

DISTRICT OF COLUMBIA RECEIVERSHIP ACCOUNTABILITY ACT OF 2000

JUNE 12, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BURTON of Indiana, from the Committee on Government Reform, submitted the following

R E P O R T

[To accompany H.R. 3995]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 3995) to establish procedures governing the responsibilities of court-appointed receivers who administer departments, offices, and agencies of the District of Columbia government, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Summary of Legislation	3
II. Background and Need for the Legislation	3
III. Legislative Hearings and Committee Actions	4
IV. Committee Hearings and Written Testimony	4
V. Explanation of the Bill	4
VI. Compliance with Rule XI	5
VII. Budget Analysis and Projections	5
VIII. Cost Estimate of the Congressional Budget Office	5
IX. Specific Constitutional Authority for this Legislation	6
X. Committee Recommendations	6
XI. Unfunded Mandates Reform Act; Public Law 104-4, Sec. 423	7
XII. Federal Advisory Committee Act (5 U.S.C. App.) Section 5(b)	7
XIII. Changes in Existing Law	7

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “District of Columbia Receivership Accountability Act of 2000”.

SEC. 2. SPECIAL RULES APPLICABLE TO RECEIVERS WITH RESPONSIBILITIES OVER DISTRICT OF COLUMBIA GOVERNMENT.

(a) **IN GENERAL.**—Each District of Columbia receiver shall be subject to the requirements described in section 3.

(b) **DISTRICT OF COLUMBIA RECEIVER DEFINED.**—In this Act, a “District of Columbia receiver” is any receiver or other official who is first appointed by the United States District Court for the District of Columbia or the Superior Court of the District of Columbia during 1995 or any succeeding year to administer any department, agency, or office of the government of the District of Columbia.

SEC. 3. REQUIREMENTS DESCRIBED.

(a) **PROMOTING FINANCIAL STABILITY AND MANAGEMENT EFFICIENCY.**—Each District of Columbia receiver who is responsible for the administration of a department, agency, or office of the government of the District of Columbia shall carry out the administration of such department, agency, or office through practices which promote the financial stability and management efficiency of the government of the District of Columbia.

(b) **COST CONTROL.**—Each District of Columbia receiver who is responsible for the administration of a department, agency, or office of the government of the District of Columbia shall ensure that the costs incurred in the administration of such department, agency, or office (including personnel costs of the receiver) are consistent with applicable regional and national standards.

(c) **USE OF PRACTICES TO PROMOTE EFFICIENT AND COST-EFFECTIVE ADMINISTRATION.**—Each District of Columbia receiver who is responsible for the administration of a department, agency, or office of the government of the District of Columbia shall carry out the administration of such department, agency, or office through the application of generally accepted accounting principles and generally accepted fiscal management practices.

(d) **PREPARATION AND SUBMISSION OF BUDGET.**—

(1) **CONSULTATION WITH MAYOR AND CHIEF FINANCIAL OFFICER.**—In preparing the annual budget for a fiscal year for the department, agency, or office of the government of the District of Columbia administered by the receiver, each District of Columbia receiver shall consult with the Mayor and Chief Financial Officer of the District of Columbia.

(2) **SUBMISSION OF ESTIMATES.**—After the consultation required under paragraph (1), the receiver shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia for the year, the receiver’s estimates of the expenditures and appropriations necessary for the maintenance and operation of the department, agency, or office for the year.

(3) **TREATMENT BY MAYOR AND COUNCIL.**—The estimates submitted under paragraph (2) shall be forwarded by the Mayor to the Council for its action pursuant to sections 446 and 603(c) of the District of Columbia Home Rule Act, without revision but subject to the Mayor’s recommendations. Notwithstanding any provision of the District of Columbia Home Rule Act, the Council may comment or make recommendations concerning such estimates but shall have no authority under such Act to revise such estimates.

