112TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPT. 112–380 Part 1

BUDGET AND ACCOUNTING TRANSPARENCY ACT OF 2012

REPORT

OF THE

COMMITTEE ON THE BUDGET
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 3581

together with

MINORITY VIEWS

JANUARY 31, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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BUDGET AND ACCOUNTING TRANSPARENCY ACT OF 2012

JANUARY 31, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on the Budget, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3581]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Budget, to whom was referred the bill (H.R. 3581) to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to increase transparency in Federal budgeting, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Budget and Accounting Transparency Act of 2012".

TITLE I—FAIR VALUE ESTIMATES

SEC. 101. CREDIT REFORM.

(a) IN GENERAL.—Title V of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE V—FAIR VALUE

"SEC. 501. PURPOSES.

"The purposes of this title are to—

"(1) measure more accurately the costs of Federal credit programs by accounting for them on a fair value basis;

"(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

"(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

"(4) improve the allocation of resources among Federal programs.

"SEC. 502. DEFINITIONS.

"For purposes of this title:

"(1) The term 'direct loan' means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

"(2) The term 'direct loan obligation' means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

"(3) The term 'loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

"(4) The term 'loan guarantee commitment' means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

"(5)(A) The term 'cost' means the sum of the Treasury discounting component and the risk component of a direct loan or loan guarantee, or a modification thereof.

"(B) The Treasury discounting component shall be the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

"(C) The risk component shall be an amount equal to the difference between—

"(i) the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, estimated on a fair value basis, applying the guidelines set forth by the Financial Accounting Standards Board in Financial Accounting Standards #157, or a successor thereto, excluding administrative costs and any incidental effects on governmental receipts or outlays; and

"(ii) the Treasury discounting component of such direct loan or loan guarantee, or modification thereof.

"(D) The Treasury discounting component of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

"(i) Loan disbursements.

"(ii) Repayments of principal.

"(iii) Essential preservation expenses, payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries, including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

"(E) The Treasury discounting component of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

"(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, essential preservation expenses, or other payments.

"(ii) Payments to the Government including origination and other fees, penalties, and recoveries, including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

"(F) The cost of a modification is the sum of—

"(i) the difference between the current estimate of the Treasury discounting component of the remaining cash flows under the terms of a direct loan or loan guarantee and the current estimate of the Treasury discounting component of the remaining cash flows under the terms of the contract, as modified; and "(ii) the difference between the current estimate of the risk component of the remaining cash flows under the terms of a direct loan or loan guarantee and the current estimate of the risk component of the remaining cash flows under the terms of the contract as modified.

"(G) In estimating Treasury discounting components, the discount rate shall be the average interest rate on marketable Treasury securities of similar duration to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

"(H) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

"(6) The term 'program account' means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

"(7) The term 'financing account' means the nonbudget account or accounts associated with each program account which holds balances, receives the cost payment from the program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

"(8) The term 'liquidating account' means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

"(9) The term 'modification' means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

"(10) The term 'current' has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(11) The term 'Director' means the Director of the Office of Management and Budget.

"(12) The term 'administrative costs' means costs related to program management activities, but does not include essential preservation expenses.

"(13) The term 'essential preservation expenses' means servicing and other costs that are essential to preserve the value of loan assets or collateral.

"SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

"(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

"(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

"(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

"(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance and prospective risk of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

"(e) HISTORICAL CREDIT PROGRAMS COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

"SEC. 504. BUDGETARY TREATMENT.

"(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 1992, the President's budget shall reflect the Treasury discounting component of direct loan and loan guarantee programs. Beginning with fiscal year 2015, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

"(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

"(1) new budget authority to cover their costs is provided in advance in an appropriation Act;

"(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriation Act; or

"(3) authority is otherwise provided in appropriation Acts.

"(c) EXEMPTION FOR DIRECT SPENDING PROGRAMS.—Subsections (b) and (e) shall not apply to—

"(1) any direct loan or loan guarantee program that constitutes an entitlement (such as the guaranteed student loan program or the veteran's home loan guaranty program);

"(2) the credit programs of the Commodity Credit Corporation existing on the date of enactment of this title; or

"(3) any direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) made by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

"(d) BUDGET ACCOUNTING.—

"(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the program account to pay to the financing account.

"(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

"(3) All collections and payments of the financing accounts shall be a means of financing.

"(e) MODIFICATIONS.—An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriation Act.

"(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given program made in a single fiscal year is re-estimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these re-estimates.

"(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administrative costs associated with a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

"SEC. 505. AUTHORIZATIONS.

"(a) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such nonbudgetary accounts as may be appropriate.

"(b) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described in the preceding sentence, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the 'Bank') pursuant to section 405(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(G).

"(2) LOANS.—For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b)(1), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(G) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account.

"(3) REIMBURSEMENT.—The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

"(4) AUTHORITY.—The authorities provided in this subsection shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program.

"(5) TITLE 31.—All of the transactions provided in the subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(6) TREATMENT OF CASH BALANCES.—Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds. The Secretary of the Treasury shall charge (or pay if the amount is negative) financing accounts an amount equal to the risk component for a direct loan or loan guarantee, or modification thereof. Such amount received by the Secretary of the Treasury shall be a means of financing and shall not be considered a cash flow of the Government for the purposes of section 502(5).

"(c) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

"(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

"(B) disbursements of loans;

"(C) default and other guarantee claim payments;

"(D) interest supplement payments;

"(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

"(F) payments to financing accounts when required for modifications;

"(G) administrative costs and essential preservation expenses, if—

"(i) amounts credited to the liquidating account would have been available for administrative costs and essential preservation expenses under a provision of law in effect prior to October 1, 1991; and

"(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

"(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

"(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

"(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

"(d) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

"(e) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

"SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

"This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

"SEC. 507. EFFECT ON OTHER LAWS.

"(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

"(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to title V and inserting the following:

"TITLE V—FAIR VALUE

SEC. 102. EFFECTIVE DATE.

The amendment made by section 101 shall take effect beginning with fiscal year 2014.

SEC. 103. BUDGETARY ADJUSTMENT.

(a) IN GENERAL.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "A change in discretionary spending solely as a result of the amendment to title V of the Congressional Budget Act of 1974 made by the Budget and Accounting Transparency Act of 2012 shall be treated as a change of concept under this paragraph.".

(b) REPORT.—Before adjusting the discretionary caps pursuant to the authority provided in subsection (a), the Office of Management and Budget shall report to the Committees on the Budget of the House of Representatives and the Senate on the amount of that adjustment, the methodology used in determining the size of that adjustment, and a program-by-program itemization of the components of that adjustment.

(c) SCHEDULE.—The Office of Management and Budget shall not make an adjustment pursuant to the authority provided in subsection (a) sooner than 60 days after providing the report required in subsection (b).

TITLE II—BUDGETARY TREATMENT

SEC. 201. CBO AND OMB STUDIES RESPECTING BUDGETING FOR COSTS OF FEDERAL INSURANCE PROGRAMS.

Not later than one year after the date of enactment of this Act, the Directors of the Congressional Budget Office and of the Office of Management and Budget shall each prepare a study and make recommendations to the Committees on the Budget of the House of Representatives and the Senate as to the feasability of applying fair value concepts to budgeting for the costs of Federal insurance programs.

SEC. 202. ON-BUDGET STATUS OF FANNIE MAE AND FREDDIE MAC.

Notwithstanding any other provision of law, the receipts and disbursements, including the administrative expenses, of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President;

(2) the congressional budget; and

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 203. EFFECTIVE DATE.

Section 202 shall not apply with respect to an enterprise (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502)) after the date that all of the following have occurred:

(1) The conservatorship for such enterprise under section 1367 of such Act (12 U.S.C. 4617) has been terminated.

(2) The Director of the Federal Housing Finance Agency has certified in writing that such enterprise has repaid to the Federal Government the maximum amount consistent with minimizing total cost to the Federal Government of the financial assistance provided to the enterprise by the Federal Government pursuant to the amendments made by section 1117 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289; 122 Stat. 2683) or otherwise.

(3) The charter for the enterprise has been revoked, annulled, or terminated and the authorizing statute (as such term is defined in such section 1303) with respect to the enterprise has been repealed.

TITLE III—BUDGET REVIEW AND ANALYSIS

SEC. 301. CBO AND OMB REVIEW AND RECOMMENDATIONS RESPECTING RECEIPTS AND COLLECTIONS.

