the state does business and when payment for services or goods is required. To improve the collection process, the state must consider what options are offered to pay for a service. If the customer is given options regarding payment for services such as cash, credit card, check, ACH, or online, it enhances the agency's ability to obtain a payment. Delinquent debt issues would not exist if funds were collected at the point of sale. It is also important to note that most often, state agencies do not have the option to deny services or to perform pre-debt credit checks on customers.

Source: ARCC Strategic Plan

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Obstacles & Opportunities

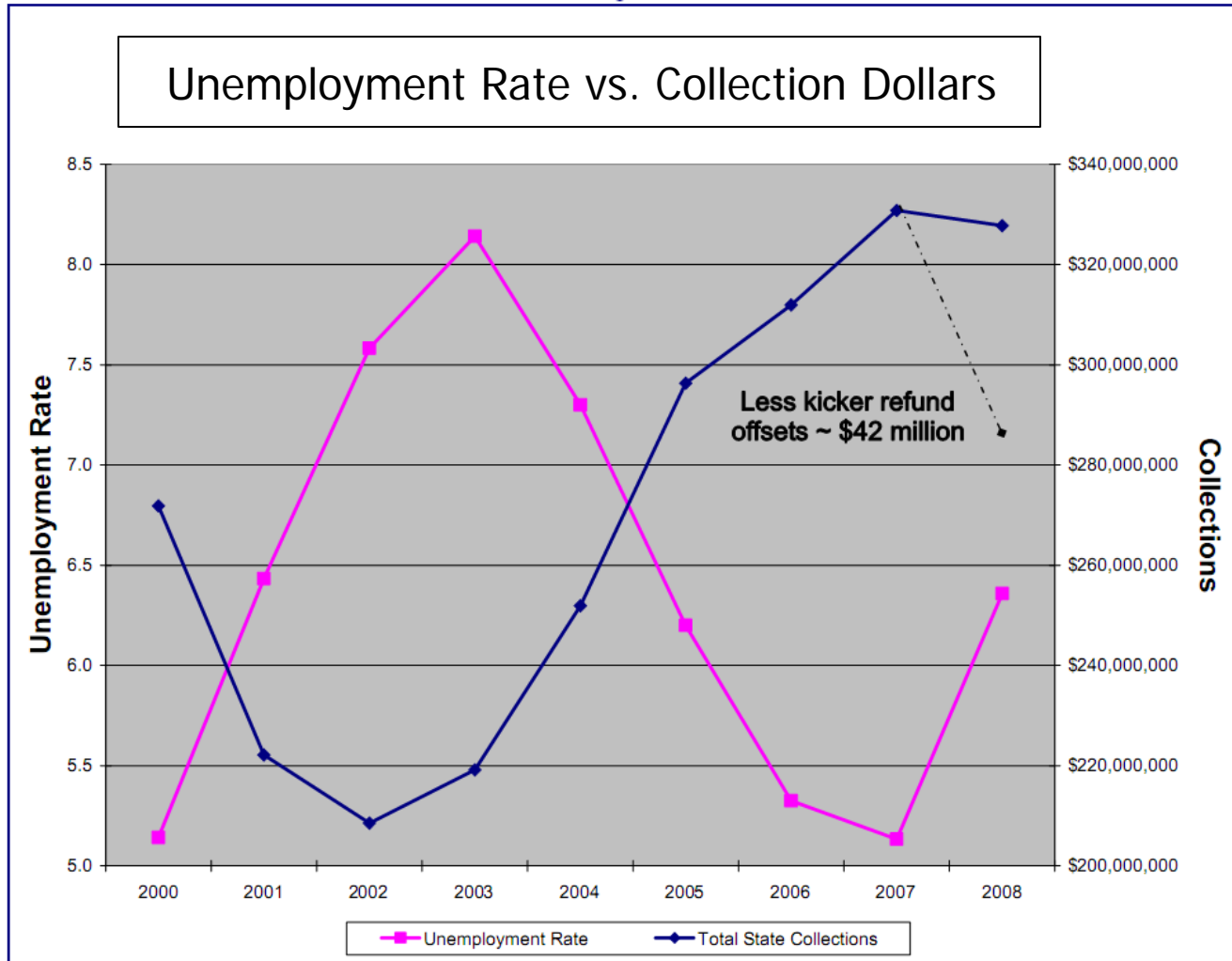
■ Debtor Demographics

- State agencies don't perform credit checks, and some cannot deny services – how do people pay?
- Unbanked and Underbanked – 2011 Survey¹ Results:
 - 8.2% of the US households were unbanked – this number has increased since 2009.
 - 20.1% of US households were underbanked.
 - 29.3% of US households have no savings account.
 - 10.0% of US households do not have a checking account.
 - 67% of US households have both a savings account and checking account.
 - 25% of US households have used AFS products (non-bank check cashing, payday loans, etc.) in the past year.
 - 10% of US Households have used two or more AFS products.
 - 12% of US households have used an AFS in the past 30 days.

