107TH CONGRESS
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HOUSE OF REPRESENTATIVES

REPORT
107–38

SMALL BUSINESS INTEREST CHECKING ACT OF 2001

APRIL 3, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services, submitted the following

R E P O R T

together with

ADDITIONAL & DISSENTING VIEWS

[To accompany H.R. 974]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 974) to increase the number of interaccount transfers which may be made from business accounts at depository institutions, to authorize the Board of Governors of the Federal Reserve System to pay interest on reserves, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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89–006

AMENDMENT

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Interest Checking Act of 2001".

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.

(a) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

"(i) [Repealed]".

(2) HOME OWNERS' LOAN ACT.—The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking "savings association may not—" and all that follows through "(ii) permit any" and inserting "savings association may not permit any".

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows:

"(g) [Repealed]".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) in subsection (a)(2), by striking "Paragraph" and inserting "Except in the case of any depository institution which is prohibited by the applicable law of any State from offering demand deposits, paragraph";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following:

"(b) Notwithstanding any other provision of law, any depository institution may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board may determine by rule or order), for any purpose, to another account of the owner in the same institution. Nothing in this subsection shall be construed to prevent an account offered pursuant to this subsection from being considered a transaction account (as defined in section 19(b) of the Federal Reserve Act for purposes of such Act).".

SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

"(12) EARNINGS ON RESERVES.—

"(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

"(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(B), in a Federal reserve bank by any such entity on behalf of depository institutions.".

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking "which is not a member bank".

(c) SURVEY OF BANK FEES AND SERVICES.—Section 19 of the Federal Reserve Act (as amended by subsections (a) and (b) of this section) is amended by adding at the end the following new subsection:

"(n) SURVEY OF BANK FEES AND SERVICES.—

"(1) ANNUAL SURVEY REQUIRED.—The Board shall obtain annually a sample, which is representative by type and size of the institution and geographic location, of the following retail banking services and products provided by insured depository institutions and insured credit unions (along with related fees and minimum balances):

"(A) Checking and other transaction accounts.

"(B) Negotiable order of withdrawal and savings accounts.

"(C) Automated teller machine transactions.

"(D) Other electronic transactions.

"(E) Credit Cards.

"(2) MINIMUM SURVEY REQUIREMENT.—The annual survey described in paragraph (1) shall meet the following minimum requirements:

"(A) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

"(i) Monthly and annual fees and minimum balances to avoid such fees.

"(ii) Minimum opening balances.

"(iii) Check processing fees.

"(iv) Check printing fees.

"(v) Balance inquiry fees.

"(vi) Fees imposed for using a teller or other institution employee.

"(vii) Stop payment order fees.

"(viii) Nonsufficient fund fees.

"(ix) Overdraft fees.

"(x) Deposit items returned fees.

"(xi) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

"(B) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

"(i) Monthly and annual fees and minimum balances to avoid such fees.

"(ii) Minimum opening balances.

"(iii) Rate at which interest is paid to consumers.

"(iv) Check processing fees for negotiable order of withdrawal accounts.

"(v) Check printing fees for negotiable order of withdrawal accounts.

"(vi) Balance inquiry fees.

"(vii) Fees imposed for using a teller or other institution employee.

"(viii) Stop payment order fees for negotiable order of withdrawal accounts.

"(ix) Nonsufficient fund fees for negotiable order of withdrawal accounts.

"(x) Overdraft fees for negotiable order of withdrawal accounts.

"(xi) Deposit items returned fees.

"(xii) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

"(C) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

"(i) Annual and monthly fees.

"(ii) Card fees.

"(iii) Fees charged to customers for withdrawals, deposits, transfers between accounts, balance inquiries through institution-owned machines.

"(iv) Fees charged to customers for withdrawals, deposits, transfers between accounts, balance inquiries through machines owned by others.

"(v) Fees charged to noncustomers for withdrawals, deposits, transfers between accounts, balance inquiries through institution-owned machines.

"(vi) Point-of-sale transaction fees.

"(vii) Surcharges.

"(D) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

"(i) Wire transfer fees.

"(ii) Fees related to payments made over the Internet or through other electronic means.

"(E) CREDIT CARD CHARGES AND FEES.—Data related to credit cards shall include, at a minimum, the following:

“(i) Application fees.
“(ii) Annual and monthly fees.
“(iii) Rates of interest charged for purchases and cash advances, when an account is not in default.
“(iv) Rates of interest charged for purchases and cash advances, when an account is in default.
“(v) Average annual finance charges paid by customers.
“(vi) Late payment fees.
“(vii) Cash advance and convenience check fees.
“(viii) Balance transfer fees.
“(ix) Over-the-credit-limit fees.
“(x) Foreign currency conversion fees.

“(F) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board determines to be appropriate to meet the purposes of this section.

“(3) ANNUAL REPORT TO CONGRESS REQUIRED.—

“(A) PREPARATION.—The Board shall prepare a report of the results of each survey conducted pursuant to paragraph (1) and (2).

“(B) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to paragraphs (1) and (2), each report prepared pursuant to subparagraph (A) shall include a description of any discernible trend, in the Nation as a whole, in each of the 50 States, and in each metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in paragraphs (1) and (2) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution, the size of the institution and any engagement of the institution in multistate activity.

“(C) SUBMISSION TO CONGRESS.—The Board shall submit an annual report to the Congress under this paragraph not later than June 1, 2002, and not later than June 1 of each subsequent year.

“(4) DEFINITIONS.—For purposes of this subsection, the terms ‘insured depository institution’ and ‘insured credit union’ mean any depository institution (as defined in subsection (b)(1)(A)) the deposits or shares in which are insured under the Federal Deposit Insurance Act or the Federal Credit Union Act.”.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking “subsection (b)(4)(C)” and inserting “subsection (b)”.

SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking “the ratio of 3 per centum” and inserting “a ratio not greater than 3 percent (and which may be zero)”; and

(2) in clause (ii), by striking “and not less than 8 per centum,” and inserting “(and which may be zero),”.

SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—Section 7(b) of the Federal Reserve Act (12 U.S.C. 289(b)) is amended by adding at the end the following new paragraph:

“(4) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2002 THROUGH 2006.—

“(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12), as estimated by the Office of Management and Budget, in each of the fiscal years 2002 through 2006.

“(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2002 through 2006, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

"(C) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2002 through 2006, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under subparagraph (A).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289(a)) is amended by adding at the end the following new paragraph:

"(3) PAYMENT TO TREASURY.—During fiscal years 2002 through 2006, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.".

SEC. 7. RULE OF CONSTRUCTION.

No provision of this Act, or any amendment made by this Act, shall be construed as creating any presumption or implication that, in the case of an escrow account maintained at a depository institution in connection with a real estate transaction—

(1) the absorption, by the depository institution, of expenses incidental to providing a normal banking function with respect to such escrow account;

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in paragraph (1) or (2),

may be treated as the payment or receipt of interest for purposes of any provision of Public Law 93–100, the Federal Reserve Act, the Home Owners' Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions.

