ann

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

06-Aug-1996 08:21am

TO: Carol H. Rasco

FROM: Jeremy D. Benami
Domestic Policy Council

CC: Diana M. Fortuna
CC: Dorothy K. Craft

SUBJECT: fyi re ebt

Diana is looking into EBT and will let us know what happened with it.

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

05-Aug-1996 03:37pm

TO: Jeremy D. Benami
TO: Dorothy K. Craft

FROM: Diana M. Fortuna
Domestic Policy Council

SUBJECT: ebt

i am trying to puzzle out where welfare reform leaves us on EBT, but haven't figured it out yet. I think food stamps will still be subject to Reg E, but not other programs.

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

05-Aug-1996 03:17pm

TO: Diana M. Fortuna

FROM: Dorothy K. Craft
Domestic Policy Council

SUBJECT: fyi

a woman who works w/EBT called to discuss w/ jeremy her concerns re: how EBT is affected by Welare Bill ... I listened and said I'd forward her name/# to anyone else who might be interested (but didn't give your name).

Barbara Leyser 301-585-2513

she consults the natl consumer law center, but works mostly from her home (above #).

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

05-Aug-1996 10:58am

TO: (See Below)

FROM: Thomas P. Stack

SUBJECT: Re: ebt and welfare reform

Message Creation Date was at 5-AUG-1996 10:56:00

According to the bill welfare reform bill as passed, the rules of the Federal Reserve do not apply to States. However, the bill also states that Federal, State and local consumer protection laws are not changed or modified. This means that for Food Stamps we can regulate. Most of the principles relating to lost or stolen cards, e.g. no client liabiltiy after client notification, that we preferred to elimination of Regulation E, are contained in USDA regs.

The consumer groups are dissappointed in the outcome, but appeciate our efforts. We will need their help in that retailers are stepping up the pressure to allow for surcharging at ATMs for EBT benefits.

Distribution:

TO: FORTUNA_D

CC: RADZIKOWSK_J
CC: APFEL_K
CC: DESEVE_G
CC: BESSIN_J
CC: Alan B. Rhinesmith

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

26-Jul-1996 04:49pm

TO: Diana M. Fortuna

FROM: Thomas P. Stack
Office of Mgmt and Budget, GGF

CC: Kenneth S. Apfel
CC: G. Edward DeSeve
CC: John S. Radzikowski

SUBJECT: RE: Is Reg E stuff in welfare reform??

The Reg E provision in the House and Senate Welfare Reform bill would amend the Electronic Funds Transfer Act to prohibit the Federal Reserve Board from making any rules governing States on the use of EBT. The bill also provides that Federal, States, and local government laws to protect consumers is not affected.

The the provision does not meet the principles of a compromise that we had worked out with the consumers and a few of the states.

We are working with Ed Barron, Senate Ag Comm. staff minority, to fix in conference. It's going to be tough. The consumer groups have developed some fairly simple language to fix and gave it to him today.

EBT

COMMITTEE ON HUMAN RESOURCES
HR-34
Exemption of State and Local Electronic Benefits Transfer Systems From Regulation E

Proposal:
HR-34 is a *new* NGA proposal which would exempt state and local Electronic Benefit Transfer (EBT) systems from Regulation E. Under Reg E, states and localities would be required to replace lost and stolen EBT benefits even when the benefit is fully federally financed. These systems were placed under Reg E by a recent Federal Reserve Board decision which equates states and localities with financial institutions and public assistance recipients with debit-card holders. NGA argues that this is an unnecessary and unfunded federal mandate and that states will not implement EBT unless exempted.

Administration Position:

- *AGREES that states and localities should not be equated with commercial banks.*
  States and localities do not have the means available to commercial banks to raise revenue to cover the cost of compensation for lost/stolen benefits. Further, unlike financial institutions, states and localities cannot deny EBT services to negligent consumers unless they have an alternate means of distributing benefits.
- *HOWEVER, states should still have some responsibility to protect individual consumers.*
  While the relationship between states/localities and EBT recipients does not parallel that of financial institutions and debit card holders, EBT recipients must be afforded adequate protection against no-fault loss of benefits (e.g., forced withdrawal, system errors, transactions which occur after a card has been reported lost/stolen).
- *CONCLUDES that the administrative costs of Reg E compliance would be much lower than initially estimated.*
  While an initial study by the Department of the Treasury predicted liability and administrative costs as high as $800 million annually, a more thorough empirical review by the Department of Agriculture estimates compliance costs to be $25-$75 million.
- *BELIEVES common ground can be found by sharing responsibility between consumers, the states, and federal government.*
  After working closely with some states and consumer groups, the Administration believes that--rather than a complete exemption from Reg E--legislation can be designed to protect and address the needs of both states and recipients.
  - *STRONGLY PREFERS a compromise for sharing responsibility based on 4 principles:*

  1. **Responsibility Standard** - recipients should be liable for unauthorized transactions involving a valid access device, or EBT card, and PIN; recipients should not be liable for unauthorized transactions occurring after system error, reporting a missing card or a compromised PIN, or in cases of forced use when recipients agree to prosecute.
  2. **Addressing Recipients' Needs** - EBT systems should address the special needs of recipients by providing toll-free hotlines, PIN selection on demand, and other services.
  3. **Administrative Controls to Prevent Loss** - states may want to provide an alternate method of accessing benefits for negligent recipients, and impose a reasonable fee on replacement cards.
  4. **Shared Federal and State Financing** - the federal government will share responsibility for EBT-related administrative costs and for reimbursing recipients in cases of system errors or forced benefit withdrawals.

COMMITTEE ON HUMAN RESOURCES
HR-34
Exemption of State and Local Electronic Benefits Transfer Systems From Regulation E

Proposal:
HR-34 is a *new* NGA proposal which would exempt state and local Electronic Benefit Transfer (EBT) systems from Regulation E. Under Reg E, states and localities would be required to replace lost and stolen EBT benefits even when the benefit is fully federally financed. These systems were placed under Reg E by a recent Federal Reserve Board decision which equates states and localities with financial institutions and public assistance recipients with debit-card holders. NGA argues that this is an unnecessary and unfunded federal mandate and that states will not implement EBT unless exempted.

Administration Position:

- *AGREES that states and localities should not be equated with commercial banks.*
  States and localities do not have the means available to commercial banks to raise revenue to cover the cost of compensation for lost/stolen benefits. Further, unlike financial institutions, states and localities cannot deny EBT services to negligent consumers unless they have an alternate means of distributing benefits.

