
TITLE V CREDIT REFORM⁷³⁹

§ 500 SEC. 500. SHORT TITLE.

This title may be cited as the "Federal Credit Reform Act of 1990".⁷⁴⁰

⁷³⁹ Section 13201(a) of the Budget Enforcement Act created the new title V on credit reform. *See infra* p. 713. Public Law 97-258 repealed sections 501-504. *See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance,"* Pub. L. No. 97-258, 96 Stat. 877, 1082 (1982). What used to be section 501 was codified in section 1102 of title 31 and what used to be section 503 was codified in section 1552 of title 31. Section 13201(a) of the Budget Enforcement Act (which created the new title V on credit reform) repealed the title heading and sections 505 and 506. *See infra* p. 713.

⁷⁴⁰ The statement of managers accompanying the conference report on the Budget Enforcement Act explains generally the credit reform provisions:

VII. CREDIT REFORM

Current law

The credit programs of the Federal Government are displayed in the budget on a cash accounting basis. Cash accounting overstates the real economic cost of direct loan programs and understates the real economic costs of loan guarantee programs in the year loans are made.

House bill

The House bill provides for a revised system of accounting for Federal credit programs that requires the appropriation of budget authority equal to the cost to the government, which is the estimated net present value of the cash flows associated with federal direct loan and loan guarantee programs. The revised accounting would also apply to any modifications in the costs of outstanding direct loans or loan guarantees. An exception from the requirement for an appropriation is provided for existing entitlement credit programs and the credit activities of the Commodity Credit Corporation. The credit program cost estimates will not include administrative expenses, but these expenses will be displayed in the program account as a separate subaccount on a cash basis. All of the residual cash flows associated

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with direct loan and loan guarantee programs not included in the cost to the government estimate would be non-budgetary and treated as means of financing.

The House bill gives the Director of the Office of Management and Budget (OMB) the authority to make credit cost estimates for the Executive Branch. The OMB Director could also delegate such authority to any Federal agency through written guidelines. The Director of the OMB would have access to necessary data from the Federal agencies and has a mandate to work with the Congressional Budget Office to improve cost estimates through an annual review process. The House bill authorizes the President to establish the necessary non-budgetary accounts and the Secretary of the Treasury to borrow from, receive from, lend to, or pay to such amounts as may be appropriate to these non-budgetary accounts. These transactions will be subject to the Antideficiency Act. The House bill also authorizes the funds necessary to implement this change in credit accounting.

The House bill makes credit reform effective starting in fiscal year 1992 and provides that direct loans and loan guarantees made before this date shall be reflected in the budget on a cash basis. The House also provides permanent indefinite authority to liquidate the loan obligations and guarantee commitments made prior to October 1, 1991.

The House bill also calls for a study by the OMB and the CBO concerning whether the accounting for Federal deposit insurance programs should be made on a cash basis, on the same basis as loan guarantees, or on some other basis.

Finally, the House bill would no longer require the inclusion of credit authority amounts in budget resolutions, allocations, costs estimates, or any other document related to the Budget Act.

Senate amendment

The Senate amendment states that the purposes of credit reform is to measure accurately the costs of Federal credit programs, place the cost of credit programs on a budgetary basis equivalent to other Federal spending, encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries, coordinate accounting and review of credit programs by CBO and OMB, and enhance the Congressional oversight of credit programs.

The Senate amendment defines "Federal agency", "direct loan", "direct loan obligation", "loan guarantee", "loan guarantee commitment", "cost to the government", "subsidy account", "financing account", and "liquidating account". Of particular note, the "cost to the government" was defined as the estimated long-term net present value of a loan guarantee. The

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Senate bill emphasized the variety of cash flows to be estimated by listing the specific contractual cash flows to be measured and the variations to the contractual cash flows that could occur.

The Senate amendment made in the responsibility of the Director of OMB to estimate the costs to the government of federal credit programs, establish reporting requirements by the agencies, and monitor agency performance with respect to credit programs. In developing the estimates, the Senate mandates coordination with the CBO and consultation with the Congress. Any changes to the estimating criteria are to be reported to the Congress. CBO and OMB are to study the differences in long-term administrative costs for credit programs vis-a-vis grant programs.

The Senate amendment requires that the executive budget submission include both direct loan obligation and loan guarantee commitment levels, and the estimated cost to the government of these credit levels. No direct loan or loan guarantee or modification of an outstanding loan could be made without appropriations in advance.