Not later than one year after the date of enactment of this Act, the Director of the Office of Management and Budget shall prepare a study of the history of offsetting collections against expenditures and the amount of receipts collected annually, the historical application of the budgetary terms "revenue", "offsetting collections", and "offsetting receipts", and review the application of those terms and make recommendations to the Committees on the Budget of the House of Representatives and the Senate of whether such usage should be continued or modified. The Director of the Congressional Budget Office shall review the history and recommendations prepared by the Director of the Office of Management and Budget and shall submit comments and recommendations to such Committees.

SEC. 302. AGENCY BUDGET JUSTIFICATIONS.

Section 1108 of title 31, United States Code, is amended by inserting at the end the following new subsection:

"(h)(1) Whenever any agency prepares and submits written budget justification materials for any committee of the House of Representatives or the Senate, such agency shall post such budget justification on the same day of such submission on the 'open' page of the public website of the agency, and the Office of Management and Budget shall post such budget justification in a centralized location on its website, in the format developed under paragraph (2).

"(2) The Office of Management and Budget, in consultation with the Congressional Budget Office and the Government Accountability Office, shall develop and notify each agency of the format in which to post a budget justification under paragraph (1). Such format shall be designed to ensure that posted budget justifications for all agencies—

"(A) are searchable, sortable, and downloadable by the public;

"(B) are consistent with generally accepted standards and practices for machine-discoverability;

"(C) are organized uniformly, in a logical manner that makes clear the contents of a budget justification and relationships between data elements within the budget justification and among similar documents; and

"(D) use uniform identifiers, including for agencies, bureaus, programs, and projects.".

INTRODUCTION

Transparency and sound accounting are the bedrocks of efficient and effective budgeting. The "Budget and Accounting Transparency Act of 2012" (H.R. 3581) was introduced by Representative Scott Garrett (R–NJ–5) on December 7, 2011. The bill increases the transparency of Federal budgeting by bringing off-budget entities on-budget, reforms the accounting methodology used for Federal credit programs to reflect best practices from the private sector, and requires agencies to promptly make public the budget justification materials they submit to Congress in support of their requests for public funds.

It also commissions two studies in furtherance of the Budget Committees' ongoing review of potential improvements to the congressional budget process.

SUMMARY OF PROPOSED CHANGES

Fair Value Accounting

Beginning with fiscal year 2014, the bill reforms the budgetary treatment of Federal credit programs to provide a more accurate and comprehensive reporting of the cost these programs pose to taxpayers.

The Federal Credit Reform Act of 1990 (FCRA) reformed the budgetary treatment of Federal direct loans and loan guarantees to account for the cost of these programs on an accrual basis. Under the 1990 bill, the cost of these programs is developed by producing a net present value of cash flows using a discount rate based on the Federal Government's borrowing costs. Over time, CBO has concluded that the Treasury discount rate does not fully capture the cost of credit programs:

"Fair-value estimates differ from estimates produced using the FCRA methodology in an important way: By incorporating a market-based risk premium, fair value estimates recognize that the financial risk that the government assumes when issuing credit guarantees is more costly to taxpayers than FCRA-based estimates suggest." [1]

In addition to CBO's conclusion that fair value accounting provides a comprehensive measure of the Federal Government's financial risk, other entities have recommended this reform. For example, a panel representing former CBO Directors, OMB Directors, and other budget experts recommended moving to a fair value accounting after concluding:

"Two decades of experience with accrual treatment of Federal credit has demonstrated that current valuation rules understate the subsidies that government provides through direct and guaranteed loans and other activities that shift risk to taxpayers. To correct this understatement, the budget should use fair-market values in calculating costs for financial guarantees, insurance, direct loans, loan guarantees, and programs that invest in risky financial assets. Fair value accounting would make clear that the Federal Government cannot invest in risky assets more cheaply nor earn a higher rate of return than do private firms or individuals. Ultimately, taxpayers bear all the costs of investing, and this fact should be explicitly reflected in the budget. Accounting for financial guarantees, insurance, direct loans, and loan guarantees on an accrual basis is the first step in measuring the cost of these activities in a timely manner. But the cost measure must also include risk. Without that component, the budget understates the cost of these programs." [2]

The bill corrects this current flaw by amending FCRA to ensure the full exposure to the taxpayer is recorded in the budget by providing that fair value estimates be used in calculating the cost of Federal credit programs. It also provides for a one-time adjustment to the statutory caps on discretionary spending contained in the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L.

[1] Letter from CBO Director Douglas W. Elmendorf to Paul Ryan, Chairman of the Committee on the Budget, House of Representatives, May 18, 2011. *http://www.cbo.gov/ftpdocs/120xx/doc12054/05-18-FHA_Letter.pdf*

[2] A Peterson-Pew Commission Report on Budget Reform, "Getting Back in the Black," Nov. 2010, p. 29. *http://budgetreform.org/sites/default/files/Getting_Back_in_the_Black.pdf*

99–177) to ensure the caps are held harmless for this accounting change.

Accounting for Fannie Mae and Freddie Mac

The bill requires that the receipts and disbursements of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) be counted as new budget authority, outlays, receipts, deficits or surpluses for purposes of the President's budget request, the congressional budget resolution, and the Balanced Budget and Emergency Deficit Control Act of 1985.

While the Congressional Budget Office (CBO) and Congress have already adopted this approach the Administration has not. Section 202 rectifies this disparity by bringing Fannie Mae and Freddie Mac (the GSEs) on-budget consistent with CBO's current practice.

On September 6, 2008, using the authority provided under the Housing and Economic Recovery Act of 2008 (P.L. 110–289), the Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorships. The purpose of the conservatorships is to "stabilize [the] troubled institutions with the objective of maintaining normal business operations and restoring financial safety and soundness."[3] At the same time, the Department of the Treasury entered into agreements with the GSEs known as Senior Preferred Stock Purchase Agreements (PSPA). The PSPAs are legally binding agreements by which Treasury is obligated to provide sufficient capital to keep the net worth of Fannie Mae and Freddie Mac from falling below zero.

Given the conservatorship and the Treasury's commitment to maintain a positive net value for the GSEs, their agency debt now has a certain public character. Consistent with other "agency debt" it is the expectation of the Committee that OMB will include the GSEs' agency debt in its Analytical Perspectives volume together with other agency debt issued by entities such as the Tennessee Valley Authority. Under the terms of the PSPA, the GSEs are required to reduce the size of their investment portfolios until they reach $250 billion. Because the primary purpose of the agency debt issued by the GSEs is to finance this portfolio, it is expected that their debt issuances will decline with the size of the investment portfolio. The bill does not establish a statutory cap on the issuance of agency debt by the GSEs nor does it include such debt issuances in the Federal debt ceiling.

Finally, section 203 allows for the removal of the GSEs from the federal budget if three conditions are satisfied. These conditions are designed to ensure that the GSEs become fully private entities with no explicit or implicit guarantee from the Federal Government.

First, the conservatorship of the entity must be terminated.

Second, the Director of the FHFA must have certified that the GSE has repaid as much of the funds received from the federal government consistent with minimizing the total losses to the Federal Government. This condition recognizes that the Federal Government may not receive full repayment. It should, though, ensure the

[3] "Federal Housing Finance Agency—Office of Conservatorship Operations" *http://www.fhfa.gov/Default.aspx?Page=344,* accessed January 20, 2012.

federal government recovers the full remaining value of these enterprises if they are privatized.

Third, the charter of the enterprise and authorizing statute must have been repealed.

Transparency in Agency Budget Requests

The bill requires Federal agencies to publish their budget justification materials on their official websites on the same day those materials are provided to Congress. OMB currently requires agencies to post these materials to their websites within two weeks of transmittal to Congress.[4] As under current practice, materials should not be released if the materials are properly classified in order to protect the national security.

Studies in Support of Future Reform

The legislation commissions two studies on areas of the budget process that may warrant reform in future legislation. These studies will support the Budget Committees in fulfillment of their ongoing responsibility under Sec. 703 of the Congressional Budget Act to "study on a continuing basis proposals designed to improve and facilitate methods of congressional budgetmaking."