- *HOWEVER, states should still have some responsibility to protect individual consumers.*
  While the relationship between states/localities and EBT recipients does not parallel that of financial institutions and debit card holders, EBT recipients must be afforded adequate protection against no-fault loss of benefits (e.g., forced withdrawal, system errors, transactions which occur after a card has been reported lost/stolen).

- *BELIEVES common ground can be found by sharing responsibility between consumers, the states, and federal government.*
  After working closely with some states and consumer groups, the Administration believes that--rather than a complete exemption from Reg E--legislation can be designed to protect and address the needs of both states and recipients.

  - *STRONGLY PREFERS a compromise for sharing responsibility based on 4 principles:*

  1. **Responsibility Standard** - recipients should be liable for unauthorized transactions involving a valid access device, or EBT card, and PIN; recipients should not be liable for unauthorized transactions occurring after system error, reporting a missing card or a compromised PIN, or in cases of forced use when recipients agree to prosecute.
  2. **Addressing Recipients' Needs** - EBT systems should address the special needs of recipients by providing toll-free hotlines, PIN selection on demand, and other services.
  3. **Administrative Controls to Prevent Loss** - states may want to provide an alternate method of accessing benefits for negligent recipients, and impose a reasonable fee on replacement cards.
  4. **Shared Federal and State Financing** - the federal government will share responsibility for EBT-related administrative costs and for reimbursing recipients in cases of system errors or forced benefit withdrawals.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

LRM NO: 4777

FILE NO: 1486

6/17/96

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 8

TO: Legislative Liaison Officer - See Distribution below:

FROM: James JUKES (for) Assistant Director for Legislative Reference

OMB CONTACT: Ronald JONES 395-3386 Legislative Assistant's Line: 395-3454
C=US, A=TELEMAIL, P=GOV+EOP, O=OMB, OU1=LRD, S=JONES, G=RONALD, I=E
jones_re@a1.eop.gov

SUBJECT: Office of Management and Budget Proposed Testimony on POSSIBLE IMPACT OF REGULATION E ON ELECTRONIC FUNDS TRANSFER ACT

DEADLINE: 3:00 pm Tuesday, June 18,1996

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

DISTRIBUTION LIST:

AGENCIES:
7-AGRICULTURE - Marvin Shapiro - 2027201516
6-AGRICULTURE, CONG AFFAIRS - Vince Ancell (all testimony) - 2027207095
47-Federal Reserve - Donald J. Winn - 2024523456
52-HHS - Sondra S. Wallace - 2026907760
110-Social Security Administration - Judy Chesser - 2024827148
118-TREASURY - Richard S. Carro - 2026221146

EOP:
Elena Kagan
Ellen Seidman
Ira Fishman
✓Paul Weinstein
Mark Mazur
Lisa Kountoupes
Alice Shuffield
Steve Aitken
Karen Kizer
Jim Murr
Tom Stack
Ed Brigham
Jim Radzikwski
Jim Beeson
Tim Fain
Alan Rhinesmith
Harry Meyers
Stacy Dean
Lester Cash
Ed Lau
Melinda Haskins
Art Stigile

Ken Apfel
✓Bruce Reed
✓Diana Fortuna
Mary Cassell

Maya Bernstein
Barry White
Keith Fontenot
Richard Green
Laura Oliven

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

LRM NO: 4777

FILE NO: 1486

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.
If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.
You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Ronald JONES 395-3386
Office of Management and Budget
Fax Number: 395-3109
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: Office of Management and Budget Proposed Testimony on POSSIBle IMPACT OF REGULATION E ON ELECTRONIC FUNDS TRANSFER ACT

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: ______________

_____ FAX RETURN of ____ pages, attached to this response sheet

********** DRAFT **********

STATEMENT OF

G. EDWARD DESEVE

CONTROLLER

OFFICE OF MANAGEMENT AND BUDGET

OFFICE OF FEDERAL FINANCIAL MANAGEMENT

BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT OF THE
COMMITTEE ON BANKING AND FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

REGARDING THE POSSIBLE IMPACT OF APPLYING THE
FEDERAL RESERVE'S REGULATION E UNDER THE
ELECTRONIC FUNDS TRANSFER ACT TO BENEFIT PROGRAMS

JUNE 19, 1996

****** DRAFT ******

Statement of G. Edward DeSeve

Controller
Office of Management and Budget
Office of Federal Financial Management

Before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services

Regarding the Possible Impact of Applying the Federal Reserve's Regulation E under the Electronic Funds Transfer Act To Benefit Programs

INTRODUCTION

Thank you Madam Chairwoman. As Controller of the Office of Federal Financial Management in the Office of Management and Budget (OMB), I work on Electronic Benefits Transfer (EBT) with other offices in OMB and with program and financial management officials in the Departments of Agriculture, Health and Human Services, and the Treasury, as well as the Social Security Administration. The Administration appreciates the opportunity to testify before you today on the impact of applying the Electronic Funds Transfer Act, and its implementing regulation, Regulation E, to benefit programs operating EBT systems. Our goal is to build a nationwide EBT systems by 1999 that uses one card, is user friendly, and provides recipients with dignity, security, and access. We propose to do this by promoting individual responsibility to minimize fraud and abuse in EBT systems.

CUSTOMIZING CURRENT LEGISLATION

Recently, I testified before the Committee on implementing a single-card EBT system, partnering with States and using the commercial infrastructure. EBT is a payment method similar to Direct Deposit except that it serves those recipients who receive in-kind benefits, cannot afford commercial banking, or otherwise do not have bank accounts. However, due to the unique characteristics of EBT systems and the populations they serve, existing consumer protection legislation does not adequately meet the needs of participants in EBT systems, nor does it provide States the needed authority to prevent fraudulent claims. Still, many provisions of current law and regulation provide valuable consumer rights to all bank customers and should be applied to EBT systems.

As such, we would propose that existing consumer protection legislation can be customized for those EBT accounts that are not owned by the recipient, to strengthen the relationship between the State and the benefit recipient. For EBT accounts in Federally-administered EBT programs, where an account is in fact owned by the benefit recipient, existing legislation is adequate.

WHY CHANGE IS NEEDED

The current provision of law for unauthorized funds transfers is not adequate for EBT accounts owned by States for three reasons: (1) States are concerned about unlimited liability arising from repeated losses, fraudulent or otherwise, in accounts that they cannot close, (2) if there is a problem of unauthorized withdrawals from the EBT account, the State currently is obligated to reimburse and continue its relationship with the recipient, and (3) recipients of means-tested programs generally cannot afford the $50 co-insurance payment provided for under current law. The Federal Reserve Board recognized these concerns when it established a moratorium on the application of Regulation E to EBT systems until March, 1997.