The Senate Amendment lays out the responsibilities of each Federal Agency to credit timely submissions of credit data, make annual requests for credit appropriations, use due diligence in carrying out responsibilities for credit programs under the new credit cost controls, and maintaining the reserves of the financing accounts. [] And applied the 302(f)(2) point of order to credit limitations in the Senate for fiscal year 1991. The point of order would sunset with the effective date of credit reform. The financing accounts were made exempt from sequestration.

Section 1107 lays out the budgetary treatment of federal credit programs. The cost to the government of direct loan and loan guarantee programs will be carried in the appropriate budget function. The financing accounts will be treated as a means of financing, but their aggregated activity will be displayed in the budget documents in a function known as "credit financing activities". The section makes it clear that the financing activities are off-budget and not subject to budget act points of order.

Section 1108 provided the authority necessary for appropriations of budget authority for the cost to the government. The head of each Federal agency has authority to issue notes to the Secretary of the Treasury should the resources of the financing accounts prove insufficient to meet the obligations of the financing account. The Secretary of the Treasury has authority set the terms and conditions of such borrowings. The Senate bill authorizes app[r]opriations for the funding needs of the liquidating accounts and authorized appropriations for the salaries and expenses necessary to carry out credit reform.

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Deposit insurance programs and other government programs are excluded from credit reform. OMB and CBO are directed to study the applicability of credit reform to the excluded programs and to Government Sponsored Enterprises.

Nothing in the Senate bill is to be construed as limiting existing mandatory credit authorities nor establishing a limit on existing credit programs. Nor does the Senate bill contemplate changing the existing authorities for the liquidation of obligations made prior to enactment of credit reform. Excess funds in the liquidating accounts are to be transferred to the Treasury on at least an annual basis.

Credit reform is made effective for fiscal year 1992. OMB is to submit an explanation of its credit reform methodology with its annual budget submission; CBO is to include the cost to the government for all reported bills.

The Senate amendment defines a government sponsored enterprise (GSE) to emphasize that to qualify as a GSE and thereby escape budget act treatment, GSE must: have a federal charter; be privately owned; be controlled by a board of directors elected by the owners; and be a financial institution with powers to make loans, guarantee loans, issue debt, or guarantee the debt of others. Further, a GSE could not exercise powers that are reserved to the Government (eg. taxing powers or regulating interstate commerce), commit the Government financially, or employ federal civil servants.

The Senate amendment creates a new point of order that will lie against legislation that did not provide a subsidy appropriation for the cost to the government of credit activities and applied the 302(f)(2) point of order to credit limitations in the Senate for fiscal year 1991. The 302(f)(2) point of order will sunset with the effective date of credit reform. The financing accounts were made exempt from sequestration.

Conference agreement

The conference agreement indicates that the purpose of credit accounting reform is to measure more accurately the costs of Federal direct loan and loan guarantee programs, to place the cost of those programs on a basis equivalent to other spending, to encourage more efficient delivery of Federal assistance, and to improve the allocation of resources between credit and other spending programs. The conference agreement also substantially accepts the definitions in the Senate bill.

The conference agreement requires that, starting with fiscal year 1992, the budget cost of credit programs be the net present value of the long-term
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costs to the Government, excluding administrative costs and incidental effects on governmental receipts and outlays. All of the other cash flows resulting from credit programs will be treated as means of financing and included in non-budgetary financing accounts. The cash flows resulting from direct loan obligations and loan guarantee commitments made prior to fiscal year 1992 will be reflected in the budget on a cash flow basis.

The conference agreement provides that the Director of the Office of Management and Budget will be responsible for coordinating credit cost estimates for the executive branch and may delegate that authority to other agencies based upon written guidelines. The Director of the Office of Management and Budget is to consult with the Director of the Congressional Budget Office in developing guidelines for credit cost estimates and in reviewing and improving those estimates.

The conference agreement requires the appropriation of new budget authority to cover the cost of direct loan and loan guarantee programs before new assistance can be provided. An exception to this requirement is provided for entitlement credit programs (such as the guaranteed student loan program and veteran's home loan guaranty program) and for the credit programs of the Commodity Credit Corporation. The agreement also provides that budget authority must be available to cover the cost of modifying any outstanding direct loan or loan guarantee. Administrative expenses for credit programs will continue to be counted on a cash flow basis, but displayed in a separate subaccount within the account for the credit program.

