

NATIONAL CREDIT UNION ADMINISTRATION BUDGET
TRANSPARENCY ACT

DECEMBER 12, 2016.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2287]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2287) to require the National Credit Union Administration to hold public hearings and receive comments from the public on its budget, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

H.R. 2287 amends Section 209(b) of the Federal Credit Union Act (12 U.S.C. 1789) to require the National Credit Union Administration Board, before the annual submission of its detailed budget, to:

- (1) print a draft of the budget in the Federal Register;
- (2) hold a public hearing to receive comments from the public on the draft; and
- (3) detail how the budget will address comments submitted by the public.

BACKGROUND AND NEED FOR LEGISLATION

The NCUA operates independent of the congressional appropriations process. The NCUA annual operating budget that funds credit union examination and supervisory activity is in turn funded

through direct and indirect assessments on the federally-insured state and federal credit unions it oversees.

The Federal Credit Union Act (FCUA) provides that NCUA expenses incurred in the course of examination and supervision of federal credit unions may be covered by operating fees assessed on those same federal credit unions. Currently, federally insured credit unions provide a significant majority of the funding for the operations of the NCUA through those operating fees. Each Federal credit union is required to pay this fee based on its prior year asset balances and rates set by the NCUA Board.

Between 2001 and 2008, under then-NCUA Chairman Dennis Dollar, the NCUA held annual public hearings on its budget. In 2008, former Chairwoman Deborah Matz ceased the practice of holding public budget hearings.

In a letter of support for H.R. 2287 dated May 13, 2015, the Credit Union National Organization wrote:

The “National Credit Union Administration Budget Transparency Act” would direct the NCUA to establish a process by which the public, including members of the credit union community, may examine and comment on the agency’s proposed annual budget prior to adoption. Additionally, this legislation would ensure that members of the NCUA Board, who must vote to adopt the annual budget, have adequate opportunity to review specific expenditures and overall methodology in order to make an informed decision as to whether the budget as proposed accurately reflects the needs of the agency. This process would increase transparency and accountability at the agency, and engender public trust, thereby strengthening and supporting the agency’s mission.

Credit union member resources are used to fund nearly all of NCUA’s budget. It is not too much to ask for the members of the NCUA Board to conduct a hearing and listen to stakeholder feedback from those responsible for funding the activities of the agency. We disagree with those who would suggest that a hearing on the agency’s budget would result in “regulatory capture”. As a former Chairman of the House Budget Committee, I am well aware that Congress regularly holds hearings on the Federal budget and the activities of the various federal agencies to solicit stakeholder input and also to exercise its oversight responsibilities. This type of back and forth is an important part of our democratic process and your legislation, which would require NCUA to hold a hearing on its budget, is fully consistent with these principals.

HEARINGS

The Committee on Financial Services’ Subcommittee on Financial Institutions held hearings examining matters relating to H.R. 2287 on July 23, 2015 and October 21, 2015.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on December 8, 2015 and December 9, 2015 and considered the bill. An

amendment offered by Mr. Royce was withdrawn. The Committee ordered H.R. 2287 to be reported favorably to the House without amendment by a recorded vote of 40 yeas to 16 nays (recorded vote no. FC-78), a quorum being present.

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. The sole record vote in Committee was a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 40 yeas to 16 nays (recorded vote no. FC-78), a quorum being present.