Amend the title so as to read:

A bill to repeal the prohibition on the payment of interest on demand deposits, to increase the number of interaccount transfers which may be made from business accounts at depository institutions, to authorize the Board of Governors of the Federal Reserve System to pay interest on reserves, and for other purposes.

PURPOSE AND SUMMARY

H.R. 974, the Small Business Interest Checking Act of 2001, will repeal the prohibition on the payment of interest on commercial demand deposits, increase the number of interaccount transfers which may be made from business accounts at depository institutions, and authorize the Board of Governors of the Federal Reserve System to pay interest on reserves.

The legislation removes the prohibition on the payment of interest on commercial demand deposit accounts after a two year period, increases the number of transactions that customers can make between interest bearing or dividend earning accounts and other accounts, authorizes the Federal Reserve to pay interest on the reserves that depository institutions maintain at Federal Reserve Banks, and eliminates the minimum statutory ratios that currently apply to those reserves, thereby giving the Board of Governors of the Federal Reserve greater flexibility in setting reserve requirements. To offset the revenue loss associated with allowing interest payments on reserve balances, the legislation requires that the Federal Reserve remit from its surplus fund to the Treasury an amount equal to the estimated annual revenue loss. The legislation increases the number of allowable transfers from interest bearing or dividend earning commercial deposits or accounts to 24 per month, from the current limit of six, enabling depository institutions to sweep funds between non-interest bearing commercial checking accounts and interest bearing accounts on a daily basis. The legislation authorizes depository institutions which are prohibited by State law from offering demand deposits to offer negotiable order of withdrawal (NOW) accounts to all customers, and directs the Board of Governors of the Federal Reserve System to conduct an annual survey of bank fees and services. Finally, the bill contains a rule of construction clarifying that the legislation is not intended to alter the current legal presumption that the absorption of expenses or the forbearance of receiving a fee by a depository institution in connection with a real estate transaction, and the receipt of the same, is not interest.

Background and Need for Legislation

Under current law, depository institutions may not pay interest on demand deposit accounts. Because of the widespread availability of NOW accounts for non-business account holders, business account holders are the only depositors effectively barred from earning interest on their checking accounts. This disparity creates an incentive for banks to circumvent this restriction by using methods to offer their business customers accounts that are roughly equivalent to interest-bearing checking accounts, but at significant cost to the customer. Because of the costs associated with these programs, small businesses are particularly disadvantaged in attempting to earn some return on the money they hold in checking accounts.

Additionally, under the Federal Reserve Act, banks, thrifts, and credit unions are required to hold funds against transaction accounts held by customers of such institutions. These funds must be held either in cash or on reserve at Federal Reserve Banks. Current law does not authorize Federal Reserve Banks to pay interest on reserve balances. Because of this limitation, these funds have come to be known as “sterile reserves” and financial institutions have sought ways to minimize their reserve requirements. Consequently, reserve balances at Federal Reserve Banks have declined dramatically in recent years, falling from approximately $28 billion in 1993 to approximately $6 billion in 2000.

According to the Federal Reserve, the decline in reserves has potential consequences for its ability to conduct monetary policy. Reserve requirements play an important role in open market operations aimed at influencing general monetary and credit conditions by varying the cost and availability of reserves to the banking system. Declines in reserves could lead to increased volatility in the Federal funds rate, and, if it became a persistent feature of the money market, would affect other overnight interest rates, raising funding risks for large banks, securities dealers, and other market participants. Small banks and thrifts, as well as other sources of funds for overnight markets, would face increased uncertainty about their rates of return.

Hearings

The Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 974, the Small Business Interest Checking Act of 2001 on March 13, 2001. The Subcommittee received testimony from: The Honorable Laurence H. Meyer, Member, Board of Governors, Federal Reserve System; Mr. Donald V. Hammond, Acting Under Secretary for Domestic Finance, Department of the Treasury; Mr. James E. Smith, Chairman and Chief Executive Officer, Citizens Union State Bank & Trust of Clinton, Missouri, President-Elect of the American Bankers Association; Mr. David A. Bochnowski, Chairman and Chief Executive Officer, Peoples Bank of Munster, Indiana, Chairman of America's Community Bankers; Mr. Thomas P. Jennings, Senior Vice President and General Counsel, First Virginia Banks, Inc., on behalf of the Financial Services Roundtable; and Mr. Robert Gulledge, President and Chief Executive Officer, Citizens Bank, Inc. of Robertsdale, Alabama, Chairman of the Independent Community Bankers of America.

COMMITTEE CONSIDERATION

On March 21, 2001, the Subcommittee on Financial Institutions and Consumer Credit met in open session and approved H.R. 974 for full Committee consideration by a voice vote, without amendment.

On March 29, the Committee met in open session and ordered H.R. 974 reported to the House with a favorable recommendation by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

The following amendments were considered—

An amendment in the nature of a substitute by Mr. Oxley, No. 1, removing the prohibitions on the payment of interest on demand deposits contained in the Federal Reserve Act, the Home Owner's Loan Act, and the Federal Deposit Insurance Act, clarifying that depository institutions which are prohibited by State law from offering demand deposits may offer NOW accounts to all customers, including businesses, and clarifying that nothing in the bill is intended to create any presumption that certain services offered by depository institutions in connection with real estate transactions are to be treated as the payment of interest, was agreed to by a voice vote, as amended.

An amendment to the amendment in the nature of a substitute by Mr. Watt of North Carolina, No. 1a, requiring the payment of a set rate of interest on certain escrow accounts, was withdrawn. The amendment was modified by unanimous consent.

An amendment to the amendment in the nature of a substitute by Mr. Inslee, No. 1b, conditioning the payment of interest on sterile reserves on the establishment of certain consumer privacy protections, was ruled nongermane by the Chair. A motion to appeal the ruling of the Chair was tabled upon the motion of Mr. Baker by a record vote of 34 yeas and 16 nays (Record vote no. 1). The names of Members voting for and against follow:

YEAS	NAYS
Mr. Oxley	Mr. LaFalce
Mrs. Roukema	Mr. Kanjorski
Mr. Baker	Mrs. Maloney of New York
Mr. Bachus	Mr. Gutierrez
Mr. Castle	Mr. Ackerman

Mr. King	Ms. Hooley of Oregon
Mr. Royce	Ms. Carson of Indiana
Mr. Lucas of Oklahoma	Mr. Mascara
Mr. Ney	Mr. Inslee
Mrs. Kelly	Ms. Schakowsky
Mr. Gillmor	Mr. Gonzalez
Mr. Weldon of Florida	Mr. Capuano
Mr. Ryun of Kansas	Mr. Ford
Mr. Ose	Mr. Hinojosa
Mrs. Biggert	Mr. Clay
Mr. Green of Wisconsin	Mr. Israel
Mr. Toomey	
Mr. Shadegg	
Mr. Fossella	
Mr. Gary Miller of California	
Mr. Cantor	
Ms. Hart	
Mrs. Capito	
Mr. Ferguson	
Mr. Rogers of Michigan	
Mr. Tiberi	
Mr. Frank	
Mr. Watt of North Carolina	
Mr. Bentsen	
Mr. Maloney of Connecticut	
Mr. Moore	
Mr. Lucas of Kentucky	
Mr. Shows	
Mr. Crowley	

An amendment to the amendment in the nature of a substitute by Mr. LaFalce, No. 1c, reauthorizing a survey of bank fees and services, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute by Ms. Schakowsky, No. 1d, limiting eligibility for interest on sterile reserves to depository institutions that permit holders of reservable transaction accounts to engage in at least three free teller transactions per month, was ruled nongermane by the Chair.

