

105TH CONGRESS
2D SESSION

S. 2153

To require certain expenditures by the Federal Reserve System to be made subject to congressional appropriations, to prohibit the maintenance of surplus accounts by Federal reserve banks, to provide for annual independent audits of Federal reserve banks, to apply Federal procurement regulations to the Federal Reserve System, to reform the pricing practices of the Federal Reserve System for services provided to the domestic banking system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 1998

Mr. DORGAN (for himself and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require certain expenditures by the Federal Reserve System to be made subject to congressional appropriations, to prohibit the maintenance of surplus accounts by Federal reserve banks, to provide for annual independent audits of Federal reserve banks, to apply Federal procurement regulations to the Federal Reserve System, to reform the pricing practices of the Federal Reserve System for services provided to the domestic banking system, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Reserve Fiscal
3 Accountability Act of 1998”.

4 **SEC. 2. DEFINITIONS.**

5 For purposes of this Act—

6 (1) the term “Board” means the Board of Gov-
7 ernors of the Federal Reserve System; and

8 (2) the term “Federal reserve bank” has the
9 same meaning as in the third undesignated para-
10 graph of section 1 of the Federal Reserve Act.

11 **SEC. 3. NON-MONETARY POLICY SPENDING SUBJECT TO**
12 **CONGRESSIONAL APPROPRIATIONS.**

13 (a) DETERMINATION BY COMPTROLLER GENERAL.—

14 (1) IN GENERAL.—The Comptroller General of
15 the United States, in consultation with the Board,
16 shall specifically identify the functions and activities
17 of the Board and of each Federal reserve bank that
18 are directly related to the establishment and conduct
19 of the monetary policy of the United States.

20 (2) REPORT.—Not later than 6 months after
21 the date of enactment of this Act, the Comptroller
22 General of the United States shall submit a report
23 to the Congress containing the information referred
24 to in paragraph (1).

25 (b) CERTAIN SPENDING SUBJECT TO APPROPRIA-
26 TIONS.—

1 (1) IN GENERAL.—Beginning with the first fis-
2 cal year that commences after the date on which the
3 report referred to in subsection (a) is submitted to
4 the Congress, and in each fiscal year thereafter, all
5 expenditures by the Board or any Federal reserve
6 bank shall be made only as provided in advance in
7 an appropriations Act.

8 (2) EXCEPTION.—Notwithstanding paragraph
9 (1), funds used to pay expenditures directly related
10 to the establishment and conduct of monetary policy,
11 as identified under subsection (a), shall not be sub-
12 ject to appropriations in advance.

13 (c) ANNUAL REPORT.—Not later than 6 months after
14 the end of each fiscal year to which subsection (b) applies,
15 the Comptroller General of the United States shall submit
16 a report to the Congress on the compliance of the Board
17 and the Federal reserve banks with the requirements of
18 this section during the preceding fiscal year.

19 **SEC. 4. TREATMENT OF SURPLUS ACCOUNT.**

20 (a) TERMINATION OF SURPLUS ACCOUNT AUTHOR-
21 IZATION.—

22 (1) AMENDMENTS TO THE FEDERAL RESERVE
23 ACT.—Section 7(a) of the Federal Reserve Act (12
24 U.S.C. 289) is amended—

1 (A) in the subsection heading, by striking
2 “AND SURPLUS FUNDS”;

3 (B) by striking paragraphs (2) and (3);

4 (C) in paragraph (1)—

5 (i) by striking “(1) STOCKHOLDER
6 DIVIDENDS.—”; and

7 (ii) by redesignating subparagraphs
8 (A) and (B) as paragraphs (1) and (2), re-
9 spectively, and moving the margins 2 ems
10 to the left; and

11 (D) in paragraph (2), as redesignated, by
12 striking “subparagraph (A)” and inserting
13 “paragraph (1)”.

14 (2) RETURN OF FUNDS.—Not later than 30
15 days after the date of enactment of this Act, each
16 Federal reserve bank shall transfer to the Board for
17 transfer to the Secretary of the Treasury for deposit
18 in the general fund of the Treasury, all funds held
19 on the date of enactment of this Act by that Federal
20 reserve bank in a surplus account established under
21 section 7(a) of the Federal Reserve Act, as that sec-
22 tion existed on the day before the date of enactment
23 of this Act.

24 (b) DETERMINATION BY COMPTROLLER GENERAL.—

1 (1) IN GENERAL.—The Comptroller General of
2 the United States shall determine what percentage,
3 if any, of the net earnings of the Federal reserve
4 banks should be transferred on an annual basis to
5 the Secretary of the Treasury for deposit in the gen-
6 eral fund of the Treasury.

7 (2) REPORT.—Not later than 6 months after
8 the date of enactment of this Act, the Comptroller
9 General of the United States shall report its deter-
10 mination under paragraph (1) to the Congress, to-
11 gether with any recommendations for necessary leg-
12 islative action.