In a few cases, the cost to government of a loan or guarantee may be zero or negative. In such case, it is still necessary for appropriations bills to provide specific authority before loans could be made. Providing such authority will generate an off-setting receipt (negative budget authority and outlays) which would be credited to the appropriations committees and count against discretionary spending limits.

The conference agreement provides that, if initial estimates of the costs of credit activity are determined to be incorrect, reestimates are recorded on the budget as soon as possible. These reestimates will take the form of payments from the treasury to the financing accounts or vice versa. The reestimate is discounted back to the time when the loan was disbursed; the discounted portion is charged to the program account (as a mandatory) and the rest is charged to net interest.

The conference agreement provides authority for the Secretary of the Treasury to conduct the transactions necessary to maintain the non-budgetary financing accounts.

As part of the transition provisions, new credit authority is made
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subject to a 302 point of order in the Senate in fiscal year 1991. However, the agreement sunsets this point of order in both houses in 1992.

If excesses were to develop in the financing accounts, the agreement presumes that these excesses would revert to the treasury. These excesses do not include balances necessary to maintain adequate reserves, achieve mandated capital levels, or preserve the mutuality of certain credit programs.

The financing accounts are made subject to the Antideficiency Act. However, Federal agencies will continue to administer and operate direct loan and loan guarantee programs as they do now. Permanent indefinite authority is provided to make any payments required to liquidate direct loan obligations and loan guarantee commitments made prior to fiscal year 1992. The agreement provides an authorization to cover the administrative expenses of implementing credit accounting reform. Finally, the activities of Federal insurance programs are excluded from credit accounting reform, but the Director of the Office of Management and Budget and the Director of the Congressional Budget are required to study whether the accounting for Federal deposit insurance programs should be a cash basis, on the same basis as loan guarantees, or on a different basis.

H.R. CONF. REP. No. 101-964, 101st Cong., 2d Sess. 1161-66 (1990), *reprinted in* 1990 U.S.C.C.A.N. 2374, 2866-71.

— § 501 **SEC. 501.⁷⁴¹ PURPOSES.**

The purposes of this title are to —

- § 501(1) **(1) measure more accurately the costs⁷⁴² of Federal credit programs;**
- § 501(2) **(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;**
- § 501(3) **(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and**
- § 501(4) **(4) improve the allocation of resources among credit programs and between credit and other spending programs.⁷⁴³**

⁷⁴¹ Section 501 is codified at 2 U.S.C. § 661 (Supp. IV 1992).

⁷⁴² Section 502(5) defines "cost." See *infra* p. 281.

⁷⁴³ Section 13201(a) of the Budget Enforcement Act created the new title V on credit reform, including section 501. See *infra* p. 713. Public Law 97-258 repealed what used to be section 501. See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, 96 Stat. 877, 1082 (1982). Section 501 was codified in section 1102 of title 31. As originally enacted in 1974, section 501 read as follows:

FISCAL YEAR TO BEGIN ON OCTOBER 1

SEC. 501. Section 237 of the Revised Statutes (31 U.S.C. 1020) is amended to read as follows:

"SEC. 237. (a) The fiscal year of the Treasury of the United States, in all matters of accounts, receipts, expenditures, estimates, and appropriations —

"(1) shall, through June 30, 1976, commence on July 1 of each year and end on June 30 of the following year; and

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§ 502 SEC. 502.⁷⁴⁴ DEFINITIONS.

For purposes of this title —

§ 502(1) (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. 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.

§ 502(2) (2) The term "direct loan obligation" means a binding agreement by a Federal agency to make a direct loan⁷⁴⁵ when specified conditions are fulfilled by the borrower.

§ 502(3) (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,

⁷⁴⁴(...continued)

"(2) shall, beginning on October 1, 1976, commence on October 1 of each year and end on September 30 of the following year.

"(b) All accounts of receipts and expenditures required by law to be published annually shall be prepared and published for each fiscal year as established by subsection (a)."

⁷⁴⁴ Section 502 is codified at 2 U.S.C. § 661a (Supp. IV 1992). For legislative history of section 502, see *infra* note 767 (at the end of this section).

⁷⁴⁵ Section 502(1) defines "direct loan." *See supra* p. 280.

shares, or other withdrawable accounts in financial institutions.

§ 502(4) (4) The term "loan guarantee commitment" means a binding agreement by a Federal agency to make a loan guarantee⁷⁴⁶ when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

§ 502(5)(A) (5)(A) The term "cost" means the estimated long-term cost to the Government of a direct loan⁷⁴⁷ or loan guarantee,⁷⁴⁸ calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.⁷⁴⁹

§ 502(5)(B) (B) The cost of a direct loan⁷⁵⁰ shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows:

§ 502(5)(B)(I) (i) loan disbursements;

§ 502(5)(B)(II) (ii) repayments of principal; and

§ 502(5)(B)(III) (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.