An amendment to the amendment in the nature of a substitute by Ms. Waters, No. 1e, striking the provisions permitting the payment of interest on sterile reserves, was withdrawn.

An amendment to the amendment in the nature of a substitute by Ms. Waters, No. 1f, prohibiting the payment of interest on sterile reserves unless the depository institution reduces consumer costs by an equal or greater amount, was not agreed to by a record vote of 12 yeas and 31 nays (Record vote no. 2). The names of Members voting for and against follow:

YEAS	NAYS
Mr. LaFalce	Mr. Oxley
Mr. Kanjorski	Mrs. Roukema
Ms. Waters	Mr. Baker
Ms. Carson of Indiana	Mr. Bachus
Mr. Sandlin	Mr. Castle
Ms. Lee	Mr. Royce
Ms. Schakowsky	Mr. Lucas of Oklahoma

Mr. Gonzalez	Mrs. Kelly
Mrs. Jones of Ohio	Mr. Gillmor
Mr. Ford	Mr. Cox
Mr. Lucas of Kentucky	Mr. Weldon of Florida
Mr. Clay	Mr. Ryun of Kansas
	Mrs. Biggert
	Mr. Fossella
	Mr. Gary Miller of California
	Mr. Cantor
	Mr. Grucci
	Ms. Hart
	Mrs. Capito
	Mr. Tiberi
	Mr. Frank
	Mrs. Maloney of New York
	Mr. Gutierrez
	Mr. Watt of North Carolina
	Mr. Ackerman
	Mr. Bentsen
	Mr. Maloney of Connecticut
	Ms. Hooley of Oregon
	Mr. Shows
	Mr. Crowley
	Mr. Israel

The title was amended by unanimous consent.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee finds that this legislation does not authorize funding, and therefore no statement is required.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that this legislation would result in new or increased budget authority, entitlement authority, or tax expenditures or revenues consistent with the estimate of the Congressional Budget Office prepared pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 3, 2001.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 974, the Small Business Interest Checking Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contracts are Carolyn Lynch (for revenues), and Patrice Gordon (for the private-sector impact).

Sincerely,

ROBERT A. SUNSHINE,
(For Dan L. Crippen, Director).

Enclosure.

H.R. 974—Small Business Interest Checking Act of 2001

Summary: H.R. 974, the Small Business Interest Checking Act of 2001 (SBICA), would allow depository institutions to pay interest on business demand deposit accounts and permit the Federal Reserve System to pay interest on any reserve balances held on deposit at the Federal Reserve by insured depository institutions. The Federal Reserve Board would also be given greater flexibility in setting reserve requirements and would be required to submit an annual report to the Congress summarizing many of the services provided and fees charged to consumers by depository institutions. The reduction in revenues as a result of the interest payments on reserves would be offset by transfers from surplus funds of Federal Reserve Banks to the U.S. Treasury over the next five years. Pay-as-you-go procedures would apply because the bill would affect receipts. CBO estimates that the bill would not have any net effect on annual revenues over the 2002–2006 period because the estimated loss in revenues would be offset by transfers from surplus funds of the Federal Reserve. Enacting H.R. 974 would decrease revenues after 2006. CBO estimates that the loss in revenues would total approximately $1.2 billion over the 2007–2011 period.

H.R. 974 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. 974 is shown in the following table.

	By fiscal year, in millions of dollars—						
	2002	2003	2004	2005	2006	2002–2006	2007–22011
CHANGES IN REVENUES							
Allowing Interest on Reserves	−125	−110	−106	−112	−117	−570	−679
Surplus Transfer to the Treasury	125	110	106	112	117	570	−570
Net Budgetary Effect	0	0	0	0	0	0	−1,249

The initial budgetary effect of SBICA would be a decrease in the payment of profits from the Federal Reserve System to the U.S. Treasury. The Federal Register remits its profits to the Treasury, and those payments are classified as governmental receipts, or revenues, in the federal budget. Any additional income or costs to the Federal Reserve, therefore, can affect the federal budget. The Federal Reserve's largest source of income is interest from its holdings of Treasury securities. In effect, the Federal Reserve invests in Treasury securities the reserve balances and issues of currency that constitute the bulk of its liabilities. Since the Federal Reserve pays no interest on reserves or currency, and the Treasury pays the Federal Reserve interest on its holdings of securities, the Federal Reserve earns profits.

By allowing the Federal Reserve to pay interest on reserves, the bill would decrease the Federal Reserve's profits and thereby reduce federal revenues by an estimated $570 million over the period from 2002 to 2006. This budgetary response has several significant components. First, the Federal Reserve's payment of interest on required reserve balances held at Federal Reserve banks would reduce governmental receipts. It is anticipated that some depository institutions and depositors would respond to the interest payments on reserves (given interest payments on business demand deposit accounts) by shifting funds out of consumer "retail" and business "wholesale" sweep accounts and into demand deposit accounts. This secondary response would increase required reserve balances and partially offset the loss in federal reserves from the payment of interest on reserves. Finally, the profits of depository institutions or their customers would increase with a consequent increase in tax revenues. That result would also have the effect of partially offsetting the decline in federal receipts. The legislation stipulates that this overall revenue loss would be offset by a transfer from surplus funds of Federal Reserve banks to the U.S. Treasury for each of the fiscal years 2002 through 2006.

Basis of Estimate: The estimates are based on the assumption that the provisions would become effective early in fiscal year 2002, unless otherwise specified.

The allowance of interest on reserve balances

H.R. 974 would permit the Federal Reserve to pay interest on balances held on deposit at the Federal Reserve. Depository institutions hold three types of balances at the Federal Reserve—required reserve balances, contractual clearing balances, and excess reserve balances. Required reserve balances are the balances that a depository institution must hold to meet reserve requirements. Depository institutions may also hold additional balances called required or contractual clearing balances, which can earn an implicit rate of interest in the form of an interest credit that is used to defray fees for Federal Reserve services. Contractual clearing balances have risen over the decade from under $2 billion in 1990 to between $6 billion and $7 billion today. Excess reserves are funds held at reserve banks in excess of a depository institution's required reserve and contractual clearing balances. Staff at the Federal Reserve have indicated that, given the authority, the Federal Reserve would pay interest on required reserve balances and give depository institutions the option of earning an explicit rate of interest on contractual clearing balances or continuing with the current system of earning an interest credit. The Federal Reserve would choose not to pay interest on excess reserve balances, unless required reserve balances fell to such a low level that interest on excess reserves was needed to build reserves. That is considered to be an unlikely scenario.