First, the Directors of the CBO and OMB are directed in section 201 to independently conduct studies and provide recommendations to the Budget Committees on the feasibility of applying fair value concepts (or some similar accrual methodology) to budgeting for the costs of Federal insurance programs, such as pension insurance and political risk insurance. These programs are currently budgeted for on a cash-flow basis meaning that a program's cost is the net cash spent in a fiscal year. Income is recorded in the budget when received, and expenses are recorded when paid, regardless of when the income is earned or the expense incurred.

The Directors of the CBO and OMB are directed to report back to the Budget Committees within one year of enactment of this bill on the feasibility of addressing this shortcoming in the current budgeting methodology for Federal insurance programs through a move to a fair value-based accrual budgeting system.

Second, the Director of OMB is directed (sec. 301) to prepare a study on the historical use of various terms relating to the collection of monies by the Federal Government. The Director of CBO is required to review the OMB report and provide recommendations to Congress.

The budget displays revenues (primarily tax collections) and outlays (primarily disbursements of cash). The proper characterization of revenues and spending is important both for the purposes of Congress' carrying out its power of purse, but also provides important information to the public regarding the amount of money collected from the private sector and how this money is spent.

The 1967 President's Commission on Budget Concepts continues to provide the foundation for determining the treatment of transactions in the Federal budget. Generally, Federal collections resulting from the exercise of the Federal Government's sovereign power are classified as revenues (or "receipts"). Those collections resulting from business-like activity performed by the Federal Government

[4] OMB Circular A–11, §22.6.

are recorded as negative spending (or "offsetting collections"). Over the years, however, these terms have become jumbled as programs have evolved and as statutes have dictated the budgetary treatment of Federal collections. Increasingly, collections that result from the government's sovereign power are being classified as offsetting collections (negative spending). The study should review the theoretical bases of these terms, the evolution of the classification of collections, the current classification of Federal collections, and provide recommendations on the future application of such terms.

LEGISLATIVE HISTORY

Fair Value Accounting

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) added the Federal Credit Reform Act of 1990 (FCRA) as Title V of the Congressional Budget and Impoundment Control Act of 1974 (Congressional Budget Act). FCRA changed how the unified budget reports the cost of Federal credit activities. Prior to fiscal year 1992, the unified budget measured the cost of Federal credit on a cash-flow basis. This methodology did not accurately portray the true cost of a loan or loan guarantee when the obligation is incurred.

Under cash-flow budgeting, disbursements of a direct loan are recorded upfront as outlays at the time of disbursement, while repayments are recorded over the life of the loan. By contrast, an economically equivalent loan guarantee would show no upfront cost and might even show an upfront savings because of origination fees paid by the loan guarantee recipient. Cash-flow accounting thus favored loan guarantees over direct loans even though both could be structured to pose an equivalent financial risk to the Federal Government.

Cash-flow accounting also failed to accurately capture the full costs of credit programs generally and increased the difficulty of comparing the costs of credit programs and non-credit programs thus distorting fiscal decision-making. The economically accurate budgetary measure of the costs of supplying Federal credit is the net present value of the subsidies to credit recipients measured at the time the credit is advanced, re-estimated over the life of the credit extension. FCRA was enacted in order to achieve this more economically appropriate budgetary treatment.

FCRA, however, understates the true cost to the Federal Government because it discounts the cash flows over the life of a loan or loan guarantee using interest rates on Treasury securities. This is essentially the risk-free rate of interest.

The loans and loan guarantees issued by the Federal Government are not free of risk. To the contrary, the extension of Federal credit to the private sector entails the assumption by the Federal Government of market risk. Market risk is in addition to the risk that a credit beneficiary may default, because of individual circumstances. Market risk also known as systematic risk, arises from the correlation between broader market and economic conditions and the probability of any particular credit program performing as predicted. In order to capture the cost to the Federal Government of this risk, fair value is a better approach. The principal difference between the FCRA approach and a fair value approach is the discount rate used to calculate the present value of the future costs of the extension of credit by the Federal Government. As CBO has testified, "The fair-value approach produces estimates of the value of assets and liabilities that either correspond to or approximate market prices." [5]

In 2008, Congress enacted the "Emergency Economic Stabilization Act of 2008" (EESA) (Public Law 110—343). EESA authorized the Federal Government to purchase troubled mortgage-related assets, under the Troubled Assets Relief Program (TARP) of that bill. Congress recognized that recording these transactions on a cash basis would over-state their actual cost, but recording them under FCRA would not fully account for their costs. As a result the EESA provides that the activities under TARP would be recorded in the Federal budget under the Federal Credit Reform Act of 1990 modified to use a risk-adjusted discount rate.

In the President's fiscal year 2010 budget, the administration proposed there be no budget impact recorded from U.S. contributions to the International Monetary Fund (IMF). The Budget Committees rejected this proposal, but recognized that the current budgetary treatment of recording budget authority with zero impact on spending and deficits was flawed. After reviewing the issue, the Budget Committees concluded that FCRA adjusted for market risk was the best measure of recording the impact of contributions to the IMF on the budget.

The Supplemental Appropriations Act of 2009 (P.L. 111–32) included a provision incorporating fair value accounting standards to adequately account for market risk for the purposes of transactions dealing with the IMF.[6] That measure included the following language modifying the application of current law Federal Credit Reform Act accounting:

> [F]or purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: Provided further, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

Government-Sponsored Enterprises

Fannie Mae and Freddie Mac are government-sponsored enterprises (GSEs) that were chartered by Congress to facilitate the availability of financing for home mortgages. Fannie Mae was first established as a government agency in 1938 as part of the New Deal. In 1968 it was removed from the Federal budget and recreated as a government-sponsored enterprise and became a publicly traded company. Though there was widely assumed to be an "implicit" Federal guarantee of Fannie Mae's and Freddie Mac's debt, their securities are denied an explicit guarantee.

They carry out the function of financing home mortgages by purchasing home loans from mortgage originators and packaging those loans into mortgage-backed securities, which are then sold on to

[5] Statement of Deborah Lucas, Assistant Director for Financial Analysis, "The Budgetary Cost of Fannie Mae and Freddie Mac and Options for the Future Federal Role in the Secondary Mortgage Market," June 2, 2011, p. 3.

[6] Supplemental Appropriations Act, 2009 (H.R. 2346), Public Law 111–32, June 24, 2009. In addition, additional information on the budgetary treatment of the IMF can be found at: Congressional Budget Office, "Budget Implications of U.S. Contributions to the International Monetary Fund," Director's Blog, May 19, 2009. *http://cboblog.cbo.gov/?p=270*

private sector investors with a guarantee from Fannie Mae or Freddie Mac against losses from any defaults on the underlying mortgages. Fannie Mae and Freddie Mac also keep a portion of these MBS in their own investment portfolio, which they finance through the issuance of debt securities, widely known as "agency debt." This agency debt is required by statute to include a disclaimer that such obligations together with the interest thereon are not guaranteed by the United States and do not constitute a debt obligation of the United States.[7]

On September 6, 2008, using the authority provided under the Housing and Economic Recovery Act of 2008 (P.L. 110–289), the Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorships. The purpose of the conservatorships is to "stabilize [the] troubled institutions with the objective of maintaining normal business operations and restoring financial safety and soundness."[8] At the same time, the Department of the Treasury entered into agreements with the GSEs known as Senior Preferred Stock Purchase Agreements (PSPA). The PSPAs are legally binding agreements by which Treasury is obligated to provide sufficient capital to keep the net worth of Fannie Mae and Freddie Mac from falling below zero. In return, the government received senior preferred stock and warrants making the Treasury the effective owner of the GSEs. The Committee received testimony in June 2011 from the Congressional Budget Office stating that:

> Between November 2008 and the end of March 2011, the government provided about $154 billion in capital to Fannie Mae and Freddie Mac and received more than $24 billion in dividends on its preferred stock, resulting in net payments to the GSEs of $130 billion. CBO expects additional net cash payments from the government over the next several years.
>
> In CBO's judgment, the Federal conservatorship of Fannie Mae and Freddie Mac and their resulting ownership and control by the Treasury make the two entities effectively part of the government and imply that their operations should be reflected in the Federal budget.[9]

After consultation with the Budget Committees, CBO began to include the operations of Fannie Mae and Freddie Mac in its baseline budget projections and chose to use fair value methodology for estimating. By contrast the Obama Administration has continued to regard these entities as non-governmental for budgetary purposes and records in the budget only the cash transfers between the Treasury and the GSEs. This treatment understates the costs of these entities to the Federal Government. As CBO testified: "That approach can postpone for many years the recognition of the costs of new obligations. Subsidized mortgage guarantees may even show gains for the government in the short term because fees are

[7] See 12 U.S.C. 1721 and 12 U.S.C. 1455.