⁷⁴⁶ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷⁴⁷ Section 502(1) defines "direct loan." *See supra* p. 280.

⁷⁴⁸ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷⁴⁹ Section 3(1) defines "budget outlays." *See supra* p. 11.

⁷⁵⁰ Section 502(1) defines "direct loan." *See supra* p. 280.

§ 502(5)(C) (C) The cost of a loan guarantee⁷³¹ shall be the net present value when a guaranteed loan is disbursed of the cash flow from —

§ 502(5)(C)(i) (i) estimated payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments, and

§ 502(5)(C)(ii) (ii) the estimated payments to the Government including origination and other fees, penalties and recoveries.

§ 502(5)(D) (D) Any Government action that alters the estimated net present value of an outstanding direct loan⁷³² or loan guarantee⁷³³ (except modifications within the terms of existing contracts or through other existing authorities) shall be counted as a change in the cost⁷³⁴ of that direct loan or loan guarantee. The calculation of such changes shall be based on the estimated present value of the direct loan or loan guarantee at the time of modification.

§ 502(5)(E) (E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the direct loan⁷³⁵ or loan guarantee⁷³⁶ for which the estimate is being made.

§ 502(6) (6) The term "credit program account" means the

⁷³¹ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷³² Section 502(1) defines "direct loan." *See supra* p. 280.

⁷³³ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷³⁴ Section 502(5) defines "cost." *See supra* p. 281.

⁷³⁵ Section 502(1) defines "direct loan." *See supra* p. 280.

⁷³⁶ Section 502(3) defines "loan guarantee." *See supra* p. 280.

budget account into which an appropriation to cover the cost⁷⁵⁷ of a direct loan⁷⁵⁸ or loan guarantee⁷⁵⁹ program is made and from which such cost is disbursed to the financing account.⁷⁶⁰

§ 502(7)

(7) The term "financing account" means the non-budget account or accounts associated with each credit program account⁷⁶¹ which holds balances, receives the cost⁷⁶² payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations⁷⁶³ or loan guarantee commitments⁷⁶⁴ made on or after October 1, 1991.

§ 502(8)

(8) The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations⁷⁶⁵ or loan guarantee commitments⁷⁶⁶ made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

⁷⁵⁷ Section 502(5) defines "cost." *See supra* p. 281.

⁷⁵⁸ Section 502(1) defines "direct loan." *See supra* p. 280.

⁷⁵⁹ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷⁶⁰ Section 502(7) defines "financing account." *See infra* p. 283.

⁷⁶¹ Section 502(6) defines "credit program account." *See supra* p. 282.

⁷⁶² Section 502(5) defines "cost." *See supra* p. 281.

⁷⁶³ Section 502(2) defines "direct loan obligation." *See supra* p. 280.

⁷⁶⁴ Section 502(4) defines "loan guarantee commitment." *See supra* p. 281.

⁷⁶⁵ Section 502(2) defines "direct loan obligation." *See supra* p. 280.

⁷⁶⁶ Section 502(4) defines "loan guarantee commitment." *See supra* p. 281.

§ 502(p)

(9) The term "Director" means the Director of the Office of Management and Budget.⁷⁶⁷

⁷⁶⁷ Section 13201(a) of the Budget Enforcement Act created the new title V on credit reform, including section 502. *See infra* p. 713. Public Law 97-258 repealed what used to be section 502. *See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance,"* Pub. L. No. 97-258, 96 Stat. 877, 1082 (1982). As originally enacted in 1974, section 502 read as follows:

TRANSITION TO NEW FISCAL YEAR

SEC. 502. (a) As soon as practicable, the President shall prepare and submit to the Congress —

(1) after consultation with the Committees on Appropriations of the House of Representatives and the Senate, budget estimates for the United States Government for the period commencing July 1, 1976, and ending on September 30, 1976, in such form and detail as he may determine; and

(2) proposed legislation he considers appropriate with respect to changes in law necessary to provide authorizations of appropriations for that period.