(1) 2011 FDIC National Survey
AFS – Alternative Financial Services

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Obstacles & Opportunities

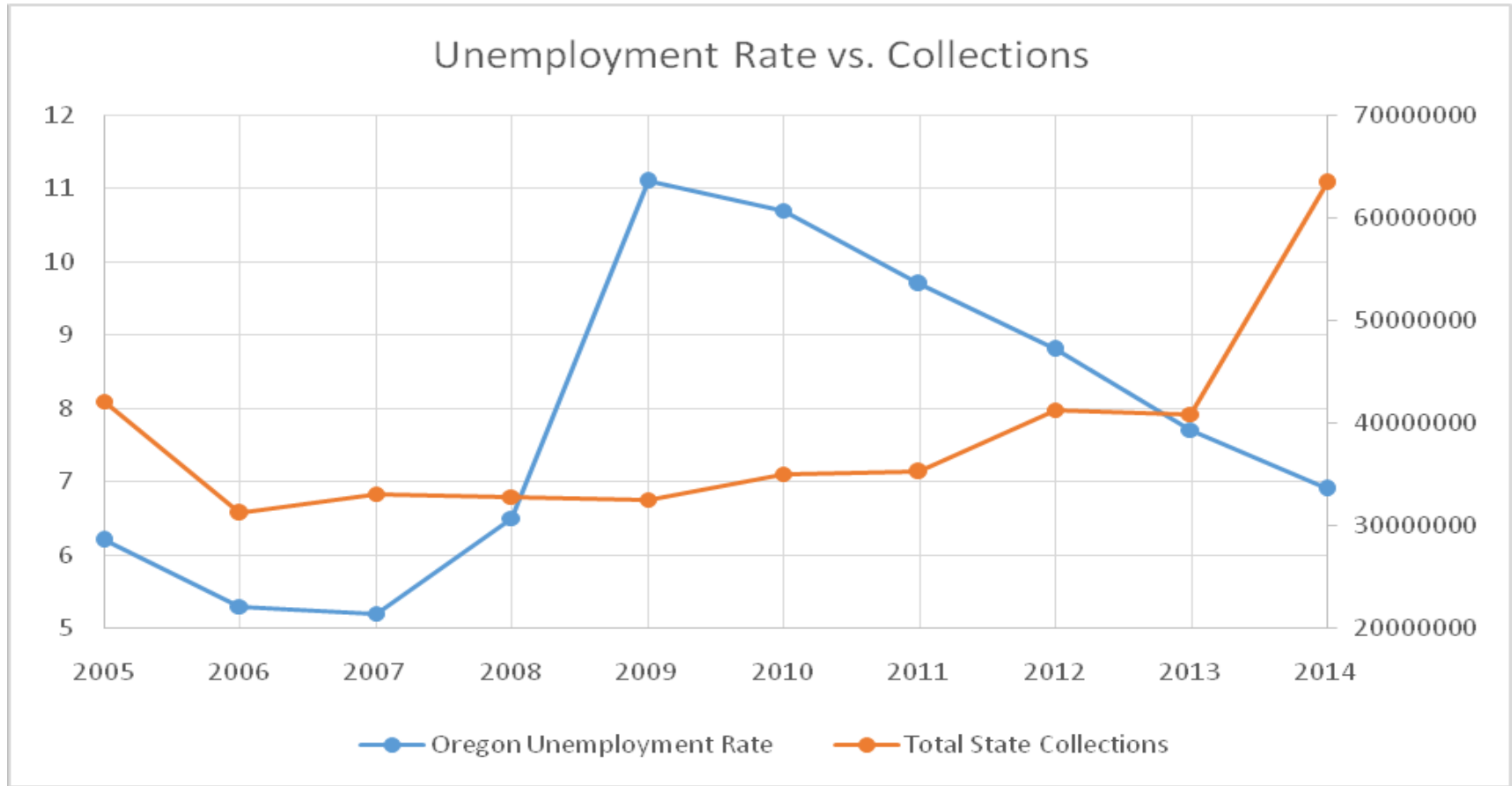


Note that the dashed line represents what the FY 2008 collections would have been without the \$42 million in Kicker offsets. The chart only reflects a history with the annual unemployment rate as high as 8.1%, as of February 2009 Oregon's unemployment rate was already 10.8% (preliminary) and expected to go higher. The impact of a potential double digit annual unemployment rate on collections is unknown.

This is what OAA can do for you – how about the Federal offset?