[8] "Federal Housing Finance Agency—Office of Conservatorship Operations" *http://www.fhfa.gov/Default.aspx?Page=344,* accessed January 20, 2012.

[9] Statement of Deborah Lucas, Assistant Director for Financial Analysis, "The Budgetary Cost of Fannie Mae and Freddie Mac and Options for the Future Federal Role in the Secondary Mortgage Market," June 2, 2011, p. 2.

collected up front but losses are realized over time as defaults occur."[10]

Studies Conducted by the OMB and CBO on Fair Value Concepts

The bill calls on CBO and OMB to review other insurance programs to determine the possible application of fair value accounting to record their costs in a full and transparent manner.

As this Committee noted in 1998:

> Cash budgeting provides incomplete and misleading cost information for those programs because, for most insurance contracts, premiums are paid long before claims are made. Under current budget conventions, legislation affecting Federal insurance programs often is seen as providing savings even though it expands insurance coverage and increases the likelihood that the cost of claims over time will be higher than expected in the absence of the legislation. Such situations can occur when the legislation increases premiums today; but claims due under the higher coverage would not be paid until future fiscal years—often well beyond the budget window although over the years there has been a growing trend in moving to accrual budgeting for the contingent liabilities of the Federal Government.[11]

In the same report, the Committee noted:

> Interest in budgeting for contingent liabilities predates the congressional budget process. In August 1956, Congress enacted a bill that required agency accounts to be maintained on an accrual basis '[a]s soon as practicable * * *' (S. 3897, Ch. 814-Public Law 863). The issue of unfunded liabilities and accrual budgeting was addressed in hearings of the Joint Committee on Budget Control in 1973.

HEARINGS

In 2011, the House Budget Committee held hearings on budget process reform and one of those hearings focused on the Federal Credit Reform Act and its application to housing programs.

The hearing involving fair value, "Fannie Mae, Freddie Mac and FHA: Taxpayer Exposure in the Housing Markets," was held on June 2, 2011, with Deborah J. Lucas (Congressional Budget Office), Alex J. Pollock (American Enterprise Institute) and Sarah Rosen Wartell (Center for American Progress and Center for American Progress Action Fund).

The first budget process hearing, "The Broken Budget Process: Perspectives From Former CBO Directors," was held on September 21, 2011, with former CBO Directors Rudolph Penner and Alice Rivlin testifying.

The second budget process hearing, "The Broken Budget Process: Perspectives From Budget Experts," was held on September 22, 2011, with Philip Joyce (University of Maryland), the Honorable Jim Nussle (Chairman of the Committee on the Budget, 2001

[10] Ibid.

[11] House Report 106–198—Part 2—The Comprehensive Budget Process Reform Act of 1999, p. 58.

through 2007, United States House of Representatives) and the Honorable Phil Gramm (former United States Senator, 1985—2002) testifying.

SECTION BY SECTION

SECTION 1. SHORT TITLE.

This section establishes the short title of the bill as the "Budget and Accounting Transparency Act of 2012".

TITLE—FAIR VALUE ESTIMATES

SECTION 101. CREDIT REFORM.

This section amends the Congressional Budget and Impoundment Control Act of 1974 be striking the existing Title V and replacing it with the following new text:

SEC. 501. PURPOSES

Sets forth the purposes of this title which are as follows: (1) measure more accurately the costs of Federal credit programs by accounting for them on a fair value basis, (2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending, (3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries, and (4) improve the allocation of resources among the Federal programs.

SEC. 502. DEFINITIONS

This section defines the following terms used in this title: direct loan, direct loan obligation, loan guarantee, loan guarantee commitment, cost, program account, financing account, liquidating account, modification, current, Director, administrative costs, and essential preservation expenses.

"Cost" is defined as the sum of (1) the Treasury discounting component and (2) the risk component of a direct loan or loan guarantee, or a modification thereof. The Treasury discounting component is the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, calculated on a net present value basis discounted at the Treasury borrowing rate. The risk component is the amount equal to the difference between the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, estimated on a fair value basis, applying the guidelines set forth by the Financial Accounting Standards Board in Financial Accounting Standards #157 and the Treasury discounting component of such a direct loan or loan guarantee, or modification thereof. Both components exclude administrative costs and any incidental effects on government receipts or outlays.

SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW

For the executive branch, the OMB Director is responsible for coordinating estimates and will consult with agencies that administer direct loans or loan guarantee programs.

In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the OMB Director is required to consult with the Director of CBO and to coordinate the development of more accurate data on historical performance and prospective risk of direct loan and loan guarantee programs. The Directors of OMB and CBO are required to annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs.

SEC. 504. BUDGETARY TREATMENT

Subsection (a) retains language from current law which requires that beginning with fiscal year 1992, the President's budget is to reflect the Treasury discounting component of direct loan and loan guarantee programs. The subsection establishes new text that, beginning with fiscal year 2015, the President's budget must reflect the costs of direct loan and loan guarantee programs and include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

Subsection (b) requires that new budget authority be provided by appropriation in advance before new direct loans or loan guarantee commitments are incurred.

Subsection (c) provides that direct loan or loan guarantee programs that constitute an entitlement, are made by Fannie Mae or Freddie Mac, and all existing credit programs of the Commodity Credit Corporation on the date of enactment of this title are exempt from the requirements of subsection (b), which requires the appropriation of new budget authority for direct loans and loan guarantees, and of subsection (e), which prohibits modifications of direct loans or loan guarantees in a manner that increases costs unless additional budget authority has been appropriated in advance.

Subsection (d) provides that the authority to incur new direct loan obligation, make new loan guarantee commitments, or modify outstanding direct loans or loan guarantees constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. That budget authority constitutes an obligation of the program account to pay to the financing account. The outlays from new budget authority for the cost of direct loans or loan guarantees are to be paid from the program account into the financing account and recorded in the fiscal year in which the direct loan or guaranteed loan is disbursed or its costs altered.

Subsection (e) prohibits modifications of direct loans or loan guarantees in a manner that increases costs unless additional budget authority has been appropriated in advance.

Subsection (f) provides that when the estimated cost for a group of direct loans or loan guarantees for a fiscal year is reestimated that the new cost will be displayed as a distinct and separately identified subaccount in the program account as a change in program costs and a change in net interest. Permanent indefinite authority for these re-estimates is provided in this subsection.

Subsection (g) provides that all funding for an agency's administrative costs associated with a direct loan or loan guarantee program be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

SEC. 505. AUTHORIZATIONS

Subsection (a) authorizes the President to establish non-budgetary accounts to implement the accounting required.

Subsection (b) directs the Secretary of the Treasury to borrow, receive, lend, or pay to the financing accounts as appropriate.

For guaranteed loans financed by the Federal Financing Bank and treated as direct loans by a Federal agency pursuant to section 406(b)(1), any fee or interest surcharge (exceeding the Treasury discounting component of the cost the Federal Financing Bank charges to private borrower under section 6(c) of the Federal Financing Bank Act of 1973 is considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All those amounts are then credited to the appropriate financing account.

The Federal Financing Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Federal Financing Bank that are attributable to the direct loans financed for that agency. All these payments by an agency are considered administrative expenses (see section 504(g)) and apply to direct loan obligation transactions after October 1, 1991.

All transactions under this subsection are subject to the provisions of subchapter II of chapter 15 of title 31, U.S. Code dealing with the apportionment of funds.

The subsection requires that excess cash balances be maintained in a form of uninvested funds and the Secretary of the Treasury pay interest on these funds. The Secretary charges the financing accounts an amount equal to the risk component for a direct loan or loan guarantee, or modification thereof. This amount is a means of financing and not considered a cash flow of the Government for the purposes of section 502(7).

It also provides that amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for payments necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

It provides that amounts credited to liquidating accounts are available only for payments required in that year. After the fiscal year they are transferred to miscellaneous receipts.

SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS

This section provides that this title does not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or the Tennessee Valley Authority.

SEC. 507. EFFECT ON OTHER LAWS

This section provides that nothing in Title I is to be construed to establish a credit limitation on any Federal loan or loan guarantee program. Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, are credited to the liquidating accounts of Federal agencies.