(b) The Director of the Office of Management and Budget shall provide by regulation, order, or otherwise for the orderly transition by all departments, agencies, and instrumentalities of the United States Government and the government of the District of Columbia from the use of the fiscal year in effect on the date of enactment of this Act to the use of the new fiscal year prescribed by section 237(a)(2) of the Revised Statutes. The Director shall prepare and submit to the Congress such additional proposed legislation as he considers necessary to accomplish this objective.

(c) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office jointly shall conduct a study of the feasibility and advisability of submitting the Budget or portions thereof, and enacting new budget authority or portions thereof, for a fiscal year during the regular session of the Congress which begins in the year preceding the year in which such fiscal year begins. The Director of the Office of Management and Budget and the Director of the Congressional Budget Office each shall submit a report of the results of the study conducted by them, together with his own conclusions and recommendations, to the Congress not later than 2 years after the effective date of this subsection.

SEC. 503.⁷⁶ OMB AND CBO ANALYSIS, CO-ORDINATION, AND REVIEW.

§ 503(a) (a) **IN GENERAL.** — For the executive branch, the Director⁷⁷ shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan⁷⁸ or loan guarantee⁷⁹ programs.

§ 503(b) (b) **DELEGATION.** — The Director⁷² may delegate to agencies authority to make estimates of costs.⁷³ The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

§ 503(c) (c) **COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.** — In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director⁷⁴ shall consult with the Director of the Congressional Budget Office.

§ 503(d) (d) **IMPROVING COST⁷⁵ ESTIMATES.** — The Director⁷⁶

⁷⁶ Section 503 is codified at 2 U.S.C. § 661b (Supp. IV 1992). For legislative history of section 503, see *infra* note 783.

⁷⁷ Section 502(9) defines "Director" as "the Director of the Office of Management and Budget." *See supra* p. 284.

⁷⁸ Section 502(1) defines "direct loan." *See supra* p. 280.

⁷⁹ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷² Section 502(9) defines "Director" as "the Director of the Office of Management and Budget." *See supra* p. 284.

⁷³ Section 502(5) defines "cost." *See supra* p. 281.

⁷⁴ Section 502(9) defines "Director" as "the Director of the Office of Management and Budget." *See supra* p. 284.

⁷⁵ Section 502(5) defines "cost." *See supra* p. 281.

and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan⁷⁷ and loan guarantee⁷⁸ 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.

§ 503(e) (e) HISTORICAL CREDIT PROGRAM COSTS.⁷⁹ — The Director⁸⁰ 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.

§ 503(f) (f) ADMINISTRATIVE COSTS.⁸¹ — The Director⁸² 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

⁷⁶(...continued)

⁷⁶ Section 502(9) defines "Director" as "the Director of the Office of Management and Budget." *See supra* p. 284.

⁷⁷ Section 502(1) defines "direct loan." *See supra* p. 280.

⁷⁸ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷⁹ Section 502(5) defines "cost." *See supra* p. 281.

⁸⁰ Section 502(9) defines "Director" as "the Director of the Office of Management and Budget." *See supra* p. 284.

⁸¹ Section 502(5) defines "cost." *See supra* p. 281.

⁸² Section 502(9) defines "Director" as "the Director of the Office of Management and Budget." *See supra* p. 284.

administrative costs under credit reform accounting.⁷⁸³

⁷⁸³ Section 13201(a) of the Budget Enforcement Act created the new title V on credit reform, including section 503. *See infra* p. 713. Public Law 97-258 repealed what used to be section 503. *See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance,"* Pub. L. No. 97-258, 96 Stat. 877, 1082 (1982). Section 503 was codified in section 1552 of title 31. As originally enacted in 1974, section 503 read as follows:

ACCOUNTING PROCEDURES

SEC. 503. (a) Subsection (a)(1) of the first section of the Act entitled "An Act to simplify accounting, facilitate the payment of obligations, and for other purposes", approved July 25, 1956, as amended (31 U.S.C. 701) is amended to read as follows:

"(1) The obligated balance shall be transferred, at the time specified in subsection (b)(1) of this section, to an appropriation account of the agency or subdivision thereof responsible for the liquidation of the obligation, in which account shall be merged the amounts so transferred from all appropriation accounts for the same general purposes; and".

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1) Any obligated balance referred to in subsection (a)(1) of this section shall be transferred as follows:

"(A) for any fiscal year or years ending on or before June 30, 1976, on that June 30 which falls in the first month of June which occurs twenty-four months after the end of such fiscal year or years; and

"(B) for the period commencing on July 1, 1976, and ending on September 30, 1976, and for any fiscal year commencing on or after October 1, 1976, on September 30 of the second fiscal year following that period or the fiscal years or years as the case may be, for which the appropriation is available for obligation.