13 **SEC. 5. ANNUAL INDEPENDENT AUDITS OF RESERVE**
14 **BANKS.**

15 (a) AUDIT REQUIRED.—Each Federal reserve bank
16 shall annually obtain an audit using generally accepted ac-
17 counting principles from an independent auditor that
18 meets the requirements of subsection (b).

19 (b) AUDITOR’S QUALIFICATIONS.—The independent
20 auditor referred to in subsection (a) shall—

21 (1) be a certified public accountant who is inde-
22 pendent of the Federal Reserve System; and

23 (2) meet any other qualifications that the
24 Board may establish.

1 (c) CERTIFICATION REQUIRED.—In each audit re-
2 quired under subsection (a), the auditor shall certify to
3 the Federal reserve bank and the Board, under penalty
4 of perjury that the auditor—

5 (1) is a certified public accountant and is inde-
6 pendent of the Federal Reserve System; and

7 (2) conducted the audit using generally accept-
8 ed auditing principles.

9 (d) CERTIFICATION BY FEDERAL RESERVE BANK.—
10 Not later than 30 days after the completion of each audit
11 required under subsection (a), the Federal reserve bank
12 shall provide to the Comptroller General of the United
13 States—

14 (1) a certification, under penalty of perjury,
15 that—

16 (A) the Federal reserve bank has obtained
17 the audit required under subsection (a);

18 (B) the Federal reserve bank has received
19 the certifications of the auditor required under
20 subsection (c); and

21 (C) the audit fully complies with sub-
22 section (a); and

23 (2) proof that the Federal reserve bank and the
24 Board have each received a copy of the audit report.

25 (e) DETECTION OF ILLEGAL ACTS.—

1 (1) AUDIT PROCEDURES.—Each audit required
2 by this section shall include procedures designed to
3 provide reasonable assurances of detecting illegal
4 acts that would have an effect on the determination
5 of financial statement amounts.

6 (2) REPORTING POSSIBLE ILLEGALITIES.—If,
7 in the course of conducting an audit required by this
8 section, the independent auditor detects or otherwise
9 becomes aware of information indicating that an ille-
10 gal act (whether or not perceived to have an effect
11 on the financial statements of the Federal reserve
12 bank) has or may have occurred, the auditor—

13 (A) shall determine whether it is likely that
14 the illegal act has occurred; and

15 (B) shall, if the auditor determines that
16 the illegal act is likely to have occurred—

17 (i) determine and consider the pos-
18 sible effect of the illegal act on the finan-
19 cial statements of the Federal reserve
20 bank; and

21 (ii) as soon as practicable, inform the
22 Board that an illegal act is likely to have
23 occurred or has otherwise come to the at-
24 tention of the auditor.

1 (3) REPORT TO COMPTROLLER GENERAL.—The
2 independent auditor under this section shall, as soon
3 as practicable, directly report its conclusions to the
4 Comptroller General of the United States with re-
5 gard to any possible illegal act that has been de-
6 tected or has otherwise come to the attention of the
7 auditor during the course of the audit required by
8 this section, if, after determining that the Board is
9 adequately informed with respect to such possible il-
10 legal act, the auditor concludes that—

11 (A) the possible illegal act has an effect on
12 the financial statements of the Federal reserve
13 bank;

14 (B) the Board has not taken timely and
15 appropriate remedial actions with respect to the
16 possible illegal act; and

17 (C) the failure to take remedial action is
18 reasonably expected to warrant departure from
19 a standard report of the auditor when made, or
20 warrant resignation from the audit engagement.

21 (4) RESIGNATION OF AUDITOR.—If an inde-
22 pendent auditor resigns from its engagement to
23 audit a Federal reserve bank under paragraph (3),
24 the auditor shall furnish to the Comptroller General
25 of the United States, not later than 1 business day

1 after such resignation, a copy of the report of the
2 auditor (or documentation of any oral report given).

3 (f) COMPLIANCE WITH FEE SCHEDULE REQUIRE-
4 MENTS.—

5 (1) IN GENERAL.—As part of each audit of a
6 Federal reserve bank required by this section, the
7 auditor shall make a determination of whether, in
8 the opinion of the auditor, the Federal reserve bank
9 is meeting the requirements of section 11A(c)(3) of
10 the Federal Reserve Act (as amended by this Act)
11 with respect to each service referred to in section
12 11A(b) of the Federal Reserve Act (as amended by
13 this Act).

14 (2) REPORT TO BOARD.—The auditor shall re-
15 port its determinations under paragraph (1) to the
16 Board in written form.

17 (3) REPORT TO CONGRESS.—The Board shall
18 annually compile reports received under paragraph
19 (2) and annually submit those reports to the Con-
20 gress.