(4) **EXCEPTIONS.**—This subsection shall not apply with respect to—

(A) any department, agency, or office of the government of the District of Columbia administered by a District of Columbia receiver for which, under the terms of the receiver’s appointment by the court involved, the Mayor and the Council may revise the annual budget; or

(B) the District of Columbia Housing Authority receiver appointed during 1995.

(5) **EFFECTIVE DATE.**—This subsection shall apply with respect to fiscal year 2001 and each succeeding fiscal year.

(e) **ANNUAL FISCAL, MANAGEMENT, AND PROGRAM AUDIT.**—

(1) **IN GENERAL.**—An annual fiscal, management, and program audit of each department, agency, or office of the government of the District of Columbia administered by a District of Columbia receiver shall be conducted by an independent auditor selected jointly by the receiver involved (or the receiver’s designee) and the Mayor (or the Mayor’s designee), and each District of Columbia receiver shall provide the auditor with such information and assistance as the auditor may require to conduct such audit.

(2) **EXCEPTIONS.**—Paragraph (1) shall not apply with respect to—

(A) any department, agency, or office of the government of the District of Columbia administered by a District of Columbia receiver for which, under the terms of the receiver’s appointment by the court involved, audits are conducted by an auditor selected jointly by the parties to the action under which the receiver was appointed; or

(B) the District of Columbia Housing Authority receiver appointed during 1995.

(f) PROCUREMENT.—

(1) IN GENERAL.—In carrying out procurement on behalf of the department, agency, or office of the government of the District of Columbia administered by the receiver, each District of Columbia receiver—

(A) shall obtain full and open competition through the use of competitive procedures; and

(B) shall use the competitive procedure or combination of competitive procedures which is best suited under the circumstances of the procurement.

(2) EXCEPTIONS.—

(A) ALTERNATIVE METHODS FOR CERTAIN PROCUREMENT.—Notwithstanding paragraph (1), a District of Columbia receiver may use alternative methods to carry out procurement if—

(i) the amount involved is nominal;

(ii) the public exigencies require the immediate delivery of the articles or performance of the service involved;

(iii) the receiver certifies that only one source of supply is available;

or

(iv) the services involved are required to be performed by the contractor in person and are of a technical and professional nature or are performed under the receiver's supervision and paid for on a time basis.

(B) HOUSING AUTHORITY.—Paragraph (1) shall not apply with respect to the District of Columbia Housing Authority receiver appointed during 1995.

SEC. 4. CLARIFICATION OF APPLICABILITY OF ANTI-DEFICIENCY ACT.

Nothing in subchapter III of chapter 13 of title 31, United States Code may be construed to waive the application of the provisions of such subchapter which apply to officers or employees of the District of Columbia government to any District of Columbia receiver.

I. SHORT SUMMARY OF LEGISLATION

H.R. 3995 directly addresses concerns about the District of Columbia's receivership programs and the accountability of the receivers. This legislation will promote the financial stability and efficient management of the District government.

II. BACKGROUND AND NEED FOR THE LEGISLATION

The District of Columbia has had four agencies placed in court-appointed receivership. Only one agency, the D.C. Housing Authority, has successfully emerged from receivership in stable financial and managerial condition. The remaining agencies, Child and Family Services, the Commission on Mental Health Services, and the Corrections Medical Services in the D.C. Jail, continue to languish in receivership since there are no mechanisms in place to ensure financial and management accountability.

H.R. 3995 requires court-appointed District of Columbia receivers to ensure that the costs incurred in administering the agency under receivership are consistent with regional and national standards. Under this legislation, the receiver must use the best means available to promote financial stability and sound management practices within the agency. The receiver must consult with the Mayor and the Chief Financial Officer of D.C. when preparing the annual budget. Estimates of expenditures and appropriations for the operations of the agency must be submitted to the Mayor for inclusion in the city's annual budget. The legislation also requires an independent auditor to conduct annual fiscal and management audits of the agency. Nothing in this bill is intended to impede a D.C. receiver's mandate to remedy constitutional violations.