"(2) The withdrawals required by subsection (a)(2) of this section shall be made —

(continued...)

§ 504

SEC. 504.⁷⁴ BUDGETARY TREATMENT.

§ 504(a)

(a) PRESIDENT'S BUDGET. — Beginning with fiscal year 1992, the President's budget shall reflect the costs⁷⁵ of direct loan⁷⁶ and loan guarantee⁷⁷ programs. The budget shall also include the planned level of new direct loan obligations⁷⁸ or loan guarantee commitments⁷⁹ associated with each appropriations request.

§ 504(b)

(b) APPROPRIATIONS REQUIRED. — Notwithstanding any other provision of law, new direct loan obligations⁷⁰ may be incurred and new loan guarantee commitments⁷¹ may be

⁷³(...continued)

⁷⁴(A) for any fiscal year ending on or before June 30, 1976, not later than September 30 of the fiscal year immediately following the fiscal year in which the period of availability for obligation expires; and

⁷⁵(B) for the period commencing on July 1, 1976, and ending on September 30, 1976, and for any fiscal year commencing on or after October 1, 1976, not later than November 15 following such period or fiscal year, as the case may be, in which the period of availability for obligation expires."

⁷⁴ Section 504 is codified at 2 U.S.C. § 661c (Supp. IV 1992). For legislative history of section 504, see *infra* note 825 (at the end of this section).

⁷⁵ Section 502(5) defines "cost." *See supra* p. 281.

⁷⁶ Section 502(1) defines "direct loan." *See supra* p. 280.

⁷⁷ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷⁸ Section 502(2) defines "direct loan obligation." *See supra* p. 280.

⁷⁹ Section 502(4) defines "loan guarantee commitment." *See supra* p. 281.

⁷⁰ Section 502(2) defines "direct loan obligation." *See supra* p. 280.

⁷¹ Section 502(4) defines "loan guarantee commitment." *See supra* p. 281.

made for fiscal year 1992 and thereafter only to the extent that

§ 504(b)(1) (1) appropriations of budget authority⁷⁹² to cover their costs⁷⁹³ are made in advance;

§ 504(b)(2) (2) a limitation on the use of funds otherwise available for the cost of a direct loan⁷⁹⁴ or loan guarantee⁷⁹⁵ program is enacted; or

§ 504(b)(3) (3) authority is otherwise provided in appropriation Acts.

§ 504(c) (c) EXEMPTION FOR MANDATORY PROGRAMS. — Subsection (b) shall not apply to a direct loan⁷⁹⁶ or loan guarantee⁷⁹⁷ program that —

§ 504(c)(1) (1) constitutes an entitlement⁷⁹⁸ (such as the guaranteed student loan program or the veterans' home loan guaranty program); or

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

§ 504(d) (d) BUDGET ACCOUNTING. —

⁷⁹² Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁷⁹³ Section 502(5) defines "cost." *See supra* p. 281.

⁷⁹⁴ Section 502(1) defines "direct loan." *See supra* p. 280.

⁷⁹⁵ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷⁹⁶ Section 502(1) defines "direct loan." *See supra* p. 280.

⁷⁹⁷ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁷⁹⁸ Section 3(9) (*see supra* p. 18) defines "entitlement authority" to mean that authority described in section 401(c)(2)(C) (*see supra* p. 252).

§ 504(d)(1)

(1) The authority to incur new direct loan obligations,⁷⁹⁹ make new loan guarantee commitments,⁸⁰⁰ or directly or indirectly alter the costs⁸⁰¹ of outstanding direct loans⁸⁰² and loan guarantees⁸⁰³ shall constitute new budget authority⁸⁰⁴ 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 account⁸⁰⁵ to pay to the financing account.⁸⁰⁶

§ 504(d)(2)

(2) The outlays⁸⁰⁷ resulting from new budget authority⁸⁰⁸ for the cost⁸⁰⁹ of direct loans⁸¹⁰ or loan guarantees⁸¹¹ described in paragraph (1) shall be paid from the credit program account⁸¹² into the financing

⁷⁹⁹ Section 502(2) defines "direct loan obligation." *See supra* p. 280.

⁸⁰⁰ Section 502(4) defines "loan guarantee commitment." *See supra* p. 281.

⁸⁰¹ Section 502(5) defines "cost." *See supra* p. 281.

⁸⁰² Section 502(1) defines "direct loan." *See supra* p. 280.