Under current law, a financial institution has the discretion to determine to which consumers it wants to offer electronic funds transfer services. If there is a problem of unauthorized withdrawals with a commercial account, a financial institution may simply no longer offer electronic funds transfer services to a given consumer.

If there is a problem with an State EBT account, the State must continue its relationship with the recipient. Without a backup paper system, this means recipients of in-kind benefits, such as food and nutrition assistance, will continue to participate in EBT. In these State-administered programs, a monthly fee is paid for by the State pays for the account. While the State owns the account, the recipient is responsible for safeguarding the card and PIN. States are concerned that current legislation does not provide recipients with sufficient incentive to prevent losses. As a result, States fear they will be stuck paying monthly fees that are higher than necessary.

ACTION FORCING MECHANISM

Many States have organized in regional alliances to implement EBT, such as the Southern Alliance of States, the Northeast Coalition of States, and the Western Coalition of States. I have attached to my testimony a list of the EBT alliances and their member States. States in the three coalitions I have mentioned are scheduled to begin rolling-out their EBT systems next March, provided, that there is a solution to the problem of consumer protections. The alliances are concerned about proceding given the impending end of the moratorium.

COMMON GROUND

To address these concerns, we have been working closely with States in these alliances and with consumer groups to find common ground that encompasses those rights that should be applied to EBT while addressing those factors that make State-owned EBT accounts different from consumer owned accounts. We believe that many

States and consumer groups can agree on the common ground of the following four principles:

1. A Responsibility Standard;
2. Addressing Recipients Needs;
3. Administrative Controls to Prevent Losses; and
4. Shared Federal and State Financing.

First--a responsibility standard. To avoid the potential for unlimited liability, in general, the recipient should be liable for unauthorized transactions involving a valid access device, or EBT card, and PIN. The recipient should not, however be responsible for those losses that occur after the recipient has reported the EBT card is missing, the PIN compromised, or that continued access is denied to a person previously authorized to use the EBT card. The responsibility standard should not apply in cases of forced initiation, that is, when force is used prior or incident to the withdrawal, *if* the recipient is willing to cooperate in the prosecution of the person who used the EBT card. In such, case, the recipient should be reimbursed in full. The responsibility standard should not apply in cases where a valid access device and PIN were not used, such as systems errors.

Second--To accommodate the responsibility standard and the unique recipient population, EBT systems should be designed to respond to recipient needs that current law does not require financial institutions to address. EBT systems should include a toll-free hotline, easily accessible 24 hours a day and 7 days a week for recipients to call and request that account access from their access devices be blocked. States should provide recipients with adequate notice, and training as needed on-demand, of how the system works. States should also allow PIN selection on-demand to discourage recipients from writing down the PIN on or near the access device. States should conduct an investigation before denying any claim. And claim denials should be subject to fair hearing review, at the request of the recipient, to ensure proper procedures were followed in the investigation and determination.

Third--Administrative cost controls to prevent unauthorized funds transfers and claims. Based on a State's experience with a given recipient, the State, or its agent, may want to provide a recipient with an alternative method of accessing benefits. As an incentive to safeguard access devices and PINs, a State may want to impose a fee on replacement cards that reflects the reasonable cost of producing and distributing the card.

And finally--Shared Federal and State government financing of the cost of providing these consumer protections for State-administered Federal programs. Almost all of the costs associated with providing these consumer protections are considered administrative costs for the purposes of Federal reimbursement, generally at 50 cents on the dollar. The remaining costs involve replacing benefit losses only as described above, such as in some cases of systems error or when the withdrawal was initiated through force.

The Federal government should participate in funding these replacement because the electronic EBT environment is much more secure than the paper environment. In paper benefit delivery systems there is a negotiable instrument, such as a check or food coupon, which can be lost or stolen after it is in the recipient's possession. EBT is like a vault with two keys: the card and PIN. Because the card and the PIN must be used together to withdrawal funds, many losses that could have occurred in the paper environment, after the recipient is in possession of the funds, are *prevented* with EBT. In general, the government will only be liable for EBT losses that are not the fault of the client. This includes new situations, not the fault of the client, but for which there is no analogue in the paper environment, such as forced initiation of a withdrawal.

CONCLUSION

States and recipient advocates have expressed concerns that current law is not sufficient to protect States and recipients from potential liability in EBT systems. We believe that customizing current legislation to reflect four principles will address the needs of both States and recipients alike. These principles are:

- a responsibility standard;
- Addressing recipients needs;
- administrative controls to prevent losses; and
- shared financing.

We believe that adopting a customized approach, based on these four principles is far preferable to a complete exemption from Regulation E. The customized approach gets EBT done and advances the our partnership with States, particularly in the area of financing. The customized approach minimizes the potential for fraud and abuse. The customized approach basically eliminates State liability when the card and PIN were used. And the customized approach encompasses many basic consumer standards that all consumers enjoy today. A complete exemption leaves these issues unresolved and in fact only adds new issues as each State must now create consumer protections *de novo*.

Δ between customized approach & Reg E?

This is not Reg E!

We hope that many of the States and advocates testifying today will repeat this message and provide more description of this common ground. We are available to work with Committee staff in developing bill language that includes the principles we have articulated. Again, thank you for this opportunity to testify before you on EBT.

NATIONAL GOVERNORS' ASSOCIATION

Tommy G. Thompson
Governor of Wisconsin
Chairman

Bob Miller
Governor of Nevada
Vice Chairman

Raymond C. Scheppach
Executive Director

Hall of the States
444 North Capitol Street
Washington, D.C. 20001-151
Telephone (202) 624-5300

1996 Annual Meeting

COMMITTEE ON HUMAN RESOURCES

Governor Arne H. Carlson, Chair
Governor Tom Carper, Vice Chair

Nolan E. Jones, Group Director

Proposed Changes in Policy

Reaffirmation of Existing Policy

New language is typed double-spaced and in ALL CAPS, with deleted material lined-throughout (—).

fax 5-6889

Tom Stack understand prob
5-1457
Strike bal states + reqs
Define + compromise

If bill, standalone; mandatorily sd bec mo

Moratorium expires soon

Compromise: consumers + some states moving to integ EBT in
Better than status
for const states clearly
define consumer oblig to act [illegible]
Count test
+ bec Fed govt would share in cost
normal [illegible]