SECTION 102. EFFECTIVE DATE.

This section provides that the amendment in Sec. 101 will take effect beginning with fiscal year 2014.

SECTION 103. BUDGETARY ADJUSTMENT.

This section makes clear the move from accounting for loans and loan guarantees on a Federal Credit Reform basis to a fair value basis constitutes a change in concept for purposes of section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985. This will result in the Director of OMB adjusting the caps on discretionary spending in section 251(c) of that Act to account for the change in accounting method.

Before adjusting the discretionary caps, OMB is required to report to the House and Senate Budget Committees the amount of the prospective adjustment, the methodology used in determining its size, and provide a program-by-program itemization of the components of the adjustment. OMB is prohibited from making an adjustment sooner than 60 after providing the report.

TITLE II—BUDGETARY TREATMENT

SECTION 201. CBO AND OMB STUDIES RESPECTING BUDGETING FOR COSTS OF FEDERAL INSURANCE PROGRAMS.

This section requires CBO and OMB to prepare a study and make recommendations to the House and Senate Budget Committees as to the feasibility of applying fair value concepts to budgeting for the costs of Federal insurance programs. The report is due within one year of the enactment of this bill.

SECTION 202. ON–BUDGET STATUS OF FANNIE MAE AND FREDDIE MAC.

This section requires the receipts and disbursements, including the administrative expenses, of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) be counted as new budget authority, outlays, receipts, deficit or surplus for the purposes of the President's budget submission; the congressional budget; and the Balanced Budget and Emergency Deficit Control Act of 1985.

SECTION 203. EFFECTIVE DATE.

This section allows for the removal of Fannie Mae and Freddie Mac from the Federal budget once three conditions are met: (1) the conservatorship for the enterprise has been terminated; (2) its regulator has certified that the enterprise has repaid as much aid to the Federal Government as is consistent with minimizing the total cost to the Federal Government of the conservatorship; and (3) the charter for the enterprise has been revoked and the authorizing statue with respect to the enterprise has been repealed.

TITLE III—BUDGET REVIEW AND ANALYSIS

SECTION 301. CBO AND OMB REVIEW AND RECOMMENDATIONS RESPECTING RECEIPTS AND COLLECTIONS.

This section requires OMB to prepare a study of the history of offsetting collections against expenditures and the amount of receipts collected annually, the historical application of the budgetary terms "revenue", "offsetting collections" and "offsetting receipts", and review the application of those terms. CBO is required to review the OMB study. Both CBO and OMB are then to each make recommendations to the House and Senate Budget Committees as to whether such usage should be continued or modified. The report is due within one year of the enactment of the bill.

SECTION 302. AGENCY BUDGET JUSTIFICATIONS.

This section amends section 1108 of title 31, U.S. Code, by inserting at the end a requirement that agencies make available on their public websites all budget justification materials provided to Congress on the same day as the justifications are submitted to Congress. The materials must be searchable, sortable, and downloadable. The bill establishes a process for developing common standards for the public presentation of this information.

VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to accompany any bill or resolution of a public character to include the total number of votes cast for and against each roll call vote, on a motion to report and any amendments offered to the measure or matter, together with the names of those voting for and against.

Listed below are the actions taken by the Committee on the Budget of the House of Representatives on the Budget and Accounting Transparency Act of 2012.

On January 24, 2012, the committee met in open session, a quorum being present.

Chairman Ryan asked unanimous consent to be authorized, consistent with clause 4 of rule XVI of the Rules of the House of Representatives, to declare a recess at any time during the committee meeting.

There was no objection to the unanimous consent request.

Chairman Ryan asked unanimous consent to dispense with the first reading of the bill and the bill be considered as read and open to amendment at any point.

There was no objection to the unanimous consent request.

The committee adopted and ordered reported favorably the Budget and Accounting Transparency Act of 2012.

The committee took the following votes:

Amendment in the Nature of a Substitute Offered by Mr. Garrett

1. The amendment was offered in the nature of a substitute to H.R. 3578 and was made in order as original text. The amendment reforms the way certain costs are calculated by the Federal Government and requires additional costs incurred by the Federal Government to be included in the budget. The amendment requires fair value accounting for Federal credit programs by the Federal Government, incorporating not only the borrowing costs of the Federal Government, but also the cost of the market risk the Federal Government is incurring by issuing a loan or loan guarantee.

This amendment also requires the CBO and OMB to conduct one study on extending the fair value methodology to Federal insurance programs, and another on the budgetary terms related to money collected by the Federal Government. The government-sponsored enterprises, Fannie Mae and Freddie Mac are brought on-budget. Lastly the bill requires that agencies make public the budgetary justification materials prepared.

The amendment was agreed to by voice vote.

Amendment Offered by Mr. Amash

2. The amendment to the amendment in the nature of a substitute requires all agency budget justifications to be available the same day as provided on the internet organized in a searchable, sortable, and downloadable format.

The amendment was agreed to by voice vote.

3. Mr. Garrett made a motion that the committee report the bill as amended and that the bill do pass.

The motion was agreed to by a roll call vote of 21 ayes and 10 noes.

H.R. 3581

Name & State	Aye	No	Answer Present	Name & State	Aye	No	Answer Present
RYAN (WI) (Chairman)	X			VAN HOLLEN (MD) (Ranking)		X	
GARRETT (NJ)	X			SCHWARTZ (PA)			
SIMPSON (ID)	X			KAPTUR (OH)			
CAMPBELL (CA)	X			DOGGETT (TX)		X	
CALVERT (CA)	X			BLUMENAUER (OR)		X	
AKIN (MO)	X			McCOLLUM (MN)		X	
COLE (OK)				YARMUTH (KY)		X	
PRICE (GA)	X			PASCRELL (NJ)		X	
McCLINTOCK (CA)	X			HONDA (CA)			
CHAFFETZ (UT)	X			RYAN (OH)		X	
STUTZMAN (IN)	X			WASSERMAN SCHULTZ (FL)		X	
LANKFORD (OK)	X			MOORE (WI)		X	
BLACK (TN)	X			CASTOR (FL)		X	
RIBBLE (WI)	X			SHULER (NC)			
FLORES (TX)	X			TONKO (NY)			
MULVANEY (SC)	X			BASS (CA)			
HUELSKAMP (KS)	X						
YOUNG (IN)	X						
AMASH (MI)	X						
ROKITA (IN)	X						
GUINTA (NH)	X						
WOODALL (GA)	X						

Mr. Honda, Mr. Tonko, and Ms. Bass requested that the record reflect they would have voted no on the roll-call vote.

Mr. Garrett made a motion that, pursuant to clause 1 of rule XXII of the Rules of the House of Representatives, the Chairman be authorized to offer such motions as may be necessary in the House to go to conference with the Senate, and staff be authorized to make any necessary technical and conforming changes to the bill.

The motion was agreed to without objection.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on the Budget's oversight findings and recommendations are reflected in the body of this report.

BUDGET ACT COMPLIANCE

The provisions of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and sections 402 and 423 of the Congressional Budget Act of 1974 submitted to the committee prior to the filing of this report are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 30, 2012.

Hon. PAUL RYAN, *Chairman,*
Committee on the Budget, U.S. House of Representatives, Washington, DC 20515.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3581, the Budget and Accounting Transparency Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico, who can be reached at 226–2820.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

ENCLOSURE:
cc: Hon. CHRIS VAN HOLLEN, *Ranking Member.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE
JANUARY 30, 2012

H.R. 3581: BUDGET AND ACCOUNTING TRANSPARENCY ACT OF 2012

As ordered reported by the House Committee on the Budget on January 24, 2012

SUMMARY

H.R. 3581 would modify the budgetary treatment of federal credit programs. The bill would amend the Federal Credit Reform Act of 1990 (FCRA) to require that, beginning in 2014, the cost of direct loans or loan guarantees be recognized in the federal budget on a fair-value basis using guidelines set forth by the Financial Accounting Standards Board. A fair-value approach to accounting for the cost of federal loans and loan guarantees would produce estimates of costs that either correspond to or approximate the value of these loans or guarantees to buyers in the private market.

The bill also would require that the federal budget reflect the net impact of programs administered by Fannie Mae and Freddie Mac; federal agencies post budget justifications on public Web sites on the same day they are submitted to the Congress; and the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) prepare studies on the costs of federal insurance programs and the historical application of the budgetary terms revenue, offsetting collections, and offsetting receipts.