21 (g) RECORDKEEPING.—To facilitate compliance with
22 this section, each Federal reserve bank shall—

23 (1) ensure that the books, records, and ac-
24 counts of the Federal reserve bank are maintained
25 and kept in sufficient detail to accurately and fairly

1 reflect the transactions and dispositions of the assets
2 of the bank;

3 (2) devise and maintain a system of internal ac-
4 counting controls sufficient to provide reasonable as-
5 surances that transactions are recorded as necessary
6 to permit preparation of financial statements in con-
7 formity with generally accepted accounting principles
8 and to maintain accountability for assets;

9 (3) ensure that access to assets of the Federal
10 reserve bank is permitted only in accordance with
11 the general or specific authorization of the Board;
12 and

13 (4) ensure that—

14 (A) the recorded accountability for assets
15 is compared with the existing assets at reason-
16 able intervals; and

17 (B) appropriate action is taken with re-
18 spect to any differences.

19 (h) REPORTS TO BOARD.—Not later than December
20 31 of each year, each Federal reserve bank shall submit
21 a copy of each audit conducted under this section to the
22 Board.

1 **SEC. 6 INDEPENDENT AUDITS OF FEDERAL RESERVE SYS-**
2 **TEM AND FEDERAL RESERVE BOARD.**

3 (a) **AUDIT OF RESERVE SYSTEM.**—The Board, in
4 consultation with the Comptroller General of the United
5 States, shall annually obtain an audit of the consolidated
6 financial statements of the Federal Reserve System from
7 an independent auditor, using generally accepted account-
8 ing principles, based on reports of audits of Federal re-
9 serve banks submitted to the Board under section 5(h)
10 and the audit of the Board under subsection (b) of this
11 section.

12 (b) **AUDIT OF BOARD.**—

13 (1) **IN GENERAL.**—The Board shall annually
14 obtain an evaluation of the management and admin-
15 istration of the Board and an audit of the financial
16 statements of the Board from an independent audi-
17 tor, using generally accepted accounting principles.

18 (2) **FEE SCHEDULE CONSIDERATIONS.**—

19 (A) **IN GENERAL.**—As part of each audit
20 of the Board required by this subsection, the
21 auditor shall make a determination of whether,
22 in the opinion of the auditor, the Board has
23 prescribed fee schedules under section 11A(b)
24 of the Federal Reserve Act (as amended by this
25 Act) based on information contained in the re-

1 ports submitted to the Board under section 5(f)
2 of this Act.

3 (B) REPORT TO BOARD.—The auditor
4 shall report its determinations under subpara-
5 graph (A) to the Board in written form.

6 (3) AVAILABILITY TO THE PUBLIC.—The re-
7 sults of each evaluation and audit performed in ac-
8 cordance with this subsection shall be made available
9 to the public.

10 (4) LIMITATION.—The evaluations and audits
11 required by this subsection shall be conducted in a
12 manner that does not impair or otherwise directly
13 affect any monetary policy function of the Board.

14 (c) AUDITOR'S QUALIFICATIONS.—An independent
15 auditor referred to in subsections (a) and (b) shall—

16 (1) be a certified public accountant who is inde-
17 pendent of the Federal Reserve System; and

18 (2) meet any other qualifications that the
19 Board may establish.

20 (d) CERTIFICATION REQUIRED.—In each audit re-
21 quired under this section, the auditor shall certify to the
22 Board, under penalty of perjury that the auditor—

23 (1) is a certified public accountant and is inde-
24 pendent of the Federal Reserve System; and

1 (2) conducted the audit using generally accept-
2 ed auditing principles.

3 (e) DETECTION OF ILLEGAL ACTS.—

4 (1) AUDIT PROCEDURES.—Each audit required
5 by this section shall include procedures designed to
6 provide reasonable assurances of detecting illegal
7 acts that would have an effect on the determination
8 of financial statement amounts.

9 (2) REPORTING POSSIBLE ILLEGALITIES.—If,
10 in the course of conducting an audit of the Federal
11 Reserve System or the Board required by this sec-
12 tion, the independent auditor detects or otherwise
13 becomes aware of information indicating that an ille-
14 gal act has or may have occurred, the auditor—

15 (A) shall determine whether it is likely that
16 the illegal act has occurred; and

17 (B) shall, if the auditor determines that
18 the illegal act is likely to have occurred—

19 (i) determine and consider the pos-
20 sible effect of the illegal act on the finan-
21 cial statements of the Federal Reserve Sys-
22 tem or the Board, as applicable; and

23 (ii) as soon as practicable, inform the
24 Board that an illegal act is likely to have

1 occurred or has otherwise come to the at-
2 tention of the auditor.