Diane

HR-34. EXEMPTION OF STATE AND LOCAL ELECTRONIC BENEFITS TRANSFER SYSTEMS FROM REGULATION E

34.1 **PREAMBLE**

STATES HAVE BEEN AT THE FOREFRONT OF USING INNOVATIVE TECHNOLOGY TO IMPROVE THE DELIVERY OF PUBLIC SERVICES AND REDUCE FRAUD AND ABUSE. IN RECENT YEARS, STATES AND LOCALITIES HAVE PILOTED THE USE OF ELECTRONIC BENEFITS TRANSFER (EBT) AS A MEANS OF PROVIDING RECIPIENTS OF FOOD STAMPS AND CASH ASSISTANCE WITH A MORE CONVENIENT AND SECURE METHOD TO ACCESS BENEFITS. EBT ALSO HELPS REDUCE FRAUD, IMPROVE PROGRAM MANAGEMENT, AND REDUCE ADMINISTRATIVE COSTS. CURRENTLY, ALMOST EVERY STATE HAS PLANS TO IMPLEMENT EBT STATEWIDE WITHIN THE NEXT THREE YEARS FOR A VARIETY OF PROGRAMS, INCLUDING FOOD STAMPS, CASH ASSISTANCE, THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC), GENERAL ASSISTANCE, CHILD CARE, CHILD SUPPORT, AND SUPPLEMENTAL SECURITY INCOME (SSI). STATES HAVE INDICATED THAT THEY WILL NOT GO FORWARD WITH EBT, HOWEVER, IF THE DECISION BY THE FEDERAL RESERVE BOARD TO APPLY REGULATION E OF THE ELECTRONIC FUNDS TRANSFER ACT TO STATE AND LOCAL EBT PROGRAMS GOES INTO EFFECT AS SCHEDULED IN MARCH 1997. *

34.2 **REGULATION E CREATES AN UNFUNDED MANDATE** *

REGULATION E WOULD REQUIRE THAT STATES AND LOCALITIES REPLACE LOST AND STOLEN BENEFITS EVEN WHEN THE BENEFIT IS FULLY FEDERALLY FINANCED, SUCH AS FOOD STAMPS. REGULATION E WOULD CREATE A NEW ENTITLEMENT TO THE REPLACEMENT OF BENEFITS FOR EBT CLIENTS, AN ENTITLEMENT THAT CLIENTS WHO RECEIVE THOSE SAME WELFARE BENEFITS IN CASH OR COUPONS DO NOT HAVE. A U.S. DEPARTMENT OF TREASURY STUDY ESTIMATED THAT THE LIABILITY AND ADMINISTRATIVE COSTS THAT WOULD RESULT FROM THIS NEW MANDATE TO STATE AND LOCAL GOVERNMENTS COULD BE AS HIGH AS $800 MILLION ANNUALLY. * 25-75m

Tom Stark too high

THE GOVERNORS BELIEVE THAT THE REPLACEMENT OF BENEFITS AND LIABILITY FOR REPLACEMENT UNDER AN EBT SYSTEM SHOULD BE SIMILAR TO POLICIES IN EFFECT FOR A COUPON OR PAPER ISSUANCE SYSTEM.

USDA through prop people

CURRENT PROGRAM REGULATIONS HOLD RECIPIENTS ACCOUNTABLE FOR THEIR BENEFITS AND DO NOT REQUIRE THE REPLACEMENT OF BENEFITS EXCEPT UNDER LIMITED CIRCUMSTANCES.

THE FEDERAL RESERVE BOARD DECISION EQUATES STATES AND LOCALITIES WITH FINANCIAL INSTITUTIONS, AND PUBLIC ASSISTANCE RECIPIENTS WITH DEBIT-CARD HOLDERS. UNLIKE BANKS, HOWEVER, STATES CANNOT LEVY FEES, SERVICE CHARGES, OR INTEREST TO OFFSET THE INCREASED LOSSES BECAUSE OF REGULATION E. STATES ALSO CANNOT DENY BENEFITS TO ELIGIBLE INDIVIDUALS, THOUGH BANKS CAN DENY SERVICES TO ANYONE FOR ANY REASON. (1) (2)

STATES AND LOCALITIES THAT HAVE IMPLEMENTED EBT WITHOUT REGULATION E PROVIDE RECIPIENTS WITH MANY CONSUMER PROTECTIONS. FOR EXAMPLE, PERSONAL IDENTIFICATION NUMBERS (PIN) PREVENT THE UNAUTHORIZED USE OF CARDS, AND TWENTY-FOUR-HOUR HOTLINES ARE AVAILABLE TO REPORT LOST OR STOLEN CARDS IMMEDIATELY. THESE APPROACHES BALANCE CONSUMER PROTECTIONS WITH PERSONAL RESPONSIBILITY WITHOUT IMPOSING AN UNDUE FINANCIAL BURDEN ON STATES OR RECIPIENTS.

34.3 RECOMMENDATION

THE GOVERNORS OPPOSE THE UNFUNDED MANDATE THAT IS CREATED BY THE LIABILITY PROVISIONS OF REGULATION E. BECAUSE CONGRESS HAS NOT DEMONSTRATED A WILLINGNESS TO FUND THIS MANDATE, THE GOVERNORS STRONGLY RECOMMEND THAT CONGRESS AND THE ADMINISTRATION MOVE QUICKLY TO ADOPT LEGISLATION THAT WOULD EXEMPT STATE AND LOCAL EBT PROGRAMS FROM REGULATION E OF THE ELECTRONIC FUNDS TRANSFER ACT. THE GOVERNORS ARE EAGER TO IMPLEMENT EBT IN THEIR STATES, BUT WITHOUT THIS EXEMPTION, STATES WILL NOT BE ABLE TO MOVE FORWARD WITH EBT.

Interim Policy adopted by the NGA Executive Committee, June 7, 1996.
Time limited (effective Annual Meeting 1996–Annual Meeting 1998).

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

08-Jul-1996 01:30pm

TO: (See Below)

FROM: Jeremy D. Benami
Domestic Policy Council

SUBJECT: NGA Policies

As mentioned at this morning's staff meeting, we need to do a quick analysis of the NGA policies to be considered at the upcoming NGA summer meeting.

For those of you who have done these in the past, it is easiest to use a common format - laid out below. For those of you not at the meeting this morning, the analyses we do help our administration representatives at the Committee meetings to understand what issues we may have with the proposal being considered.

You do not need to do a detailed analysis of the proposal in its entirely. What you need to focus on are what the main problems we might have with the policies are - i.e., any proposals that are in direct conflict with administration policy. Staff of the various governors will be looking to our reps at the meeting for guidance on where the administration is - and these sheets that you prepare may be the only information our people have (Marcia, John Emerson, etc.).

If there is no problem with the policy from our perspective, then your sheets can be extremely brief!! However, if there is a serious issue, please devote the appropriate amount of space to describing the issue.