Record vote no. FC-78

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)		X	
Mr. King (NY)	X			Mrs. Maloney (NY)		X	
Mr. Royce	X			Ms. Velázquez		X	
Mr. Lucas	X			Mr. Sherman	X		
Mr. Garrett	X			Mr. Meeks	X		
Mr. Neugebauer	X			Mr. Capuano		X	
Mr. McHenry				Mr. Hinojosa			
Mr. Pearce	X			Mr. Clay			
Mr. Posey	X			Mr. Lynch		X	
Mr. Fitzpatrick	X			Mr. David Scott (GA)	X		
Mr. Westmoreland	X			Mr. Al Green (TX)		X	
Mr. Luetkemeyer	X			Mr. Cleaver		X	
Mr. Huizenga (MI)	X			Ms. Moore		X	
Mr. Duffy	X			Mr. Ellison		X	
Mr. Hurt (VA)	X			Mr. Perlmutter			
Mr. Stivers	X			Mr. Himes		X	
Mr. Fincher	X			Mr. Carney		X	
Mr. Stutzman	X			Ms. Sewell (AL)		X	
Mr. Mulvaney	X			Mr. Foster		X	
Mr. Hultgren	X			Mr. Kildee		X	
Mr. Ross	X			Mr. Murphy (FL)		X	
Mr. Pittenger	X			Mr. Delaney	X		
Mrs. Wagner	X			Ms. Sinema	X		
Mr. Barr	X			Mrs. Beatty	X		
Mr. Rothfus	X			Mr. Heck (WA)	X		
Mr. Messer	X			Mr. Vargas		X	
Mr. Schweikert	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin	X						
Mrs. Love	X						
Mr. Hill	X						
Mr. Emmer	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 2287 will increase transparency and accountability at the NCUA by amending the current law to ensure that the public is provided an opportunity to weigh in as the NCUA considers its annual budget.

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 adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office 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 ESTIMATES

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, January 29, 2016.

Hon. JEB HENSARLING,
*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. 2287, the National Credit Union Administration Budget Transparency Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2287—National Credit Union Administration Budget Transparency Act

H.R. 2287 would require the National Credit Union Administration (NCUA) to make changes to its budget process. Because enacting H.R. 2287 would affect direct spending, pay-as-you-go procedures apply; however, CBO estimates that the net effect on direct spending would be negligible. Enacting the bill would not affect revenues.

H.R. 2287 would require the NCUA to print a draft of its proposed budget in the Federal Register, to hold public hearings on the proposed budget, and to address the comments submitted by the public before the budget becomes final. Based on information from the NCUA, CBO estimates that the agency would need several additional staff members to complete the required work and to respond to public comments. However, CBO estimates that the net effects on the federal budget would be negligible because any increase in operating costs for NCUA would be offset by additional fees collected from federal credit unions.

CBO estimates that enacting H.R. 2287 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year period beginning in 2027.

H.R. 2287 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

If the NCUA increases fees to offset the costs of implementing the bill, H.R. 2287 would increase the cost of an existing mandate on private entities required to pay those fees. Based on information from the NCUA, CBO estimates that the aggregate cost of the mandate would be small and fall well below the annual threshold for private-sector mandates established in UMRA (\$154 million in 2016, adjust annually for inflation).

The CBO staff contacts for this estimate are Sarah Puro (for federal costs) and Logan Smith (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy 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.

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 the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 2287 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 2287 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 2287 contains no directed rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Section cites H.R. 2287 as the “National Credit Union Administration Budget Transparency Act.”

Section 2. Budget transparency for the NCUA

This section amends Section 209(b) of the Federal Credit Union Act to require that, prior to the submission of its budget, the NCUA make its budget publicly available on the Federal Register, hold a public hearing for comments on the draft of the budget and detail how the budget will address comments submitted by the public.

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, and existing law in which no change is proposed is shown in roman):

FEDERAL CREDIT UNION ACT

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TITLE II—SHARE INSURANCE

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ADMINISTRATIVE PROVISIONS

SEC. 209. (a) In carrying out the purposes of this title, the Board may—

- (1) make contracts;

(2) sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Board shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy. The Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect, except that any such suit to which the Board is a party in its capacity as liquidating agent of a State-chartered credit union and which involves only the rights or obligations of members, creditors, and such State credit union under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Board or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Board shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any insured credit union is located;

(3) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of \$5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

(4) to appoint such officers and employees as are not otherwise provided for in this Act, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Administration of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof;

(5) employ experts and consultants or organizations thereof, as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a);

(6) prescribe the manner in which its general business may be conducted and the privileges granted to them by law may be exercised and enjoyed;

(7) exercise all powers specifically granted by the provisions of this title and such incidental powers as shall be necessary to carry out the powers so granted;

(8) make examinations of and require information and reports from insured credit unions, as provided in this title;

(9) act as liquidating agent;

(10) delegate to any officer or employee of the Administration such of its functions as it deems appropriate; and

(11) prescribe such rules and regulations as it may deem necessary or appropriate to carry out the provisions of this title.