The proposed changes to the budgetary treatment of federal credit programs would increase the estimated costs of such programs compared to measures used under current law. (This legislation would not change the terms of such credit programs, but would change what is recorded in the budget as the cost of credit assistance.) CBO estimates that if fair-value procedures were used to estimate the cost of new credit activity in 2012, the total deficit for the year would be about $55 billion greater than the deficit as measured under current estimating procedures. Because that increased cost would stem from a change in concepts and definitions used to prepare federal budget documents rather than a change in agencies' legal authority to operate credit programs, it would not be an additional cost attributed to H.R. 3581 for Congressional budget enforcement procedures.

CBO estimates that measuring the cost of federal credit programs on a fair-value basis as prescribed under H.R. 3581 would increase agencies' administrative costs to operate such programs. In addition, the requirements to post budget justifications on the Internet and produce studies would require additional resources. Assuming appropriation of the necessary amounts, CBO estimates such costs would total $14 million over the 2012–2017 period. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 3581 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3581 is shown in the following table. The costs of this legislation fall within all budget functions that include administrative costs associated with federal credit programs.

[By fiscal year, in millions of dollars]

	2012	2013	2014	2015	2016	2017	2012–2017
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	1	5	5	1	1	1	14
Estimated Outlays	1	5	5	1	1	1	14

BASIS OF ESTIMATE

Agencies would face various administrative challenges to develop and execute new requirements that would be imposed by a change in budgetary treatment for credit programs. CBO estimates that the procedures prescribed by the bill would require federal agencies that administer credit programs to update their accounting and budget preparation systems, procure advisory services, and hire additional staff with expertise in financial asset valuation. In addition, the bill's requirement that all agencies post uniform, searchable, and sortable budget justifications and that OMB and CBO produce two studies would increase administrative costs. Based on information about the cost of carrying out similar activities and information from some federal agencies that operate major credit programs, CBO estimates that implementing H.R. 3581 would cost $14 million over the next five years, assuming appropriation of the necessary amounts.

COMPARISON OF ALTERNATIVE BUDGETARY TREATMENTS OF CREDIT PROGRAMS

The federal government provides credit assistance in the form of direct loans and guaranteed loans. Most of that assistance is offered through a few large programs; together, the Federal Housing Administration's (FHA's) mortgage guarantee programs and the Department of Education's student loan programs account for about 60 percent of outstanding federally backed credit.[1] Other major credit programs include the Department of Veterans Affairs' mortgage guarantee programs, the Department of Agriculture's credit programs for rural utilities, and the Small Business Administration's loan and loan guarantee programs. More than 150 smaller credit programs currently provide assistance for a variety of other activities including international trade and investments in new energy technologies.

H.R. 3581 would amend FCRA to modify procedures for calculating the budgetary cost of federally backed credit programs. As discussed below, such changes would increase the estimated cost of such programs for budget purposes, thereby increasing the estimates of future deficits.

[1] The term federally backed credit is used to encompass all federal loan and loan guarantee programs. For this cost estimate, these programs do not include the credit assistance provided by Fannie Mae or Freddie Mac, or the Troubled Asset Relief Program.

FCRA Procedures

FCRA specifies that the budgetary cost of federally backed credit programs are calculated and recorded on an accrual basis—unlike most items in the federal budget, which are shown on a cash basis. The main distinction between cash and accrual accounting is that, whereas under cash accounting expenditures are recorded in the years when cash payments are made, on an accrual basis the estimated lifetime cost of a direct loan or loan guarantee is recognized in the year when the loan is approved.

Under FCRA, the budgetary impact—or subsidy cost—of a direct loan or loan guarantee is calculated as the net present value of expected cash flows over the life of the loan. For a direct loan, net cash flows include payments of principal, interest, and any fees paid by the borrower less any amounts lost due to borrower default. For a loan guarantee, fees collected from the borrower and guarantor, and payments made to make the guarantor whole if the borrower defaults would be included in the cash flows. The net present value is estimated by discounting the expected cash flows to the time of loan disbursement. FCRA specifies that discounting calculations use the interest rates on Treasury securities with maturities comparable to the terms of loans. For example, cash flows projected in the year following disbursement are discounted using the rate for one-year Treasury securities; those five years out are discounted using a five-year rate; and so on.

Cost of Credit Programs Under FCRA

Over the 2000–2007 period, the face value of loans made or guaranteed by the federal government (known as the aggregate volume of credit activity) averaged $310 billion and estimated subsidy costs under FCRA averaged $6.4 billion annually—for a net, average subsidy rate of 2 percent of aggregate loan volume. In contrast, the aggregate subsidy rate for programs covered by FCRA was negative in each fiscal year over the 2008–2011 period; that is, the government's lending activities generated an accounting profit which reduced measures of budget deficits in those years. That swing from positive to negative FCRA subsidies stemmed primarily from legislative and programmatic changes to student loans and FHA mortgage insurance. For 2011, CBO estimates that programs covered by FCRA reduced the deficit by $22 billion.

Fair-Value Procedures

H.R. 3581 would require that subsidy estimates for federal credit programs be calculated on a fair-value basis. The Financial Accounting Standards Board defines the fair value of a loan as the price that would be received if it were sold in a competitive market. Similarly, the fair value of a loan guarantee is the price that would have to be paid to induce a market participant to assume the guarantee commitment.

In practice, differences between FCRA estimates and fair-value estimates stem from differences in the effective discount rates used to calculate the present value of future cash flows. While FCRA requires that subsidy calculations use Treasury rates to discount future cash flows, fair-value estimates employ rates that also incorporate a premium for market risk. Private investors require additional compensation for market risk because investments exposed to such risk are more likely to have low returns when the economy as a whole is weak and resources are scarce and highly valued. By incorporating a market-based risk premium, fair-value estimates would recognize that the government's assumption of financial risk involves costs that exceed the average amount of losses that would be expected from defaults.

Cost of Credit Programs Under H.R. 3581

A consequence of switching to fair-value accounting is that the estimated budgetary cost of credit programs would appear higher than under FCRA. CBO has provided detailed supplementary information to the Congress about the fair-value cost of certain federal credit and insurance programs and how they compare to FCRA estimates.[2] To illustrate the change in measures of future deficits under the bill, CBO has also analyzed the cost of federal credit programs in 2012 on both a FCRA and fair-value basis.

CBO estimates that if fair-value procedures were used to estimate the cost of credit programs in 2012, the total deficit would be about $55 billion greater than

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[2] Costs and Policy Options for Federal Student Loan Programs (March 2010), *http://www.cbo.gov/ftpdocs/110xx/doc11043/03-25-StudentLoans.pdf.* Accounting for FHA's Single-Family Mortgage Insurance Program on a Fair value Basis (May 18, 2011), *http://www.cbo.gov/ftpdocs/120xx/doc12054/05-18-FHA_Letter.pdf.* Federal Loan Guarantees for the Construction of Nuclear Power Plants (August 2011), *http://www.cbo.gov/ftpdocs/122xx/doc12238/08-03-NuclearLoans.pdf.*

the deficit as measured using current estimating procedures. That increase would be split between the mandatory and discretionary portions of the budget:

- On a FCRA basis, CBO estimates net subsidies for mandatory credit programs would reduce the federal deficit by about $30 billion in 2012. On a fair-value basis, the cost of those same programs would be roughly $35 billion greater. Starting in 2014, the budget would record increased budget authority and outlays for those programs; however, because those programs are mandatory, fully funding them on a fair-value basis under H.R. 3581 would require no further Congressional action.[3] The estimated cost of legislative proposals for new mandatory credit programs or changes to existing programs (such as student loans) would be higher using fair-value procedures than they would be on a FCRA basis.
- Net receipts from discretionary credit programs reduced the estimated cost of appropriations in 2012 by about $4 billion on a FCRA basis. On a fair-value basis, CBO estimates that those same programs would require additional appropriations of about $20 billion. To account for the increased need for future appropriations to cover higher subsidy costs when measured on a fair-value basis, H.R. 3581 would allow the caps on discretionary appropriations set forth in the Budget Control Act of 2011 to be adjusted upward.