FORMAT:

COMMITTEE
RESOLUTION NUMBER (e.g. HR-4)
RESOLUTION NAME

Brief Description of Proposal:

(try to limit this to one sentence or one paragraph describing what the policy is)

Brief Description of Change:

(what is the change that is proposed to current NGA policy - i.e., is this a radical reversal, reaffirmation, amendment, etc.)

Administration Position:

(can be brief, i.e., administration in full support or longer if there are significant issues)

This entire format does not need to be more than a page in most cases.

DENNIS: Let's talk this afternoon about how to get this done while you are out of town. I have an idea.

Please call with questions. With Dorothy out, Micah will be calling to track these down.

Thanks.

Distribution:

TO: Michael Cohen
TO: Dennis Burke
TO: Jeanine D. Smartt
TO: Lyndell Hogan
TO: Diana M. Fortuna
TO: Diane Regas
TO: Christopher C. Jennings
TO: Jennifer L. Klein

CC: Carol H. Rasco
CC: Elizabeth E. Drye

EBt: Yvette Jackson: request from task force formed 1 1/2 eyars ago report to VP re feas of national EBT . Still exists, chaired by OMB Ken A; (also Ellen, Betty James)

1. IEI controversy: state initiated ebt systems with rfps that they approved; share costs 50-50; thru task force, 9 southern states alliance to do not just state but also federal; Treasury taken position that federal benefits can only be thru IEI (invit for express of interest), not RFP, can apply; basis for lawsuit we expect decision today

2. Letter to Sen. Lugar (Haas, Apfel, James on behalf of TF); same letter to Leahy, Cong. Roberts, de la Garza on House Agriculture; and to state work group members of EBT task force

Letter says Reg E should apply to EBT; they are afraid they will have to pay the cost if clients lose their cards; Reg E says that consumer protections; who is the card issuer? state? contractor? whoever it is must pay anything over $50 liability; applies to food stamps, AFDC; report loss within 24 hours

Proposed legis to exempt EBT from Reg E; was in HR4

Federal Reserve Board issued a ruling 1 1/2 years ago saying that EBT is no different; won't implement till 97; VP asked that it be delayed; now testing impact of Reg E; does it increase exposure?

consumers say: why should poor people get less protection? we've touted we will use the existing financial structure

compromise on additional admin controls: under what circs states could refuse to replace benefits; restrict use in certain locations

letter says right thing to do

6-2889

EBT 6/8/95

Reg for Expressions of Int

Treas – CR – out cuz regul,

Reg E – what fin'l

instits can do banking

servs other fin instit – sued

USDA → wider range

MD, etc. –

EBT TF

upset; can't use

Sherri Steisel

NCSL

Ellen Haas –

letter signed →

(regs due?)

– furious if so

what's happd

FEDERAL ELECTRONIC BENEFITS TRANSFER TASK FORCE
300 7th Street, S.W., Suite 501
Washington, D.C. 20024

EBT.

7 JUN 1995

The Honorable Richard G. Lugar
The United States Senate
Washington, D. C. 20510-1401

Dear Senator Lugar:

Enclosed is a copy of the May 1994, Federal EBT Task Force Report, "Creating a Benefit System That Works Better and Costs Less" outlining a strategy for nationwide EBT. Two key points of that strategy are that EBT be built on the existing commercial systems and that states have the flexibility and choice to pursue their own implementation of EBT based on their needs.

Many stakeholders involved in writing the report stressed the critical importance of using commercially compatible systems across the states because these systems have already addressed and dealt with major issues such as avoiding excessive costs and unnecessary exposure to risk. Using the existing commercial systems will be cost efficient for the retailers because it will allow for a uniform operating environment and standardized EBT transaction processing.

States have a choice and need flexibility in implementing EBT to meet their state requirements. We want to work with the states as partners to develop and implement EBT in the most cost-effective and efficient way to save tax dollars and allow recipients to receive their benefits on-time and in a safe and accessible manner. We believe the Members of Congress and our stakeholders share these goals. However, we believe the language in HR 4 may hinder our ability to implement a successful nationwide EBT system.

Specifically, we are concerned with: "(B) Subject to paragraph (2), a State is authorized to procure and implement an on-line electronic benefit system under the terms, conditions, and design that the State deems appropriate, except that each electronic benefit card shall bear a photograph of the members of the household to which such card is issued."

The national EBT strategy, as outlined in the Report, features two converging paths and both paths are based on the existing system that supports commercial debit and credit cards. We expect to save taxpayers money by delivering benefits through this already established infrastructure. For this reason, we believe the language in HR 4 should be stricken.

BENEFIT SECURITY

R-99% 202 260 6910 06-07-95 02:24PM P002 #23

We believe the language in HR 4 concerning the elimination of Regulation E coverage for EBT should be removed. In the commercial infrastructure Regulation E is intended to provide consumer protection for participants in electronic funds transfer systems and sets limits on consumer liability for unauthorized account transfers.

While both federal and state agencies believe that EBT participants should be provided basic consumer protections, the controversy surrounding the application of Regulation E to EBT is in assuming liabilities of undetermined value. States are wary of potentially excessive liability resulting from fraudulent claims. For this reason, the Administration is exploring options such as legislation that will allow states and the Federal government to apply administrative controls in order to avoid losses due to fraudulent reporting of unauthorized fund transfers.

We believe that recipients should be afforded similar consumer protection as commercial customers. The EBT Task Force and members of the advocate community have been working together to develop administrative controls which we believe, if properly managed by the Government-designated card issuer, will provide such protection to government beneficiaries, while safeguarding the taxpayer from the possibility of excessive costs associated with Regulation E claims.

We would welcome an opportunity to meet with you to discuss these issues and other options more fully and determine how we can work with your Committee to eliminate the specific language in HR 4 on EBT.

Sincerely,

Kenneth S. Apfel Associate Director for Human Resources Office of Management and Budget Task Force Chair	Ellen Haas Under Secretary for Food, Nutrition and Consumer Service Agriculture Department Task Force Co-Chair	Elizabeth M. James Acting Assistant Secretary for Management and Budget Department of Health and Human Services Acting Task Force Co-Chair

Enclosure

EBT

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

08-Jun-1995 10:02pm

TO: Diana M. Fortuna

FROM: Carol H. Rasco
Economic and Domestic Policy

CC: Jeremy D. Benami
CC: Bruce N. Reed

SUBJECT: RE: intelligence on ebt issue

Diana, thanks. Since I know we will hear from Walt Patterson more than likely on this would you call him on Friday and tell him this latest piece about the liability and tell him I was just wondering if he had any thoughts on it. Don't worry if you don't know anything yet on the HCFA rules, you can always say you are working on that, which you are!