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Obstacles & Opportunities



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Obstacles & Opportunities

- Is there continued agency interest? ~ Yes!
 - Identified the interested parties (Agency SMEs)
 - Met and discussed the situation and the issues
 - Brainstormed and prioritized a list of the issues
- Issues List ~ How do we address the issues?
 - A project was established
 - Drive the prioritized issues established by the SMEs
 - Offered support from the COO
 - A Project Manager is assigned and working
 - And establish support via the ELT
- Documentation?
 - Create a Prioritized Issues List - Done
 - Develop a “Charter” document to guide the process – Done
 - Share supporting documentation (CAFR, LFO Report, etc.)

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- What the **Charter** Does
 - **Specifies Project Sponsor:**
 - Brian DeForest, Deputy Chief Financial Officer, DAS
 - Kris Kautz, Deputy Director, DOR
 - **Issues a Problem Statement**
 - Identify best practices and improve business processes and A/R Management across the enterprise
 - Need to address training on existing policy and practices
 - Facilitate a broader understanding of A/R Management practices
 - **States the Project Purpose**
 - Identify and implement policy and process changes to develop an enhanced A/R Management process.
 - Result = improved collection practices and accuracy in reporting
 - **Provides the Project Scope, Approach, & Duration**
 - With a proposed activity timeline & proposed Governance Structure

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- What the **Charter** Does . . . (continued)
 - **Expected Outcomes**
 - Updated policies, procedures, and business process improvements
 - Improved interagency/intragency discussion on the A/R accounting & collection cycle
 - Enriched training plan for managers, accountants, and collectors
 - Create a more rigorous process to identify what debts should be collected and what should be written-off
 - Seek some level of parity between CAFR numbers & the LFO Report
 - **Customer Impact**
 - Agency personnel will observe some changes to policies, procedures, and business practices
 - **Key Stakeholders**
 - Maintain good outreach and communication practices
 - Include active participation and communications from numerous state agencies, LFO, SOS Audits, IMG, DOR's OAA Unit, PCFs, Oregon Counties, and other state or legislative policymakers

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- What the **Charter** Does . . . (continued)
 - **Engagement Planning**
 - As mentioned, the plan considers communications with key stakeholders including Legislators along with the LFO, the SOS Audits Division, IMG, and other interested parties as we move through various scenarios and outcomes
 - **Funding & Resources**
 - Project Management staffing is provided by the office of the DAS COO
 - **Delineates Project Risks**
 - Achieving agreement on policy updates and subsequent implementation
 - Availability of data for analysis and policy making
 - Impediments to standardization due to variations of laws, policy, systems, data structure, personnel, resource capacities, etc.
 - Inability to fund change / improvements
 - **And Relate the Risk of Doing Nothing**
 - Overstatement of collectability of debt in LFO Report
 - Reduced collection efficiency
 - Continued fragmentation of collection effort and debt reporting

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- What Agencies indicate is important . . .
 - Networking
 - **Central Coordination –**
 - **A Work Team that . . .**
 - Updates the enterprise and agency policy
 - Balances policy versus costs
 - Seeks to identify and use available resources (i.e. Fed TOPS)
 - Establishes a cost effective and available list of tools
 - Analytical / Operational Tools
 - **Scoring algorithms that better triage account work flow**
 - And also assist with when an account should be written-off
 - **Establishing de minimis amounts and processes**
 - **Phones and phone automation**
 - **Customer Relationship Management (CRM) software**
 - **Modernize and diversify billing and payment processes**