⁸⁰³ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁸⁰⁴ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁸⁰⁵ Section 502(6) defines "credit program account." *See supra* p. 282.

⁸⁰⁶ Section 502(7) defines "financing account." *See supra* p. 283.

⁸⁰⁷ Section 3(1) defines "budget outlays." *See supra* p. 11.

⁸⁰⁸ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁸⁰⁹ Section 502(5) defines "cost." *See supra* p. 281.

⁸¹⁰ Section 502(1) defines "direct loan." *See supra* p. 280.

⁸¹¹ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁸¹² Section 502(6) defines "credit program account." *See supra* p. 282.

account⁸¹³ and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

§ 504(d)(3) (3) All collections and payments of the financing accounts⁸¹⁴ shall be a means of financing.

§ 504(e) (e) MODIFICATIONS. — A direct loan obligation⁸¹⁵ or loan guarantee commitment⁸¹⁶ shall not be modified in a manner that increases its cost⁸¹⁷ unless budget authority⁸¹⁸ for the additional cost is appropriated, or is available out of existing appropriations or from other budgetary resources.

§ 504(f) (f) REESTIMATES. — When the estimated cost⁸¹⁹ for a group of direct loans⁸²⁰ or loan guarantees⁸²¹ 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 account⁸²² as a change in program costs and a change in net interest. There is hereby provided permanent indefinite

⁸¹³ Section 502(7) defines "financing account." *See supra* p. 283.

⁸¹⁴ Section 502(7) defines "financing account." *See supra* p. 283.

⁸¹⁵ Section 502(2) defines "direct loan obligation." *See supra* p. 280.

⁸¹⁶ Section 502(4) defines "loan guarantee commitment." *See supra* p. 281.

⁸¹⁷ Section 502(5) defines "cost." *See supra* p. 281.

⁸¹⁸ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁸¹⁹ Section 502(5) defines "cost." *See supra* p. 281.

⁸²⁰ Section 502(1) defines "direct loan." *See supra* p. 280.

⁸²¹ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁸²² Section 502(6) defines "credit program account." *See supra* p. 282.

authority for these reestimates.

§ 504(g) (g) ADMINISTRATIVE EXPENSES. — All funding for an agency's administration of a direct loan²³³ or loan guarantee²³⁴ program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.²³⁵

²³³ Section 502(1) defines "direct loan." *See supra* p. 280.

²³⁴ Section 502(3) defines "loan guarantee." *See supra* p. 280.

²³⁵ Section 502(5) defines "cost." *See supra* p. 281.

Section 13201(a) of the Budget Enforcement Act created the new title V on credit reform, including section 504. *See infra* p. 713. Public Law 97-258 repealed what used to be section 504. *See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, 96 Stat. 877, 1082 (1982).* As originally enacted in 1974, section 504 read as follows:

CONVERSION OF AUTHORIZATIONS OF APPROPRIATIONS

SEC. 504. Any law providing for an authorization of appropriations commencing on July 1 of a year shall, if that year is any year after 1975, be considered as meaning October 1 of that year. Any law providing for an authorization of appropriations ending on June 30 of a year shall, if that year is any year after 1976, be considered as meaning September 30 of that year. Any law providing for an authorization of appropriations for the fiscal year 1977 or any fiscal year thereafter shall be construed as referring to that fiscal year ending on September 30 of the calendar year having the same calendar year number as the fiscal year number.

§ 505

SEC. 505.⁸²⁶ AUTHORIZATIONS.

§ 505(a)

(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.⁸²⁷

— There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations⁸²⁸ or loan guarantee commitments,⁸²⁹ such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

§ 505(b)

(b) AUTHORIZATION FOR FINANCING ACCOUNTS.⁸³⁰ — In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

§ 505(c)

(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.⁸³¹ — 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. 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 loan⁸³² or loan

⁸²⁶ Section 505 is codified at 2 U.S.C. § 661d (Supp. IV 1992). For legislative history of section 505, see *infra* note 839.

⁸²⁷ Section 502(5) defines "cost." *See supra* p. 281.

⁸²⁸ Section 502(2) defines "direct loan obligation." *See supra* p. 280.

⁸²⁹ Section 502(4) defines "loan guarantee commitment." *See supra* p. 281.

⁸³⁰ Section 502(7) defines "financing account." *See supra* p. 283.

⁸³¹ Section 502(7) defines "financing account." *See supra* p. 283.

⁸³² Section 502(1) defines "direct loan." *See supra* p. 280.

guarantee⁸³³ 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.