The payment of interest on required balances is discussed first and the payment of interest on contractual clearing balances is discussed second, since their effect on revenues are likely to be different. Allowing the payment of interest on required reserve balances held by depository institutions at the Federal Reserve would shift profits from the Federal Reserve to depository institutions and reduce governmental receipts. This budgetary effect is divided into three components. First, the bill would result in the Federal Reserve paying interest on the level of its required reserve balances expected under current law, reducing its net income and, therefore, governmental receipts. Second, the payment of interest on reserve is expected to cause demand balances at depository institutions to increase. That increase would raise the level of reserve balances held at the Federal Reserve, which would invest them at a higher rate than it would pay on them. This change in projected reserves would increase governmental receipts, but only partially offset the loss caused by the payment of interest on reserves projected under current law. Third, the reduction in governmental receipts would be partially offset by increased income tax receipts. The net effect of interest payments on reserves and the anticipated shift to more demand deposit accounts would result in higher profits for depository institutions or their customers.

	Estimated budgetary impact of allowing interest on reserve balances (by fiscal year, in millions of dollars)—						
	2002	2003	2004	2005	2006	2002–2006	2007–2011
CHANGES IN REVENUES							
Revenue from Federal Reserve:							
Interest on Required Reserves	−185	−194	−204	−214	−224	−1,021	−1,300
Profits from Increased Reserves	18	48	62	65	68	261	395
Net Effect on Revenues from the Federal Reserve	−167	−146	−142	−149	−156	−760	−905
Income Tax Revenue	42	36	36	37	39	190	226
Net Revenue Effect	−125	−110	−106	−112	−117	−570	−679

Interest Payments on Reserves Projected Under Current Law. Because depository institutions currently do not earn a return on required reserve balances, they have an incentive to minimize such balances. Required reserve balances measured almost $30 billion at the end of 1993, but have since fallen sharply to under $7 billion today. The widely reported expansion of consumer and business sweep accounts has caused this decline. In typical sweep accounts, banks shift their depositors' funds from demand deposits, against which reserves are required, into other depository accounts, against which reserves are not required. The banks shift the funds back to the demand deposit accounts the next business day, or when needed by the depositor. Sweep accounts for business demand deposits have existed in various forms since the early 1970s. Recent advances in computer technology have now made the shifting of funds feasible for many consumer accounts as well. Under current law, CBO expects the expansion of retail and business sweep accounts to continue and required reserve balances to decline further to about $4 billion by 2003. Thereafter, CBO projects them to rise gradually with growth in the economy.

The Federal Reserve would be allowed to choose the interest rate it pays on reserve balances, although the rate chosen could not exceed the general level of short-term interest rates. Staff at the Federal Reserve have indicated that the Federal Reserve would choose an interest rate near the key short-term rate, the federal funds rate. The likely rate would be 10 to 15 basis points lower than the federal funds rate to account for the lack of risk. Accordingly, CBO assumes that the Federal Reserve would pay interest only on required reserves and clearing balances at a rate of 10 to 15 basis points below the federal funds rate.

CBO projects that the federal funds rate will average about 5.0 percent over the 10-year period from 2002 through 2011. The payment of interest on reserves is assumed to start early in fiscal year 2002. CBO projects that SBICA would cause the Federal Reserve to pay interest to depository institutions of about $185 million in 2002 on the $4.25 billion of required reserve balances expected under current law. Over the 2002–2006 period, such interest payments would total approximately $1 billion. Those payments would reduce the profits of the Federal Reserve—and thus its payments to the Treasury—by the same amount.

Projected Impact of the Bill on the Volume of Reserves. If the Federal Reserve pays interest on required reserve balances, there would be a second budgetary effect on the Federal Reserve that would reduce—but not eliminate—the net revenue loss from the payment of interest. In particular, based on a survey by the Board of Governors of the Federal Reserve System, we would expect reserve balances to increase because depository institutions would close a significant share of their retail and business sweep accounts and, as a result, maintain a higher level of required reserves. Given the payment of interest on business demand deposit accounts, the payment of interest would give both businesses and depository institutions an incentive to open business checking accounts and close wholesale sweep accounts. (Under current law, depository institutions are already allowed to pay interest on consumer demand deposits.) By closing a significant share of consumer and business sweep accounts, depository institutions could eliminate the costs of maintaining the sweep accounts and receive a return on their required reserves, although presumably at a lower rate than what they could receive with alternative use of the funds.

CBO assumes that depository institutions would eliminate approximately 30 percent of both retail and business sweep accounts currently in existence by 2002, and half of those that otherwise would be established. Although the payment of interest on business demand deposits by depository institutions would not be permitted until two years after enactment of H.r. 974, the act would allow businesses to establish interest-bearing transaction accounts. businesses would be allowed up to 24 transfers per month (or more if the Federal Reserve permits) into a demand deposit account that would be subject to reserve requirements. Because reserve requirements would also apply to those accounts, they would be similar to interest-bearing demand deposits. As a result of the closings of retail and business sweep accounts, the amount of demand deposits on which required reserves are calculated would increase at depository institutions. CBO projects that required reserve balances would increase above the level expected under current law by about $12 billion by 2006. Although the Federal Reserve would pay interest on the added reserves at approximately the federal funds rate, it would invest the reserves in Treasury securities, earning a return of approximately 0.40 of a percentage point in excess of the federal funds rate. As a result of the rate differential, the Federal Reserve would generate additional profits of about $261 million through 2006 and remit them to the Treasury as governmental receipts.

Projected Impact on Income Tax Revenues. Allowing interest on required reserve balances held at the Federal Reserve would have a third budgetary effect, which would also reduce—but not eliminate—the decline in revenue from the payment of interest on current balances. The net effect of interest payments on reserves and the anticipated shift to more demand deposit accounts is expected to be a reduction in the profits of the Federal Reserve and an increase in the profits of depository institutions or their customers, with a consequent increase in income tax revenues. CBO assumes that the profits of depository institutions or their customers would increase by roughly the same amount that the profits of the Federal Reserve decline. It is likely that, instead of retaining the additional interest income from the Federal Reserve, depository institutions would pass through some of the increased profits to their consumer and business customers by, for example, raising interest rates on deposits or lowering rates on loans. If a complete pass-through did occur, then the customers—not the depository institutions—would accrue the income and pay additional taxes. Although some of the additional interest income of depository institutions may be passed through in nontaxable form either to their customers or to nontaxable entities, this amount is expected to be negligible. CBO assumes that depository institutions and their customers face an average marginal tax rate on income of 25 percent. We therefore estimate that income tax receipts would increase by about $42 million in 2002 and approximately $190 million through 2006.