The Administration currently records transactions related to the Treasury's conservatorship of Fannie Mae and Freddie Mac on a cash basis in the federal budget. CBO estimates that the net impact of the activities of those entities would cost an average of about $3 billion per year on a fair-value basis over the next 10 years.

PAY-AS-YOU-GO CONSIDERATIONS

None.

INTERGOVERNMENTAL AND PRIVATE–SECTOR IMPACT

H.R. 3581 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local or tribal governments.

ESTIMATE PREPARED BY

Federal Costs: Chad Chirico.
Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle.
Impact on the Private Sector: Paige Piper/Bach.

ESTIMATE APPROVED BY

Peter H. Fontaine, Assistant Director for Budget Analysis.

Performance Goals and Objectives

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to increase the transparency of Federal budgeting by bringing off-budget entities on-budget, reform the accounting methodology used for Federal credit programs to reflect best practices from the private sector, and require agencies to promptly make public the budget justification materials they submit to Congress in support of their requests for public funds.

Constitutional Authority Statement

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the committee finds the constitutional authority for this legislation in Article I, section 9, clause 7.

Committee Cost Estimate

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the committee report incorporates the cost esti-

[3] Mandatory spending refers to budget authority that is provided in laws other than appropriation acts and the outlays that result from such budget authority.

mate prepared by the Director of the Congressional Budget Office pursuant to sections 402 and 423 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

FEDERAL MANDATES STATEMENT

The committee adopts the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3581 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

SHORT TITLES; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLES.—This Act may be cited as the "Congressional Budget and Impoundment Control Act of 1974". Titles I through IX may be cited as the "Congressional Budget Act of 1974". Parts A and B of title X may be cited as the "Impoundment Control Act of 1974". Part C of title X may be cited as the "Line Item Veto Act of 1996".

(b) TABLE OF CONTENTS.—

TITLE V—FAIR VALUE

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[TITLE V—CREDIT REFORM

[SEC. 500. SHORT TITLE.

[This title may be cited as the "Federal Credit Reform Act of 1990".

[SEC. 501. PURPOSES.

[The purposes of this title are to—

[(1) measure more accurately the costs of Federal credit programs;

[(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

[(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

[(4) improve the allocation of resources among credit programs and between credit and other spending programs.

[SEC. 502. DEFINITIONS.

[For purposes of this title—

[(1) The term "direct loan" means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

[(2) The term "direct loan obligation" means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

[(3) The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

⟦(4) The term “loan guarantee commitment” means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

⟦(5)(A) The term “cost” means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

⟦(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

⟦(i) loan disbursements;

⟦(ii) repayments of principal; and

⟦(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries;

including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

⟦(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

⟦(i) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; and

⟦(ii) payments to the Government including origination and other fees, penalties and recoveries;

including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

⟦(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

⟦(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

⟦(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

⟦(6) The term “credit program account” means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

⟦(7) The term “financing account” means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

⟦(8) The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

⟦(9) The term "modification" means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

⟦(10) The term "current" has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

⟦(11) The term "Director" means the Director of the Office of Management and Budget.

⟦SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

⟦(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

⟦(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

⟦(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

⟦(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

⟦(e) HISTORICAL CREDIT PROGRAM COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

⟦(f) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform accounting.

[SEC. 504. BUDGETARY TREATMENT.

[(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

[(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

[(1) new budget authority to cover their costs is provided in advance in an appropriations Act;

[(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriations Act; or

[(3) authority is otherwise provided in appropriation Acts.

[(c) EXEMPTION FOR MANDATORY PROGRAMS.—Subsections (b) and (e) shall not apply to a direct loan or loan guarantee program that—

[(1) constitutes an entitlement (such as the guaranteed student loan program or the veterans' home loan guaranty program); or

[(2) all existing credit programs of the Commodity Credit Corporation on the date of enactment of this title.

[(d) BUDGET ACCOUNTING.—

[(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

[(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

[(3) All collections and payments of the financing accounts shall be a means of financing.

[(e) MODIFICATIONS.—An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriations Act.

[(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

⟦(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

⟦SEC. 505. AUTHORIZATIONS.

⟦(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

⟦(b) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

⟦(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the "Bank") pursuant to section 406(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

⟦(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

[(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

[(B) disbursements of loans;

[(C) default and other guarantee claim payments;

[(D) interest supplement payments;

[(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

[(F) payments to financing accounts when required for modifications;

[(G) administrative expenses, if—

[(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

[(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

[(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

[(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

[(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

[(e) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION EXPENSES.—There are authorized to be appropriated to existing accounts such sums as may be necessary for salaries and expenses to carry out the responsibilities under this title.

[(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

[(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

[SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

[(a) IN GENERAL.—This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

[(b) STUDY.—The Director and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis on the same basis as loan guarantees, or on a different basis. Each Director shall report findings and recommendations to the President and the Congress on or before May 31, 1991.

[(c) ACCESS TO DATA.—For the purposes of subsection (b), the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

[SEC. 507. EFFECT ON OTHER LAWS.

[(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

[(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.]

TITLE V—FAIR VALUE

SEC. 501. PURPOSES.

The purposes of this title are to—

(1) measure more accurately the costs of Federal credit programs by accounting for them on a fair value basis;

(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

(4) improve the allocation of resources among Federal programs.

SEC. 502. DEFINITIONS.

For purposes of this title:

(1) The term "direct loan" means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of

default claims or the price support loans of the Commodity Credit Corporation.

(2) The term "direct loan obligation" means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

(3) The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(4) The term "loan guarantee commitment" means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(5)(A) The term "cost" means the sum of the Treasury discounting component and the risk component of a direct loan or loan guarantee, or a modification thereof.

(B) The Treasury discounting component shall be the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(C) The risk component shall be an amount equal to the difference between—

(i) the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, estimated on a fair value basis, applying the guidelines set forth by the Financial Accounting Standards Board in Financial Accounting Standards #157, or a successor thereto, excluding administrative costs and any incidental effects on governmental receipts or outlays; and

(ii) the Treasury discounting component of such direct loan or loan guarantee, or modification thereof.

(D) The Treasury discounting component of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(i) Loan disbursements.

(ii) Repayments of principal.

(iii) Essential preservation expenses, payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries, including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(E) The Treasury discounting component of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, essential preservation expenses, or other payments.

(ii) Payments to the Government including origination and other fees, penalties, and recoveries, including the effects of changes in loan terms resulting from the exercise by

the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(F) The cost of a modification is the sum of—

(i) the difference between the current estimate of the Treasury discounting component of the remaining cash flows under the terms of a direct loan or loan guarantee and the current estimate of the Treasury discounting component of the remaining cash flows under the terms of the contract, as modified; and

(ii) the difference between the current estimate of the risk component of the remaining cash flows under the terms of a direct loan or loan guarantee and the current estimate of the risk component of the remaining cash flows under the terms of the contract as modified.

(G) In estimating Treasury discounting components, the discount rate shall be the average interest rate on marketable Treasury securities of similar duration to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

(H) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(6) The term "program account" means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

(7) The term "financing account" means the nonbudget account or accounts associated with each program account which holds balances, receives the cost payment from the program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

(8) The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

(9) The term "modification" means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

(10) The term "current" has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(11) The term "Director" means the Director of the Office of Management and Budget.

(12) The term "administrative costs" means costs related to program management activities, but does not include essential preservation expenses.

(13) The term "essential preservation expenses" means servicing and other costs that are essential to preserve the value of loan assets or collateral.

SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance and prospective risk of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

(e) HISTORICAL CREDIT PROGRAMS COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

SEC. 504. BUDGETARY TREATMENT.

(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 1992, the President's budget shall reflect the Treasury discounting component of direct loan and loan guarantee programs. Beginning with fiscal year 2015, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

(1) new budget authority to cover their costs is provided in advance in an appropriation Act;

(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriation Act; or

(3) authority is otherwise provided in appropriation Acts.

(c) EXEMPTION FOR DIRECT SPENDING PROGRAMS.—Subsections (b) and (e) shall not apply to—

(1) any direct loan or loan guarantee program that constitutes an entitlement (such as the guaranteed student loan program or the veteran's home loan guaranty program);

(2) the credit programs of the Commodity Credit Corporation existing on the date of enactment of this title; or

(3) any direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) made by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(d) BUDGET ACCOUNTING.—

(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the program account to pay to the financing account.

(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

(3) All collections and payments of the financing accounts shall be a means of financing.