§ 505(d) **(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.⁸³⁴ —** If funds in liquidating accounts are insufficient to satisfy the obligations and commitments of said accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

§ 505(e) **(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.

§ 505(f) **(f) REINSURANCE. —** Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan⁸³⁵ or loan guarantee⁸³⁶ from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost⁸³⁷ of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

§ 505(g) **(g) ELIGIBILITY AND ASSISTANCE. —** Nothing in this title shall be construed to change the authority or the responsibility

⁸³³ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁸³⁴ Section 502(8) defines "liquidating account." *See supra* p. 283.

⁸³⁵ Section 502(1) defines "direct loan." *See supra* p. 280.

⁸³⁶ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁸³⁷ Section 502(5) defines "cost." *See supra* p. 281.

of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan⁶⁸ or a loan guarantee.⁶⁹

⁶⁸ Section 502(1) defines "direct loan." *See supra* p. 280.

⁶⁹ Section 502(3) defines "loan guarantee." *See supra* p. 280.

Section 13201(a) of the Budget Enforcement Act created the new title V on credit reform, including section 505, and repealed what used to be section 505. *See infra* p. 713. Before enactment of the Budget Enforcement Act, section 505 read as follows:

REPEALS

SEC. 505. The following provisions of law are repealed:

(1) the ninth paragraph under the headings "Legislative Establishment", "Senate", of the Deficiency Appropriation Act, fiscal year 1934 (48 Stat. 1022; 2 U.S.C. 66); and

(2) the proviso to the second paragraph under the headings "House of Representatives", "Salaries, Mileage, and Expenses of Members", of the Legislative-Judiciary Appropriation Act, 1955 (68 Stat. 400; 2 U.S.C. 81).

§ 506

SEC. 506.⁸⁴⁰ TREATMENT OF DEPOSIT INSURANCE AND⁸⁴¹ AGENCIES AND OTHER INSURANCE PROGRAMS.

§ 506(a)

(a)⁸⁴² IN GENERAL.⁸⁴³ —

§ 506(a)(1)

(1) 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.

§ 506(a)(2)

(2) The Director⁸⁴⁴ and the Director of the Congressional Budget Office shall each study whether the account-

⁸⁴⁰ Section 506 is codified at 2 U.S.C. § 661e (Supp. IV 1992). Section 13201(a) of the Budget Enforcement Act created the new title V on credit reform, including section 507, and repealed what used to be section 506. *See infra* p. 713. Before enactment of the Budget Enforcement Act, section 506 read as follows:

TECHNICAL AMENDMENT

SEC. 506. (a) Section 105 of title 1, United States Code, is amended by striking out "June 30" and inserting in lieu thereof "September 30".

(b) The provisions of subsection (a) of this section shall be effective with respect to Acts making appropriations for the support of the Government for any fiscal year commencing on or after October 1, 1976.

⁸⁴¹ This is so in the original; the word "and" should not be here.

⁸⁴² Section 13201(a) of the Budget Enforcement Act (*see infra* p. 713) created a subsection (a) here, even though it created no subsection (b) below.

⁸⁴³ This subsection heading is so in the original. It should not be here, as there is no subsection (b).

⁸⁴⁴ Section 502(9) defines "Director" as "the Director of the Office of Management and Budget." *See supra* p. 284.

ing 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.

§ 506(a)(3)

(3) For the purposes of paragraph (2), the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

^{**} Section 502(3) defines "loan guarantee." *See supra* p. 280.

§ 507 SEC. 507.⁸⁴⁶ EFFECT ON OTHER LAWS.

§ 507(a) (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 guarantee⁸⁴⁷ program.

§ 507(b) (b) **CREDITING OF COLLECTIONS.** — Collections resulting from direct loans⁸⁴⁸ obligated or loan guarantees⁸⁴⁹ committed prior to October 1, 1991, shall be credited to the liquidating accounts⁸⁵⁰ 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.

⁸⁴⁶ Section 507 is codified at 2 U.S.C. § 661f (Supp. IV 1992). Section 13201(a) of the Budget Enforcement Act created the new title V on credit reform, including section 507. *See infra* p. 713.

⁸⁴⁷ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁸⁴⁸ Section 502(1) defines "direct loan." *See supra* p. 280.

⁸⁴⁹ Section 502(3) defines "loan guarantee." *See supra* p. 280.

⁸⁵⁰ Section 502(8) defines "liquidating account." *See supra* p. 283.