The Allowance of Interest on Contractual Clearing balances. As discussed previously, staff at the Federal Reserve have indicated that, given the authority, the Federal Reserve would give depository institutions the option of earning an explicit rate of interest on contractual clearing balances or continuing with the current system of earning an implicit rate of interest in the form of an interest credit. CBO estimates that giving depository institutions the option of earning an explicit rate of interest on contractual clearing balances would have little or no budgetary effect. for those depository institutions choosing to earn an explicit rate of interest on contractual balances, the explicit interest earnings, for the most part, would be substituted for what is now an implicit interest payment. Earning an explicit rate of interest on contractual balances may give some depository institutions an incentive to hold somewhat higher balances than currently because the interest credit earned under the present system can only be used to offset user fees for services provided by the Federal Reserve. A number of banks are already able to cover all of their service costs this way, so that an explicit rate of interest is required to give them an incentive to hold more reserves. As with required reserve balances, the Federal Reserve would pay an interest rate near the federal funds rate on these additional contractual balances and invest the funds in Treasury securities, which normally earn a higher return. The difference between what the Federal Reserve pays in interest on these additional balances and what it earns by investing them in Treasury securities would result in an increase in the Federal Reserve's earnings. Depository institutions, however, may choose to increase their contractual clearing balances by reducing the excess reserve balances they hold at the Federal Reserve. The Federal Reserve currently pays no interest on excess reserves and invests them in Treasury securities, remitting these earnings to the Treasury. The additional earnings on contractual clearing balances could be completely offset, or possibly more than offset, depending on the extent to which depository institutions choose to increase their clearing balances by reducing their excess reserve balances. For example, if clearing balances increase by $2 billion and the rate differential between the federal funds rate and Treasury securities is 0.50 percentage points, then Federal Reserve earnings would increase by $10 million. If, however, the increase of $200 million in clearing balances was the result of a transfer from excess reserves by depository institutions, then, assuming a rate of return on Treasury securities of 5 percent, Federal Reserve earnings would not change: the $10 million increase in earnings would be offset by a decline of $10 million from the investment of excess reserves. CBO, therefore, estimates that offering an explicit interest rate on contractual clearing balances is likely to have no significant effect on earnings.

Transfer from surplus funds of the Federal Reserve

During the first five years SBICA would be effective (fiscal years 2002 through 2006), the legislation provides that the revenue loss associated with allowing interest payments on reserve balances would be offset by requiring the Federal Reserve to remit from its surplus fund to the Treasury an amount equal to an estimate of the annual net revenue loss. In addition, during this same five-year period, the bill would make the Federal Reserve's payment of net earnings to the Treasury mandatory and the Federal Reserve would not be allowed to replenish its surplus fund. Those provisions would have the effect of reducing the net budgetary impact of the legislation to zero for the first five years the bill is in effect and postpone the accumulated net revenue loss to the federal government to the sixth year, 2007.

Out of its annual earnings, the Federal Reserve covers its operating costs, pays a small dividend to its member banks, retains monies for its surplus fund, and voluntarily remits the remaining profits to the U.S. Treasury. The Federal Reserve's surplus fund is a stock of retained earnings accumulated over time and is set by the Federal Reserve banks each year at a level equal to the paid-in capital of its member banks. The fund can be used as collateral for issuance of Federal Reserve notes and may be viewed as a fiscal cushion. The surplus funds are invested in Treasury securities and the interest generated is remitted to the Treasury along with other profits of the Federal Reserve. During the first five years SBICA is in effect, the Federal Reserve would remit to the Treasury all of its earnings above its dividend payments to member banks, the additions to its surplus account, and its operating costs, which would now include interest paid on reserves. In addition, it would be required to remit from its surplus fund an amount equal to the estimated payment of interest on reserves. The Federal Reserve would be prevented from replenishing its surplus fund by the amount of these transfers during this five-year period, and its payment of net earnings to the Treasury would be mandatory. In fiscal year 2007, however, the Federal Reserve would be expected to replenish its surplus fund by the entire amount that was transferred from the fund to the Treasury during the 2002–2006 period, an estimated $570 million. This response is anticipated because the Federal Reserve has replenished its surplus account at its first available opportunity after past legislated transfers of surplus funds. The legislated transfer of surplus funds under SBICA, therefore, would have the effect of postponing the accumulated net revenue loss to the Treasury during the first five years the legislation is in effect until the sixth fiscal year, 2007. CBO estimates that the total revenue loss in fiscal year 2007 would be about $693 million. The Federal Reserve would be expected to retain $570 million out of its earnings to replenish its surplus fund instead of remitting these profits to the Treasury. The remaining $123 million is the estimated net revenue loss of allowing interest payments on reserve balances for that year. CBO estimates that the resulting revenue loss for the 2007–2011 period would be approximately $1.2 billion.

The transfer of the surplus funds does not reduce the cost of the bill to the federal government over the long term—it just postpones the budgetary impact. It also is important to note that the transfer of surplus funds from the Federal Reserve to the Treasury has no import for the fiscal status of the federal government. If the surplus funds are held at the Federal Reserve, they are invested in government securities and the interest generated is remitted to the Treasury. If the surplus funds are transferred to the Treasury instead, they reduce the public debt and in turn the interest payments owed by the Treasury. Since the interest payments would be identical in either case, where the funds reside has no *economic* significance. Hence, any transfer of the Federal Reserve surplus fund to the Treasury would have no effect on national savings, economic growth, or income.

Payment of interest on business demand deposit accounts

Allowing depository institutions to pay interest on business demand deposit accounts would, in itself, have the effect of increasing demand deposit accounts at depository institutions, although CBO estimates that this effect would not be significant without the additional provision of allowing interest on required reserves. Depository institutions that do not currently offer commercial sweep accounts would offer interest-bearing business demand deposit accounts and businesses that currently have sweep accounts would have an incentive to hold higher levels of demand deposits with the allowance of interest on business demand deposits. Required reserves held at the Federal Reserve would increase with the rise in the level of demand deposits, increasing the earnings of the Federal Reserve and the amount that is remitted to the Treasury as governmental receipts. CBO, however, estimates that the revenue effect of that increase in required reserves would be negligible and that it is the combined effect of the payment of interest on reserves and the allowances of interest on business demand deposit accounts that results in the revenue loss described above. That effect is included in the profits from increased reserves shown in the table on page 4.