United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive
Alexandria, VA 22302

FOOD STAMP PROGRAM

DATAFAX COVER SHEET

DATE: 6/8/95

TO: Diana Fortuna

OFFICE:

PHONE:

FROM: Yvette Jackson

OFFICE:

PHONE:

SUBJECT:

REMARKS:

NO. OF PAGES INCLUDING COVER SHEET:

06-08-95 05:05PM FROM FOOD STAMP PROGRAM TO 92024567431 P001/004

Distribution List:

Senator Leahy, Ranking Minority Member
Committee on Agriculture Nutrition, and Forestry

Representative Pat Roberts, Chair
Committee on Agriculture

Representative de la Garza, Ranking Minority Member
Committee on Agriculture

Representative Bill Emerson, Chair
Subcommittee on Department Operations,
Nutrition, and Foreign Agriculture

Representative Gary Condit, Ranking Minority Member
Subcommittee on Department Operations,
Nutrition, and Foreign Agriculture

Michelle Meier
Consumers Union

Delores Smith
Federal Reserve Board

EBT Task Force Federal/State Work Group Members

Members of the Southern Alliance of States

EBT Task Force Principals and Executive Staff

EBT

TALKING POINTS ON REG E

WHAT IS THE CONTROVERSY SURROUNDING REG E AND EBT?

By Regulation E of the Electronic Funds Transfer Act, the bank customer's liability is limited to $50 prior to reporting the loss of an ATM card, with no liability after reporting the lost card.

The controversy surrounding the application of Reg E to EBT is in assuming liabilities of undetermined value. States worry about potentially excessive liability resulting from fraudulent claims.

WHAT IS THE ADMINISTRATION'S POSITION?

The goal of the Administration is to ensure that recipients are provided with the same basic consumer protections as commercial customers **without** opening the door to fraudulent claims of lost of stolen benefits that would be reimbursed under Reg E.

The Federal EBT Task Force and members of the participating agencies have been working with the recipient advocates to develop a set of administrative controls to help manage Regulation E liability. States have not participated in this effort since their position is to eliminate Reg E for EBT.

WHAT WILL THE ADMINISTRATIVE CONTROLS DO?

The administrative controls will provide basic consumer protections for recipients while safeguarding the taxpayer from the possibility of excessive costs associated with Reg E claims. Administrative controls include requiring that (i) claims be in writing, (ii) claimants give reasonable cooperation, and (iii) limited future access.

HAVE STATES BEEN BRIEFED ON THE ADMINISTRATIVE CONTROLS?

Yes. The Federal/State Work Group which is comprised of 8 officials from various states who meet with the EBT Task Force to discuss and vet EBT state partnership issues have received copies of the proposed administrative controls. The Federal/State Work Group met with the recipient advocates on February 8, 1995 and with the EBT Task Force principals on February 9, 1995 when the administrative controls were discussed as a strategy to help manage costs associated with Reg E liability.

The Work Group, and state association representatives also participated in regularly scheduled conference calls where the proposed administrative controls were discussed. The administrative controls were also included in the Invitation for

Expressions of Interest (IEI) which is the vehicle issued by the Treasury Department on March 9, 1995 to acquire EBT services for the Southern Alliance of States (SAS).

IS LEGISLATION NECESSARY?

Yes. The Administration is developing proposed legislation which it believes will resolve the Reg E controversy. Unless the advocates and the States compromise on this issue, EBT will lose momentum with either the States or with the advocates (who will say that the Federal government is unfairly discriminating between rich and poor).

The proposed legislation will follow the complete clearance procedure and input will be obtained from recipient advocates and states. The Administration should propose legislation dealing with the administrative controls within the next 30 days.

On June 7, 1995, the Task Force Chair and Co-chairs forwarded a letter to Senator Lugar which stated their concern with EBT-related language in HR 4 and requested a meeting to discuss other options for dealing with EBT and Reg E.

WHAT ARE THE NEXT STEPS?

1. A conference call is scheduled for Monday, June 12 at 2:00 pm with the EBT Task Force, state association reps, members of the Federal/State Work Group, SAS reps and participating agencies to discuss the letter to Senator Lugar and the proposed legislation.

2. Treasury and the EBT Task Force should complete bill drafing by June 16.

- Treas pt of JP TF on EBT.
- 2 ways to procure: reg or IEI:
  - Secy has auth to IEI where succes are significant
  - have auth to close w/c instit. are eligible.
  - auth to do this limited to banks.
- Not just a Treas decision - made as part of ~~the~~ i/A process
- Sued on Thursday by ________ (TT)
- F.R.O.: back in court this week.

IEI: safety soundness issue - want someone back by Fed Reserve

MEMORANDUM TO JEREMY BEN-AMI

FROM: DOROTHY
SUBJECT: TREASURY EBT UPDATE
DATE: MARCH 29

I've spoken with Sandy Mancini this morning. This is what she can tell us about the status:

1/ March 9 - invitations went out
2/ April 6 - when responses are due
3/ October - awards

Sandy is calling FMS about writing the memo. She's reticent to write Carol until she speaks with a Treasury attorney (John Bowman) about what Treasury can say in a regulatory matter. She plans on sharing information with us but wants to be cautious.

She said a problem would arise if we tried to change their process. I explained that is not our intention; we just want to know what's happening. She also asked if our problem is that only banks are being elicited. I assured her that we have no *problems*, but would just like to be better informed.

explain why

1 reasons why only banks

Sandy has place the calls into the appropriate people and is waiting on them to instruct her. I said we would write the memo if she gives us info., and I asked if we could receive a memo on what's not controversial while she's waiting to hear from the attorneys. She's not comfortable releasing any info. right now other than the above dates. She also said she hasn't heard about opportunities for the public to comment.

2 reasons why not other institution

3 What is the process for determining IEI rules: does involve any req'ts for public notice + comment?

PA$$ THE BUCK!

Sandy Mancini

622-0059

OLD MONEY®
RECYCLED U.S. CURRENCY

Electronic Funds Transfer Association

MEMORANDUM

To: EBT Industry Council Steering Committee

From: [illegible]

Re: RESPONSE TO IEI

Date: March [illegible]

Enclosed you will find the final proposed [illegible] the letter documenting the Council's concerns regarding the issuance of the IEI process. Please feel free to propose changes that you deem necessary.

We have just discovered that the IEI will be released early next week and that the opportunity to comment ends tomorrow afternoon. Given the time sensitivity of this document, it is important that I have all responses by 11:00 AM EST, tomorrow (March 3), so that if necessary, I can deliver the letter to the Department of Treasury. If I do not hear from you, I will assume you support the release of the letter.

Please return your response to 703/435-7157.