(b) With respect to the financial operations arising by reason of this title, the Board shall—

(1) on an annual basis and prior to the submission of the detailed business-type budget required under paragraph (2)—

(A) make publicly available and cause to be printed in the Federal Register a draft of such detailed business-type budget; and

(B) hold a public hearing, with public notice provided of such hearing, wherein the public can submit comments on the draft of such detailed business-type budget;

[(1)] (2) prepare annually and submit a *detailed* business-type budget as provided for wholly owned Government corporations by the Government Corporation Control Act, *and where such budget shall address any comments submitted by the public pursuant to paragraph (1)(B); and*

[(2)] (3) maintain an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act.

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MINORITY VIEWS

H.R. 2287 would require that the National Credit Union Administration (“NCUA” or “Administration”) conduct public hearings and receive public notice and comment on its draft budget. This proposal would seek to allow credit unions the ability to influence the NCUA’s budget, thereby undermining the financial independence afforded to the NCUA and every other federal prudential regulator. H.R. 2287’s requirements are without precedent as no other federal regulator is subject to annual, pre-decisional hearings or a public notice and comment process on its draft budget, and no federal regulator provides such hearings on a voluntary basis.

Federal prudential regulators like the NCUA, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency are all independent of the appropriations process because the budgets of the agencies charged with the safety and soundness of our financial institutions should be shaped by the agency’s mission and its obligations under federal law—not from pressure from the entities they regulate. H.R. 2287 seeks a result similar to subjecting financial regulators to the appropriations process, albeit indirectly, through public hearings and a notice and comment period on the NCUA’s pre-decisional annual budgets.

In the past, from the years 2001 to 2008, the NCUA conducted pre-decisional budget hearings, which H.R. 2287 seeks to reinstate. Unsurprisingly, the hearings were largely attended by the credit union industry where they were successful in pressuring the NCUA to reduce its budget. These hearings led to substantial reductions in the NCUA’s budget such that the NCUA’s staff in 2009 was smaller than it was in 2000. Consequently, when the Great Recession hit the nation’s credit unions, the NCUA was unprepared to respond. The NCUA rightly discontinued the budget hearings, and H.R. 2287 is seeking to re-establish them despite clear evidence of the harm that this practice caused during the period leading up to the financial crisis.

The goal of this legislation is not transparency, but instead about regaining the influence that the industry once had over the NCUA’s budget from 2001 to 2009. The NCUA is already a peer leader amongst financial regulators in the information it already provides to the public on its budget, providing line-item budgets for each of the funds it administers; a dedicated webpage that provides detailed information on its budget including board memoranda on the budget and budget briefing summaries; answers to industry-submitted questions about the budget; and, additional line-item budgets separated by each NCUA office on expenditures like employee compensation, travel, and procurement as well as a host of other budget-related topics.

Budget decisions by financial regulators should be shaped by safety and soundness concerns and not by the industries they regu-

late. Credit unions continue to grow in size and complexity, and as credit unions seek to expand their capacity to use derivatives and engage in more small business lending, the NCUA should have the resources they need to keep pace with the credit union industry. If the past is prologue, H.R. 2287 would give the credit union industry a venue for pressuring the NCUA to cut its budget just as credit unions are growing and becoming more complex—a combination that exposes credit union members and the Share Insurance Fund that insures all credit union deposits to unnecessary risks.

For the foregoing reasons, the Minority opposes H.R. 2287.

MAXINE WATERS.
WM. LACY CLAY.
RUBÉN HINOJOSA.
KEITH ELLISON.
AL GREEN.