Provisions in the bill estimated to have an insignificant budgetary effect

CBO estimates that there would be no budgetary effect from the provision that gives the Federal Reserve additional flexibility in setting reserve requirement ratios by removing the lower limits on the ranges of allowable ratios. Federal Reserve staff have indicated that no policy change would likely to occur as a result of enacting that provision in the current economic environment. The bill would require the Federal Reserve to conduct a survey of insured depository institutions and credit unions and submit an annual report to the Congress on the availability and cost of banking services. Since the Federal Reserve currently collects this information, albeit on a smaller scale, CBO estimates that the additional costs to the Federal Reserve would be insignificant. In addition, based on information from the Federal Deposit Insurance Corporation, CBO expects that the bill would have no significant impact on the total balance of insured deposits or the likelihood that some institutions would fail. Therefore, the bill would have no significant impact in federal spending.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that H.R. 974 would not affect receipts over the 2002–2006 period, but would reduce receipts by $1,249 million over the 2007–2011 period, as shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in receipts	0	0	0	0	0	−693	−130	−135	−142	−149
Changes in outlays	Not applicable									

Estimated impact on state, local, and tribal governments: H.R. 974 contains no intergovernmental mandates as defined in UMRA and would impose no cost on the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.R. 974 would authorize the Federal Reserve to pay interest on reserve balances held on deposit at the Federal Reserve. The bill would also authorize the Board of Governors of the Federal Reserve System to prescribe regulations concerning the responsibilities of correspondent banks that maintain balances at the Federal Reserve on behalf of other institutions. Such private institutions as commercial banks, Federal Home Loan Banks, and corporate credit unions serve as correspondent banks for many depository institutions that are not members of the Federal Reserve. Based on information provided by the FRB, CBO anticipates that the FRB would not use its authority to issue regulations unless problems arose in the crediting and distribution of interest earnings. Thus, CBO expects that this bill would not impose a mandate as defined by UMRA on the private sector. If after a period of time the FRB determined a rule was necessary, it would most likely require that correspondent banks pass the interest earnings back to the institutions for which they maintain required balances at the Federal Reserve. The cost to the correspondent banks of complying with such a rule would be negligible.

Estimate prepared by: Federal Revenues: Carolyn Lynch. Impact on Governmental Sector: Susan Sieg Tompkins. Impact on the Private Sector: Patrice Gordon.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis. Robert A. Sunshine, Assistant Director for Budget Analysis.

Federal Mandates Statement

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

Advisory Committee Statement

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

Constitutional Authority Statement

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States); Article 1, section 8, clause 3 (relating to the power to regulate interstate commerce); Article 1, section 8, clause 5 (relating to the power to coin money and regulate the value thereof); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

Applicability to 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.

Section-by-Section Analysis of the Legislation

Section 1. Short title

This section establishes the short title of the bill, the "Small Business Interest Checking Act of 2001."

Section 2. Interest-bearing transaction accounts authorized

This section repeals the prohibitions in current law on the payment of interest on commercial demand deposits. The repeal takes effect at the end of the two year period beginning on the date of enactment.

Section 3. Interest-bearing transaction accounts authorized for all businesses

This section authorizes depository institutions which are prohibited by any State law from offering demand deposits to offer all owners of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making payments to third parties.

The section also authorizes depository institutions to offer customers the ability to make 24 transfers per month from an interest bearing or dividend earning deposit or account into any other account maintained by that customer at that institution. The Board of Governors of the Federal Reserve Board is given the authority to permit more than 24 transfers per month, and to determine that the interest-bearing accounts from which funds are transferred are subject to reserve requirements. The Committee does not intend anything in this section to affect or preempt any State law governing any depository institution which is not otherwise regulated under Federal law with respect to limitations on the transfer of funds from interest bearing accounts to any other account maintained at a depository institution by the transferring account holder.

Section 4. Payment of interest on reserves at Federal Reserve Banks

This section permits the Federal Reserve to pay interest on the reserves that depository institutions are required to maintain at Federal Reserve Banks, at a rate not to exceed the general level of short-term interest rates. The Federal Reserve is also authorized to prescribe regulations concerning the payment and distribution of earnings to depository institutions that maintain balances at Federal Reserve Banks.

This section also amends the Federal Reserve Act to require the Board of Governors of the Federal Reserve to conduct an annual survey of retail banking fees, services and products provided by insured depository institutions and insured credit unions.

Section 5. Increased Federal Reserve flexibility in setting reserve requirements

This section amends the Federal Reserve Act to eliminate the minimum statutory ratios of 3 percent against the first $25 million in transaction accounts held at a depository institution and 8 percent against the amount above that threshold level, thereby giving the Federal Reserve greater flexibility in setting reserve requirements.

Section 6. Transfer of Federal Reserve surpluses

This section provides that during the first five years that the Act is in effect, the revenue loss associated with allowing interest payments on required reserve balances will be offset by requiring the Federal Reserve to remit from its surplus fund to the Treasury an amount equal to the estimated annual net revenue loss.

Section 7. Rule of construction

This section provides that nothing in the bill is to be construed as creating any presumption or implication that, in the case of an escrow account maintained at a depository institution in connection with a real estate transaction, the absorption of expenses incidental to a normal banking function, or the forbearance of any fee in connection with the same, or the receipt of any benefits thereof by the beneficiary of that escrow account, may be treated as the payment or receipt of interest for purposes of Public Law 93–100, the Federal Reserve Act, the Home Owner's Loan Act, or the Federal Deposit Insurance Act. The Committee intends that this provision clarify that the current treatment of such transactions under Federal law and regulation, particularly the regulations of the Board of Governors of the Federal Reserve DD and Q, is unaffected by this legislation. Current law does not treat the services and benefits described by this section as the payment of interest to the beneficiary of an escrow account, and that presumption will remain the law upon the enactment of this bill.

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):

FEDERAL RESERVE ACT

* * * * * * *

DIVISION OF EARNINGS.

SEC. 7. (a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE BANKS.—
(1) * * *

* * * * * * *

(3) PAYMENT TO TREASURY.—During fiscal years 2002 through 2006, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.

(b) TRANSFER FOR FISCAL YEAR 2000.—
(1) * * *

* * * * * * *

(4) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2002 THROUGH 2006.—

(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12), as estimated by the Office of Management and Budget, in each of the fiscal years 2002 through 2006.

(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2002

through 2006, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(C) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2002 through 2006, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under subparagraph (A).

* * * * * * *

SEC. 19. (a) * * *

(b) RESERVE REQUIREMENTS.—

(1) * * *

(2) RESERVE REQUIREMENTS.—(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

(i) in ⟦the ratio of 3 per centum⟧ *a ratio not greater than 3 percent (and which may be zero)* for that portion of its total transaction accounts of $25,000,000 or less, subject to subparagraph (C); and

(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum ⟦and not less than 8 per centum,⟧ *(and which may be zero),* for that portion of its total transaction accounts in excess of $25,000,000, subject to subparagraph (C).

* * * * * * *

(4) SUPPLEMENTAL RESERVES.—(A) * * *

* * * * * * *

⟦(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii), such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph.⟧

⟦(D)⟧ *(C)* If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

⟦(E)⟧ *(D)* Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

* * * * * * *

(12) EARNINGS ON RESERVES.—

(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

(i) the payment of earnings in accordance with this paragraph;

(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(B), in a Federal reserve bank by any such entity on behalf of depository institutions.