(e) MODIFICATIONS.—An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriation Act.

(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given program made in a single fiscal year is re-estimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these re-estimates.

(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administrative costs associated with a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

SEC. 505. AUTHORIZATIONS.

(a) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

(b) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described in the preceding sentence, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the "Bank") pursuant to section 405(b)) and the rate of inter-

est paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(G).

(2) LOANS.—For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b)(1), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(G) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account.

(3) REIMBURSEMENT.—The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

(4) AUTHORITY.—The authorities provided in this subsection shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program.

(5) TITLE 31.—All of the transactions provided in the subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code.

(6) TREATMENT OF CASH BALANCES.—Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds. The Secretary of the Treasury shall charge (or pay if the amount is negative) financing accounts an amount equal to the risk component for a direct loan or loan guarantee, or modification thereof. Such amount received by the Secretary of the Treasury shall be a means of financing and shall not be considered a cash flow of the Government for the purposes of section 502(5).

(c) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

(B) disbursements of loans;

(C) default and other guarantee claim payments;

(D) interest supplement payments;

(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

(F) payments to financing accounts when required for modifications;

(G) administrative costs and essential preservation expenses, if—

(i) amounts credited to the liquidating account would have been available for administrative costs and essential preservation expenses under a provision of law in effect prior to October 1, 1991; and

(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

(d) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

(e) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

SEC. 507. EFFECT ON OTHER LAWS.

(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the

general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

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BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

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PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

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SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) * * *

(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

(1) CONCEPTS AND DEFINITIONS.—When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions, minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate, and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes. *A change in discretionary spending solely as a result of the amendment to title V of the Congressional Budget Act of 1974 made by the Budget and Accounting Transparency Act of 2012 shall be treated as a change of concept under this paragraph.*

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TITLE 31, UNITED STATES CODE

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SUBTITLE II—THE BUDGET PROCESS

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CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

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§ 1108. Preparation and submission of appropriations requests to the President

(a) * * *

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(h)(1) Whenever any agency prepares and submits written budget justification materials for any committee of the House of Representatives or the Senate, such agency shall post such budget justification on the same day of such submission on the "open" page of the public website of the agency, and the Office of Management and Budget shall post such budget justification in a centralized location on its website, in the format developed under paragraph (2).

(2) The Office of Management and Budget, in consultation with the Congressional Budget Office and the Government Accountability Office, shall develop and notify each agency of the format in which to post a budget justification under paragraph (1). Such format shall be designed to ensure that posted budget justifications for all agencies—

(A) are searchable, sortable, and downloadable by the public;

(B) are consistent with generally accepted standards and practices for machine-discoverability;

(C) are organized uniformly, in a logical manner that makes clear the contents of a budget justification and relationships between data elements within the budget justification and among similar documents; and

(D) use uniform identifiers, including for agencies, bureaus, programs, and projects.

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VIEWS OF COMMITTEE MEMBERS

Clause 2(l) of rule XI of the Rules of the House of Representatives requires each committee to provide two days to Members of the committee to file Minority, additional, supplemental, or dissenting views and to include such views in the report on legislation considered by the committee. The following views were submitted:

MINORITY VIEWS

Although there are large differences in budget priorities between the parties, we share a common goal of putting the federal budget on a fiscally sustainable path. We all want the federal government to be efficient, to focus scarce resources where they can do the most good, and to not waste a single dime of taxpayer dollars. And we want our budget laws to help support those goals.

Budget process rules and laws can make a difference. For instance, the PAYGO principle that has been in effect at different periods has played a useful role in preventing the deficit from getting even worse. But budget process changes will never be a substitute for tackling the difficult fiscal questions facing us today. It is not that the budget process does not work, it is that Congress has failed to follow the rules already on the books.

The Budget Committee has held two hearings on the general topic of budget process reform and the recommendations crossed party lines. Former Budget Committee Chairman Jim Nussle, a Republican witness, testified that "It may not be that the budget process is broken. It may not be, in other words, that tools are broken, but it may be the fact that the tools are not even being used." Similarly, Dr. Philip Joyce, former Congressional Budget Office (CBO) staff member and a Democratic witness, testified that "My main message is that most of the tools that you need to solve the budget problems faced by the country are already in your toolbox. If the goal is to deal with the larger fiscal imbalance that faces us, the most important thing to do is to make use of them, not search for more tools."

The reason we are not following the existing budget rules is that Republicans have shown a lack of political will and an unwillingness to compromise. Until Republicans are willing to support a balanced approach, we will never address the urgent need to put Americans back to work and to put our nation on a path toward long-term fiscal sustainability. Unfortunately, the Budget and Accounting Transparency Act of 2012 does nothing to create a single job, to reduce the deficit by a single penny, or to put the country on a fiscally sustainable path.

This bill is not yet ready for prime time. It mandates a switch to "fair value" estimates of cost for all government loan and loan guarantee programs, instead of the credit reform estimates that have been in use since 1990. Fair value accounting is relatively new and there is not a consensus about the appropriateness of its use among budget professionals. For example, former CBO director Robert D. Reischauer wrote a letter strongly opposing the bill's switch to fair value estimating, the text of which is included below. On the other hand, CBO has begun to provide some fair value estimates as supplemental information in addition to its official cost estimates for some relevant legislation. We believe it is important to hold hearings to examine the different views of various practitioners and academics before mandating the use of fair value estimates across the government.

Moreover, neither the Office of Management and Budget (OMB) nor CBO has completed estimates for the full range of programs conducted by the federal government. There are a multitude of conceptual issues to address both in preparing estimates—for example, how to develop estimates when there is no market offering similar loan instruments—and executing budgets. This bill offsets the expected overstatement of cash costs to the government over the long-term through a non-budgetary transaction. This differs from the approach currently taken by OMB in the few areas where the use of fair value has been mandated in law.

The Budget Committee would benefit from holding a hearing exclusively to examine both credit reform and fair value estimates, which would allow us to determine if the bill takes the best approach.

Letter from Robert D. Reischauer:

JANUARY 23, 2012.

Hon. CHRIS VAN HOLLEN,
1707 Longworth H.O.B.
Washington, DC.

DEAR REPRESENTATIVE VAN HOLLEN: I am writing in response to your request for my views on the desirability of adopting "fair value accounting" of federal direct loan and loan guarantee costs in the budget as proposed in H.R. 3581. I strongly oppose such a change.

The accounting convention used since enactment of the Credit Reform Act of 1990 already reflects the risk that borrowers will default on their loans or loan guarantees. Under Credit Reform, costs already are based on the expected actual cash flows from the direct loans and guarantees (with an adjustment to account for the timing of the cash flows). H.R. 3581 proposes to place an additional budgetary cost on top of the actual cash flows. This additional cost is supposed to reflect a cost to society that stems from the fact that, even if the cash flows turn out to be exactly as estimated, the *possibility* that the credit programs would cost more (or less) than estimated imposes a cost on a risk-averse public. Under the proposal, this extra cost would be the difference between the currently estimated cost of direct loans and loan guarantees to the federal government and the cost of those loans and loan guarantees if the private market were providing them.

A society's aversion to risk may be an appropriate factor for policymakers to take into account in a cost-benefit assessment of any spending or tax proposal but adding a cost to the budget does not make sense. Nor is clear that the cost of societal risk aversion should be based on individual or institutional risk which is what the private market reflects. Inclusion of a risk aversion cost for credit programs would be inconsistent with the treatment of other programs in the budget (many of which have costs that are at least as uncertain as the costs of credit programs—for instance, many agriculture programs and Medicare—and would add a cost element from a traditional cost-benefit analysis without adding anything based on the corresponding benefit side of such an analysis. It would also make budget accounting less straightforward and transparent.

H.R. 3581 represents a misguided attempt to mold budget accounting to facilitate a cost-benefit analysis, with the result that neither the budget nor the cost-benefit analysis would serve their intended purposes well.

I would be glad to discuss these issues in more detail if you would like.

With best wishes.

ROBERT D. REISCHAUER.

CHRIS VAN HOLLEN.
MIKE HONDA.
EARL BLUMENAUER.
PAUL TONKO.
BILL PASCRELL.
GWEN MOORE.
BETTY MCCOLLUM.
ALLYSON SCHWARTZ.
DEBBIE WASSERMAN SCHULTZ.
KAREN BASS.