NAME ______________________________

☐ I support release of the letter

☐ I support release of the letter with the following changes

910 Herndon Parkway Suite [illegible] Herndon, Virginia [illegible]
Telephone 703.435.9800 Facsimile 703.435.7157

Electronic Funds Transfer Association

DRAFT

The Honorable Robert E. Rubin
Secretary
United States Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Mr. Secretary:

Vice President Gore's National Performance Review recommended improving the efficiency and effectiveness of government service delivery by pursuing the development of Electronic Benefits Transfer (EBT) for benefit payment programs. Initially, the effort to implement EBT nationally will focus on programs such as general assistance, food stamps, and AFDC. The full range of potential programs could include the electronic delivery of government benefits to veterans, students, retired civil servants, and the unemployed that would represent over $100 billion per year. The Electronic Funds Transfer Association (EFTA) and one of its working groups, the EBT Industry Council (Council) unanimously agree with this endeavor and wholeheartedly support the Administration's efforts to implement EBT nationally by 1999. However, the means being established to accomplish this worthwhile goal raise several profound public policy questions.

The Council has carefully reviewed issues such as procurement methodologies over the last several months and wishes to share the conclusions that were reached. Given the diversity of companies represented by the Council, broad consensus, rather than unanimity, was sought and achieved. In some cases, there was fundamental disagreement involving the proper roles of government, large financial institutions, and information processors--all of which were represented at various points in our discussions. Such disagreement is reflected in this document. Nevertheless, the Council hopes that this analysis will be beneficial to your deliberations.

Our focus here is on the acquisition process that the Federal EBT Task Force, in conjunction with the Department of Treasury, has proposed to procure EBT services from the private sector. With the notable exception of large financial institutions that support the Invitation to Express Interest (IEI) process, the majority of the Council has concluded that the proposed IEI process departs dramatically from the usual RFP process and works against the public good in several ways. Specifically, as this letter will outline, there are at least five reasons why the Council feels that the IEI process does not provide a suitable model or framework for achieving the Administration's goal of implementing a national EBT system by the end of the century. Those reasons are summarized as follows:

1. The IEI process unnecessarily limits competition for EBT contracts by precluding all but large depository financial institutions from acting as prime contractors. The IEI process, as currently being constructed, limits competition by qualifying potential bidders against certain criteria. Criteria are essential, but in this case the effect is that only large, federally insured depository institutions meeting specific capitalization requirements can submit a bid on EBT contracts. This precludes smaller banks, non-depository financial institutions, and non-financial institutions with expertise in EBT and information technology from acting as prime contractors and is not in keeping with Executive and Congressional intent to promote widespread private sector competition, as stipulated, for example, in the Competition in Contracting Act. Large financial institutions that participated in the debate within the Council argue that this restriction is appropriate, pointing out that only the stringent oversight requirements and fiduciary responsibilities that apply to insured financial institutions can provide the necessary level of protection to the recipient and government. Moreover, they argued, it would not be [illegible] to impose this level of regulation on other sectors, or to create the bureaucracy to implement it. The Council generally

950 Herndon Parkway Suite 390 Herndon, Virginia 22070
Telephone 703.435.9600 Facsimile 703.435.7157

DRAFT

disagreed with this argument, noting that, in most states, information service providers acting as prime contractors must secure performance bonds before EBT contacts are awarded.

2. The statutory authority cited by Treasury in support of the procurement restrictions imposed by the IEI process should not apply in the case of EBT, because EBT is more than purely a banking function. The IEI process has been used by Treasury to acquire financial and depository services for cash-based benefits that are direct federal payments. In these cases, Treasury relies on the National Bank Act of 1864 for authority, and the Department now intends to rely on the same authority to extend the IEI procedure for EBT acquisitions. Treasury holds that this law requires it to designate financial institutions as depositories of public money and to use them as financial agents by the government. The Council agrees that this sort of restriction would be appropriate if all that were involved in EBT is a pure banking or depository function, but not when applied to broader activities involving the use of large-scale information systems. The Council holds that the mere fact of transferring benefit payments electronically does not transform the food stamp and other benefit functions into banking functions to be controlled by the Treasury Department. Indeed, regulations issued by USDA's Food and Consumer Service (FCS) explicitly state that EBT systems are basically computer-based data processing systems and that acquisitions should be conducted in a manner that provides open competition among all service providers. The Council believes that there is substantially more to EBT projects than electronic funds transfers, including a range of non-financial services, such as system design, hardware acquisition, project management, and development efforts. But there is an obvious middle ground: the IEI process could be used to allow a state to select a concentrator bank for its EBT project [illegible] using the conventional Request for Proposal (RFP) process to select a prime contractor to design and [illegible] its system.

3. The organizations which issue the benefits, such as the Departments of [illegible] **and Health and Human Services (HHS), have the statutory** authority to develop [illegible] **rules for EBT programs, not Treasury.** USDA administers the food stamp program [illegible] to the Food Stamp Act of 1977. As a result of the 1990 Mickey Leland Domestic Hunger Relief [illegible] regulations for EBT systems. These regulations set forth comprehensive requirements that [illegible] systems must meet to earn the approval necessary to obtain federal financial assistance. [illegible] enabling legislation governing EBT programs in other agencies and departments is like [illegible] same situation.

4. Treasury and the Federal EBT Task Force are developing and implementing [illegible] **rules as part of the IEI process without the standard public comment** period as [illegible] **Administrative Procedures Act.** As indicated earlier, the Council believes that [illegible] represents a dramatic change from the current RFP procurement process. [illegible] considered, provisions of the Administrative Procedures Act should be [illegible]. The Act [illegible] issuing agency to publish the proposed rule, seek and analyze public comment, then [illegible]. The 1992 EBT regulations were promulgated by USDA after a thorough rulemaking [illegible] included comments by retailers, financial institutions, trade associations such as the [illegible] Transfer Association, consumer advocates, vendors, and private citizens. [illegible] interested parties have the opportunity to be heard before the final [illegible] institutions have argued, of course, that the EBT operating rules [illegible] of the IEI process can be evaluated without reference to the [illegible] that might be promulgated. The Council agrees [illegible] rules will be an integral part of the document that implements [illegible] should receive full public review.