(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to [subsection (b)(4)(C)] *subsection (b)*; and

(B) balances maintained by a depository institution [which is not a member bank] in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727), or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

* * * * * * *

⟦(i) No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand: *Provided,* That nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract entered into in good faith which is in force on the date on which the bank becomes subject to the provisions of this paragraph; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this paragraph, and every member bank shall take such action as may be necessary to conform to this paragraph as soon as possible consistently with its contractual obligations: *Provided further,* That this paragraph shall not apply to any deposit of such bank which is payable only at an office thereof located outside of the States of the United States and the District of Columbia: *Provided further,* That until the expiration of two years after the date of enactment of the Banking Act of 1935 this paragraph shall not apply (1) to any deposit made by a savings bank as defined in section 12B of this Act, as amended, or by a mutual savings bank, or (2) to any deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality, or to any deposit of trust funds if the payment of interest with respect to such deposit of public funds or of trust funds is required by State law. So much of existing law as requires the payment of interest with respect to any funds deposited by the United States, by any Territory, District, or possession thereof (including the Philippine Islands), or by any public instrumentality, agency, or officer of the foregoing, as is inconsistent with the provisions of this section as amended, is hereby repealed. Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.⟧

(i) [Repealed]

* * * * * * *

(n) SURVEY OF BANK FEES AND SERVICES.—

(1) ANNUAL SURVEY REQUIRED.—The Board shall obtain annually a sample, which is representative by type and size of the institution and geographic location, of the following retail banking services and products provided by insured depository institutions and insured credit unions (along with related fees and minimum balances):

(A) Checking and other transaction accounts.

(B) Negotiable order of withdrawal and savings accounts.

(C) Automated teller machine transactions.

(D) Other electronic transactions.

(E) Credit Cards.

(2) MINIMUM SURVEY REQUIREMENT.—The annual survey described in paragraph (1) shall meet the following minimum requirements:

(A) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

(i) Monthly and annual fees and minimum balances to avoid such fees.

(ii) Minimum opening balances.

(iii) Check processing fees.

(iv) Check printing fees.

(v) Balance inquiry fees.

(vi) Fees imposed for using a teller or other institution employee.

(vii) Stop payment order fees.

(viii) Nonsufficient fund fees.

(ix) Overdraft fees.

(x) Deposit items returned fees.

(xi) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

(B) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

(i) Monthly and annual fees and minimum balances to avoid such fees.

(ii) Minimum opening balances.

(iii) Rate at which interest is paid to consumers.

(iv) Check processing fees for negotiable order of withdrawal accounts.

(v) Check printing fees for negotiable order of withdrawal accounts.

(vi) Balance inquiry fees.

(vii) Fees imposed for using a teller or other institution employee.

(viii) Stop payment order fees for negotiable order of withdrawal accounts.

(ix) Nonsufficient fund fees for negotiable order of withdrawal accounts.

(x) Overdraft fees for negotiable order of withdrawal accounts.

(xi) Deposit items returned fees.

(xii) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

(C) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

(i) Annual and monthly fees.

(ii) Card fees.

(iii) Fees charged to customers for withdrawals, deposits, transfers between accounts, balance inquiries through institution-owned machines.

(iv) Fees charged to customers for withdrawals, deposits, transfers between accounts, balance inquiries through machines owned by others.

(v) Fees charged to noncustomers for withdrawals, deposits, transfers between accounts, balance inquiries through institution-owned machines.

(vi) Point-of-sale transaction fees.

(vii) Surcharges.

(D) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

(i) Wire transfer fees.

(ii) Fees related to payments made over the Internet or through other electronic means.

(E) CREDIT CARD CHARGES AND FEES.—Data related to credit cards shall include, at a minimum, the following:

(i) Application fees.

(ii) Annual and monthly fees.

(iii) Rates of interest charged for purchases and cash advances, when an account is not in default.

(iv) Rates of interest charged for purchases and cash advances, when an account is in default.

(v) Average annual finance charges paid by customers.

(vi) Late payment fees.

(vii) Cash advance and convenience check fees.

(viii) Balance transfer fees.

(ix) Over-the-credit-limit fees.

(x) Foreign currency conversion fees.

(F) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board determines to be appropriate to meet the purposes of this section.

(3) ANNUAL REPORT TO CONGRESS REQUIRED.—

(A) PREPARATION.—The Board shall prepare a report of the results of each survey conducted pursuant to paragraph (1) and (2).

(B) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to paragraphs (1) and (2), each report prepared pursuant to subparagraph (A) shall include a description of any discernible trend, in the Nation as a whole, in each of the 50 States, and in each metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in paragraphs (1) and (2) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution, the size of the institution and any engagement of the institution in multistate activity.

(C) SUBMISSION TO CONGRESS.—The Board shall submit an annual report to the Congress under this paragraph not later than June 1, 2002, and not later than June 1 of each subsequent year.

(4) DEFINITIONS.—For purposes of this subsection, the terms "insured depository institution" and "insured credit union" mean any depository institution (as defined in subsection (b)(1)(A)) the deposits or shares in which are insured under the Federal Deposit Insurance Act or the Federal Credit Union Act.

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SECTION 5 OF THE HOME OWNERS' LOAN ACT

SEC. 5. FEDERAL SAVINGS ASSOCIATIONS.

(a) * * *

(b) DEPOSITS AND RELATED POWERS.—

(1) DEPOSIT ACCOUNTS.—

(A) * * *

(B) A Federal ⟦savings association may not—

⟦(i) pay interest on a demand account; or

⟦(ii) permit any⟧ *savings association may not permit any* overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such overdraft in such savings association's account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

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SECTION 18 OF THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 18. (a) * * *

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⟦(g)(1) The Board of Directors shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks and for such purpose it may define the term "demand deposits"; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The Board of Directors may from time to time, after consulting with the Board of Governors of the Federal Reserve System and the Director of the Office of Thrift Supervision, prescribe rules governing the advertisement of interest or dividends on deposits, including limitations on the rates of interest or dividends that may be paid by insured nonmember banks (including insured mutual savings banks) on time and savings deposits. The Board of Directors is authorized for the purposes of this subsection to define the terms "time deposits" and "savings deposits", to determine what shall be deemed a payment of interest, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this subsection and to prevent evasions thereof. The provisions of this subsection and of regulations issued thereunder shall also apply, in the discretion of the Board of Directors, to obligations other than deposits that are undertaken by insured nonmember banks or their affiliates. As used in this subsection, the term "affiliate" has the same meaning as when used in section 2(b) of the Banking Act of 1933, as amended (12 U.S.C. 221a(b)), except that the term "member bank", as used in such section 2(b), shall be deemed to refer to an insured nonmember bank. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this subsection shall not apply to the rate of interest which may be paid by insured nonmember banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member. The authority conferred by this subsection shall also apply to noninsured banks in any State if the total amount of time and savings deposits held in all such banks in the State, plus the total amount of deposits, shares, and withdrawable accounts held in all building and loan, savings and loan, and homestead associations (including cooperative banks) in the State which are not members of a Federal home loan bank, is more than 20 per centum of the total amount of such deposits, shares, and withdrawable accounts held in all banks, and building and loan, savings and loan, and homestead associations (including cooperative banks) in the State. Such authority shall only be exercised by the Board of Directors with respect to such noninsured banks prior to July 31, 1970, to limit the rates of interest or dividends which such banks may pay on time and savings deposits to maximum rates not lower than 5½ per centum per annum. Whenever it shall appear to the Board of Directors that any noninsured bank or any affiliate thereof is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this subsection or of any regulations thereunder, the Board of Directors may, in its discretion, bring an action in the United States district court for the judicial district in which the principal office of the noninsured bank or affiliate thereof is located to enjoin such acts or practices, to enforce compliance with this subsection or any regulations thereunder, or for a combination of the foregoing, and such courts shall have jurisdiction of such actions, and, upon a proper showing, an injunction, restraining order, or other appropriate order may be granted without bond.