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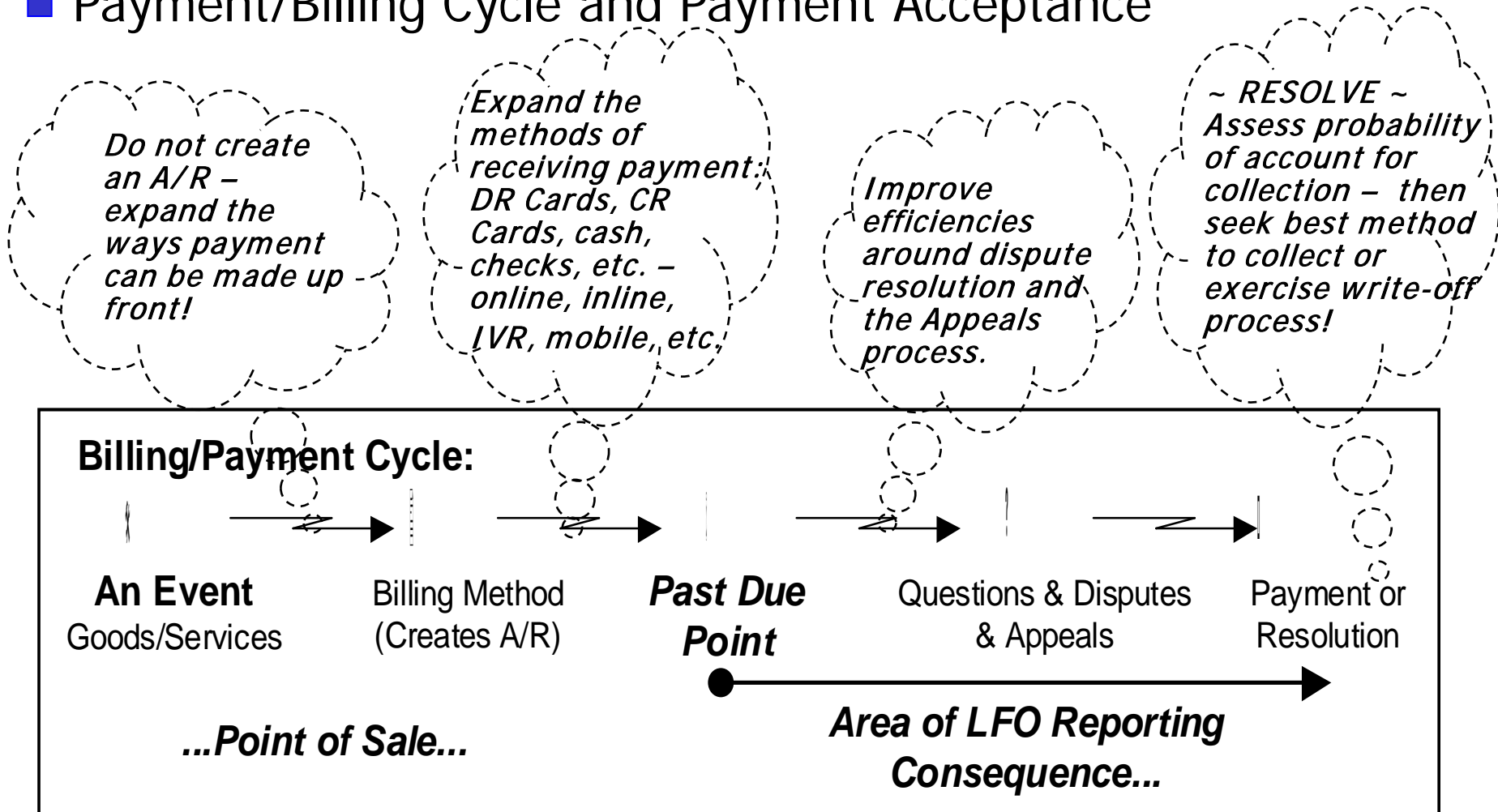
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- What Agencies indicate is important . . . (continued)
 - Centralization & Consolidation
 - **Is a statewide CRM software viable?**
 - **Assist small agencies with workflow procedures**
 - Agency collection practices
 - How to make better use of DOR's OAA unit and PCFs
 - More centralized training and education
 - Payment Acceptance
 - **Improved automation – 21st century practices**
 - **Agency use of debit and credit cards**
 - Both in-house and with online acceptance – maybe IVR?
 - **Study an enterprise approach to payment acceptance**
 - Create a “Pay It Here” – One stop online payment site
 - Deal with associated “cost-of-collection” costs through the budget process

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■ Payment/Billing Cycle and Payment Acceptance



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- What Agencies indicate is important . . . (continued)
 - Legal Framework
 - **What can be done to streamline laws?**
 - **What can be done to track debtors, protect the debt?**
 - **What legislation might help? (More Tools)**
 - Statewide Lien Registry proposal
 - Use of the Federal TOPs program will take state legislation
 - Reality Versus Perception
 - **How do we reconcile CAFR debt versus LFO debt?**
 - Improve understanding and use of the Write-Off process
 - Improve understanding and application of the “Allowance For Doubtful Accounts”
 - Seek parity and better understanding of the numbers being reported
 - **Performance Measures**
 - How do we better assess agency collection efficiencies in an enterprise with a huge diversity of laws, systems, procedures, resources, etc.

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- **Conclusions:**
 - **A/R Management Education Including Terminology and Acronyms**
 - CAFR, Accounts Receivable, Allowance for Doubtful Accounts, Liquidated and Delinquent Accounts, Bad Debts, Write-Offs, Compromise, Settlements, Cancellation, and so-on and Etc.
 - **Need for centralization, facilitation, and oversight**
 - Statewide policies and procedure updates
 - Education and Training – laws, policy, terminology, and business practices
 - Exploration of . . .
 - Streamlining current business practices
 - Creating new and improved business practices
 - Understanding and using the “cost of collection” as a management tool
 - **Payment Acceptance**
 - Improved automation – 21st century business practices
 - Targeting the cost of payment processes through the budget process
 - **Legislation**
 - Explore the use of improved tools and fresh A/R management options
 - Deal with associated “cost-of-collection” costs through the budget process



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Thank you for your attention.

Questions?