5. The purported cost savings and faster [illegible] conventional Request for Proposal (RFP) process [illegible] realized. The Federal EBT Task Force maintains that the IEI [illegible] the RFP process. The Council believes that [illegible] considerably and [illegible] using IEI will not obviate the need for states to plan and design [illegible] it is our

PHOTOCOPY PRESERVATION

understanding that under the IEI rules, a new network infrastructure may be created. Not only would the
creation of a new network be very expensive, but would duplicate the existing network infrastructure, use
of which was recommended in Vice President Gore's National Performance Review and in the Office of
Technology Assessment report, *Making Government Work: Electronic Delivery of Government Services.*

These and related issues should be addressed carefully before the IEI system is promulgated. If the
problems identified here are confirmed, then the laudable goal of providing national EBT by 1999 is
jeopardized. To avoid this, the EBT Industry Council specifically asks that the IEI for EBT not be issued
until the Office of General Counsel in the Departments of Agriculture, Treasury, HHS, and the Office of
Management and Budget render an opinion on the competitive effects and the regulatory and statutory
authority claimed by Treasury and the Federal EBT Task Force to procure EBT services using the IEI
process. These organizations should also be asked to comment on issues such as the appropriateness
of [illegible] new electronic network
[illegible]

[illegible] know
[illegible]

[illegible]

THE WASHINGTON POST
FRIDAY, MARCH 17, 1995

HE REGULATORS

Tackling Treasury's Approach

Battling Over Who Delivers the Benefits in the US of ATM

By Cindy Skrzycki
Washington Post Staff Writer

In the spirit of making government better and faster, the **Treasury Department** has been bustling to create a nationwide electronic system to deliver such state and federal government benefits as welfare, food stamps and Social Security.

The system—to replace an unwieldy paper-based one that is prone to fraud, theft and abuse—eventually is supposed to deliver a whopping $111 billion in benefits annually, close to the amount handled in a year by **Visa USA**, the most widely used credit card.

Other programs, such as veterans' benefits, government pensions and other assistance, could be handled with a single "debit" card that would keep track of transactions and allow money to be spent from special accounts.

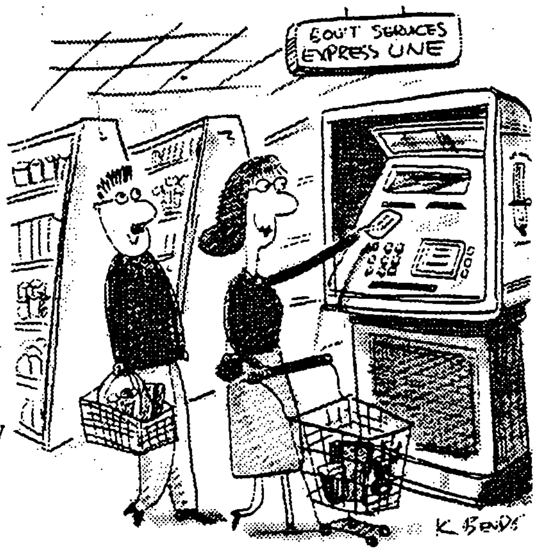
For financial institutions and companies in the business of developing such systems, the possibility of building and running this network for the government was tantalizing.

That was until would-be bidders realized that only banks need apply.

Invoking an 1864 law, Treasury decided that only insured financial institutions could act as the government's agent in setting up an electronic benefits transfer system "to guarantee the financial integrity and security of the funds."

The usual competitive bidding process was replaced with an "invitation for expressions of interest," a process that asks banks to respond by June 8 with proposals. In the fall, Treasury is expected to sign agreements with one bank to service a seven-state southern area and five to

See THE REGULATORS, F2, Col. 1



BY KEITH BENDIS FOR THE WASHINGTON PO

Government Wants to Use ATMs to Dispense Benefits

THE REGULATORS, From F1

10 other banks to handle the rest of the country.

Ears pricked up among members of Congress who feared their constituents might be held hostage to bank-owned automated teller machines, forcing them to retrieve benefits far from their neighborhoods. Social services groups such as **Jane Addams Hull House** in Chicago expressed reservations. And electronic processing companies howled that the decision was anti-competitive.

"Why should we have a set of rules that says banks can only provide these services?" said **Michael LaVigna, president of Transactive Corp.**, which is running a system in Texas that will deliver about $3 billion in state welfare benefits through "point of sale" electronic terminals in such places as grocery stores.

Treasury officials and bankers say "processors" such as Transactive will be able to act as subcontractors in disbursing the benefits, since the idea is to piggyback onto existing technology. It's also expected that banks will have to expand their ATM networks to deliver these services.

William Phillips, director of policy development for the **American Bankers Association**, said there will be partnerships and consortia formed with third-party providers. "They aren't necessarily subcontractors."

PRODUCERS OF FRESH CHICKENS felt they got the cold shoulder this week when the **Department of Agriculture's Food Safety and Inspection Service** decided to add 60 more days to the comment period on a rule that would not allow birds frozen below 26 degrees Fahrenheit to be called fresh.

The **California Poultry Industry Federation**, which represents producers of fresh poultry, has pushed for the rule. The new standard would be a blow to its competitors, who can freeze birds below 26 degrees, ship them around the country and still command the higher prices charged for "fresh" poultry. (Current policy says birds above zero and below 40 degrees are considered fresh.)

The California producers contend that the **National Broiler Council** turned up the heat on USDA to delay the rule because it feared the possibility that its producers' birds might get labeled "previously frozen."

Michael Taylor, administrator of the Food Safety and Inspection Service, said the delay "was strictly a matter of being sure we have a process that considers all the relevant issues."

The Broiler Council said it needs more time to review an Agriculture Department research report that looked at how various temperatures affected "sensory and quality characteristics" of poultry.

The fresh chicken people view all this as fishy. They plan to march outside the Agriculture Department today decrying the delay. Among them will be a human "chicken" carrying a placard that says, "USDA is chickening out on the fresh poultry rule."

WHAT DO YOU DO when your husband sues your boss, especially if your boss is the president of the United States?

It happened this week when **Timothy B. Dyk**, a partner with **Jones, Day, Reavis & Pogue**, filed suit on behalf of the **U.S. Chamber of Commerce** and other business groups challenging **President Clinton's** authority in issuing a recent executive order that bars federal contractors from hiring permanent replacements for strikers.

His wife is **Sally Katzen**, a high-ranking Clinton administration appointee who runs the regulatory affairs shop at the **Office of Management and Budget**. An OMB spokesman said that as soon as Dyk took the case, he called his wife and told her she had to recuse herself from the striker replacement issue.

"She was not at all involved before he took the case," the spokesman said.

As for whether this creates an uncomfortable political situation for his wife, Dyk said: "I don't want to get into those issues."

OUT FOR COMMENT: Federal Communications Commission Chairman Reed Hundt was delighted to get his stolen 1987 Buick Century back after it disappeared out of the garage under FCC headquarters, but dismayed that he couldn't get into it. The thief kept the keys and Hundt had no spare. He had to take a locksmith with him to the impoundment lot.