⟦(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.⟧

(g) [Repealed]

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SECTION 2 OF THE ACT OF AUGUST 16, 1973

AN ACT To extend certain laws relating to the payment of interest on time and savings deposits, to prohibit depository institutions from permitting negotiable orders of withdrawl to be made with respect to any deposit or account on which any interest of divident is paid, to authorize Federal savings and loan associations and national banks to own stock in and invest in loans to certain State housing corporations, and for other purposes.

PROHIBITION ON CERTAIN ACTIVITIES BY DEPOSITORY INSTITUTIONS

SEC. 2. (a)(1) * * *

(2) ⟦Paragraph⟧ *Except in the case of any depository institution which is prohibited by the applicable law of any State from offering demand deposits, paragraph* (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire

beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, political, or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.

(b) Notwithstanding any other provision of law, any depository institution may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board may determine by rule or order), for any purpose, to another account of the owner in the same institution. Nothing in this subsection shall be construed to prevent an account offered pursuant to this subsection from being considered a transaction account (as defined in section 19(b) of the Federal Reserve Act for purposes of such Act).

【(b)】 *(c)* For purposes of this section, the term "depository institution" means—

(1) * * *

* * * * * * *

【(c)】 *(d)* Any depository institution which violates this section shall be fined $1,000 for each violation.

ADDITIONAL VIEWS

The Small Business Interest Checking Act of 2001 lifts the Depression-era ban on paying interest on business demand deposits—a prohibition that in today's modern financial services environment is anachronistic.

Many large financial institutions effectively circumvent this longstanding prohibition by offering so-called "sweep accounts." Sweep accounts are transaction accounts whose balance is "swept out" of the financial institution for investment in an overnight interest-bearing financial instrument, thereby allowing a bank's business customers to earn interest on their transaction accounts. However, current market conditions, as well as the costs involved, prevent many smaller institutions from offering these sweep accounts. As a result, many small businesses across the country, many of whom bank with smaller financial institutions, are unable to take advantage of such services. By repealing the prohibition on payment of interest to business checking accounts, this legislation provides small business with well-deserved relief and promotes healthy competition within the financial services industry for commercial checking accounts.

Many have argued that the repeal of the ban should be delayed to allow depository institutions that offer alternatives to interest-bearing business checking accounts time to adjust their business practices and contractual relationships. While a reasonable transition period is necessary and appropriate, there is no good public policy reason for excessive delay. The two-year phase-in provided for in the legislation represents a fair compromise of the competing concerns and is preferable to past proposals calling for a longer phase-in.

Some supporters of another provision in this legislation which permits the payment of interest on sterile reserves have suggested that the change will benefit customers through reduced costs for services. To help gauge the effect of the legislation and to provide consumers, industry and regulators with an assessment retail banking practices throughout the country, the Small Business Interest Checking Act of 2001 amends the Federal Reserve Act to require the Federal Reserve to conduct an annual survey of retail banking fees, services and products.

Since 1990, the Federal Reserve has conducted annual national surveys of the types and amounts of fees charged for basic checking and savings account services by banks and thrift institutions. These surveys have provided consumers with a broad overview of market practices and invaluable guidance on where to find the most affordable financial services. The provision of law authorizing this survey expires on September 30, 2001. With fees representing an ever-growing share of earnings, the provision in the bill requiring a survey on retail bank fees become even more important.

The requirements of the legislation parallel the requirements in current law with several important changes. First, where past surveys focused almost entirely on fees associated with checking accounts, savings accounts, and ATM services, the legislation also includes fees associated with consumer credit card accounts and fees charged in connection with payments over the Internet and other forms of electronic transactions. Second, the legislation includes fees charged by credit unions, in addition to those charged by banks and thrifts, to provide a more comprehensive picture of market practices. The rapid pace of change and consolidation within our financial marketplace requires that these surveys be continued to assess whether consumers are receiving the promised cost benefits of financial modernization.

JOHN J. LAFALCE.

ADDITIONAL VIEWS OF REPRESENTATIVE STEVE ISRAEL

Mr. Chairman, I wish to thank you and my distinguished colleague from New York, Ms. Kelly, for your efforts to build consensus on the issue of repealing interest on business checking accounts. Although I do have some concerns regarding the proposed amendments to H.R. 974, I will support the compromise. Specifically, Mr. Chairman, I share the concerns of some banks in Long Island that a two-year phase-in period is simply insufficient; and that we should proceed more cautiously and more prudently.

Furthermore, Mr. Chairman, I support the authorization of banks to increase, from six to twenty-four, the number of transfers from money market deposit accounts. In my view, this authorization, over a longer transition period, would have provided effective relief and a more balanced approach.

Thank you, Mr. Chairman.

STEVE ISRAEL.

DISSENTING VIEWS

H.R. 974, the Small Business Checking Act of 2001, represents an example of mixed-up budget priorities. I agree that the Depression-era ban on interest-bearing business checking accounts serves no public policy purpose, and I would have supported repeal of the prohibition, provided it had been accomplished in a clean bill. However, I cannot in good conscience support this bill because it contains a provision that results in a transfer of taxpayer money to a very small segment of the country's largest and most powerful depository institutions, while other budget priorities are left unfunded or underfunded.

The provision permitting the Federal Reserve banks to pay interest on the sterile reserves maintained by depository institutions in Federal Reserve Banks will result in the annual transfer of about $100 million in real taxpayer dollars to about 1700 of the approximately 21,000 depository institutions in this country. Thirty of the largest, most powerful financial institutions will receive one-third of the interest that the Federal Reserve Banks will pay out each year.

The Administration has proposed a broad-based tax cut proposal that will consume $2 trillion of the budget surplus. We do not know how we will pay for the President's tax cut, while meeting the other budget priorities of the Administration, addressing critical needs of the American public, paying down the debt and protecting Social Security and Medicare. Yet, the Small Business Checking Act will make that job harder by using $1.1 billion of the surplus over ten years to provide a benefit to a very small subset of the American taxpayers. The $1.1 billion could be put to better use by providing adequate funding for combating AIDS in Africa or restoring part of the $2 billion in housing cuts the Administration has proposed or, even, tax relief for the average taxpayer.

MAXINE WATERS.