3 (3) REPORT TO COMPTROLLER GENERAL.—An
4 independent auditor under this section shall, as soon
5 as practicable, directly report its conclusions to the
6 Comptroller General of the United States with re-
7 gard to any possible illegal act that has been de-
8 tected or has otherwise come to the attention of the
9 auditor during the course of an audit of the Federal
10 Reserve System or the Board required by this sec-
11 tion, if, after determining that the Board is ade-
12 quately informed with respect to such possible illegal
13 act, the auditor concludes that—

14 (A) the possible illegal act has an effect on
15 the financial statements of the Federal Reserve
16 System or the Board, as applicable;

17 (B) the Board has not taken timely and
18 appropriate remedial actions with respect to the
19 possible illegal act; and

20 (C) the failure to take remedial action is
21 reasonably expected to warrant departure from
22 a standard report of the auditor when made, or
23 warrant resignation from the audit engagement.

24 (4) RESIGNATION OF AUDITOR.—If an inde-
25 pendent auditor resigns from its engagement to

1 audit the Federal Reserve System or the Board
2 under paragraph (3), the auditor shall furnish to the
3 Comptroller General of the United States, not later
4 than 1 business day after such resignation, a copy
5 of the report of the auditor (or documentation of
6 any oral report given).

7 (f) RECORDKEEPING.—To facilitate compliance with
8 this section, the Board shall—

9 (1) ensure that the books, records, and ac-
10 counts of the Board are maintained and kept in suf-
11 ficient detail to accurately and fairly reflect the
12 transactions and dispositions of assets;

13 (2) devise and maintain a system of internal ac-
14 counting controls sufficient to provide reasonable as-
15 surances that transactions are recorded as necessary
16 to permit preparation of financial statements in con-
17 formity with generally accepted accounting principles
18 and to maintain accountability for assets;

19 (3) ensure that access to assets of the Board is
20 permitted only in accordance with the general or
21 specific authorization of the Board; and

22 (4) ensure that—

23 (A) the recorded accountability for assets
24 is compared with the existing assets at reason-
25 able intervals; and

1 (B) appropriate action is taken with re-
 2 spect to any differences.

3 **SEC. 7. APPLICABILITY OF FEDERAL PROCUREMENT PRO-**
 4 **CEDURES.**

5 Beginning on the first day of the first fiscal year fol-
 6 lowing the date of enactment of this Act, the following
 7 provisions of law apply to the Board and to each Federal
 8 reserve bank as if the Board and such banks were execu-
 9 tive agencies for the purposes of such provisions of law:

10 (1) Title III of the Federal Property and Ad-
 11 ministrative Services Act of 1949 (41 U.S.C. 251 et
 12 seq.).

13 (2) The Brooks Architect-Engineers Act (40
 14 U.S.C. 541 et seq.).

15 (3) The Office of Federal Procurement Policy
 16 Act (41 U.S.C. 401 et seq.).

17 (4) The Clinger-Cohen Act of 1996 (Division E
 18 of Public Law 104–106; 40 U.S.C. 1401 et seq.).

19 **SEC. 8. AMENDMENTS RELATING TO FEDERAL RESERVE**
 20 **ACT.**

21 (a) CLARIFICATION OF FEE SCHEDULE REQUIRE-
 22 MENTS.—

23 (1) IN GENERAL.—Section 11A(b) of the Fed-
 24 eral Reserve Act (12 U.S.C. 248a(b)) is amended—

1 (A) by redesignating paragraphs (4)
2 through (8) as paragraphs (5) through (9), re-
3 spectively; and

4 (B) by inserting after paragraph (3) the
5 following new paragraph:

6 “(4) transportation of paper checks in the
7 clearing process;”.

8 (2) PUBLICATION OF REVISED SCHEDULE.—

9 Not later than 60 days after the date of enactment
10 of this Act, the Board shall publish a revision of the
11 schedule of fees required under section 11A of the
12 Federal Reserve Act that reflects the changes made
13 in the schedule in accordance with the amendments
14 made by paragraph (1) of this subsection.

15 (b) CLARIFICATION OF APPLICABLE PRICING CRI-
16 TERIA.—

17 (1) IN GENERAL.—Section 11A(c) of the Fed-
18 eral Reserve Act (12 U.S.C. 248a(c)) is amended by
19 striking paragraph (3) and inserting the following:

20 “(3)(A) In each fiscal year, fees shall be estab-
21 lished for each service provided by the Federal re-
22 serve banks on the basis of all direct and indirect
23 costs actually incurred (excluding the effect of any
24 pension cost credit) in providing each of the services,
25 including interest on items credited prior to actual

1 collection, overhead, and an allocation of imputed
2 costs, which takes into account the taxes that would
3 have been paid and the return on capital that would
4 have been provided had the services been provided
5 by a private business firm.

6 “(B) The pricing principles referred to in sub-
7 paragraph (A) shall be carried out with due regard
8 to competitive factors and the provision of an ade-
9 quate level of such services nationwide.”.

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