III. LEGISLATIVE HEARINGS AND COMMITTEE ACTIONS

Delegate Eleanor Holmes Norton introduced the legislation on March 15, 2000, and it was referred to the House Committee on Government Reform. On March 28, 2000, it was referred to the Subcommittee on the District of Columbia. The Subcommittee marked up the bill at the Child and Family Services Receivership hearing on May 5, 2000. The Subcommittee approved an amendment offered by Mrs. Norton which requires the use of generally accepted accounting principles, fiscal management practices, and an annual fiscal and management review conducted by an independent auditor. In addition the amendment requires that the procurement process is competitive unless one of the newly added exceptions is met. The amendment also clarifies the applicability of the Anti-deficiency Act. The Subcommittee approved the bill as amended by voice vote on May 5, 2000, and forwarded it to the Committee on Government Reform.

IV. COMMITTEE HEARINGS AND WRITTEN TESTIMONY

The District of Columbia Subcommittee is in the process of holding hearings regarding the status of the three remaining agencies in receivership, Child and Family Services, the Commission on Mental Health Services, and Corrections Medical Services in the D.C. Jail, in an effort to assess the successes and failures of their respective receivers. On May 5, 2000, the Subcommittee held a hearing about the Child and Family Services receivership. Hearings concerning the other receiverships will be held before the August 2000 recess.

V. EXPLANATION OF THE BILL

Section 1

Section 1 provides the bill's short title, "District of Columbia Receivership Accountability Act of 2000."

Section 2

Section 2 provides a definition of a "District of Columbia Receiver." It indicates that all D.C. receivers are subject to the requirements of Section 3.

Section 3

Section 3 requires that D.C. receivers use administration practices which promote financial stability and management efficiency, while ensuring that the costs incurred by the agency, department, or office under receivership are consistent with applicable regional and national standards. The receivers are also required to use generally accepted accounting principles and fiscal management practices to promote efficiency and cost-effectiveness.

Effective in fiscal year 2001, D.C. receivers are required to consult with the Mayor and the Chief Financial Officer when preparing a budget for the agency, department, or office under receivership. The receiver then submits a budget to the Mayor who forwards it to the City Council pursuant to sections 446 and 603(c) of the District of Columbia Home Rule Act. The Mayor and Council are permitted to make recommendations, but not revisions. This budgetary requirement is effective unless the terms of the D.C. re-

ceiver's appointment permit revisions by the Mayor and the Council.

This section also requires that the D.C. receiver and the Mayor jointly choose an independent auditor to conduct an annual fiscal and management audit, unless the terms of the receiver's appointment permit the parties to the court action to select the auditor.

Section 3 requires the use of competitive procedures considered the best suited to the circumstances in order to attain a full and open competitive procurement process. Alternative methods would need to be used if the amount of money involved in the procurement is nominal, the public need is urgent, the receiver certifies that only one supplier is available, or the required services are technical and professional and are performed by the contractor in person, or, the services are performed under the D.C. receiver's supervision and are compensated based on the period of time worked.

Section 4

Section 4 clarifies that the provisions of subchapter III of chapter 13 of title 31, United States Code apply to District of Columbia receivers.

VI. COMPLIANCE WITH RULE XI

Pursuant to rule XI, clause 2(1)(3)(A) of the Rules of the House of Representatives, under the authority of rule X, clause 2(b)(1) and clause 3(f), the results and findings from Committee oversight activities are incorporated in the bill and this report.

VII. BUDGET ANALYSIS AND PROJECTIONS

The budget analysis and projections required by section 308(a) of the Congressional Budget Act of 1974 are contained in the estimate of the Congressional Budget Office.

VIII. COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

H.R. 3995 would require agencies of the District of Columbia that are in receivership to follow certain budgeting, management, and procurement practices. Currently, four District agencies—Child and Family Services, the Commission on Mental Health Services, the Corrections Medical Receiver for the District of Columbia Jail, and the District of Columbia Housing Authority—are administered by court-appointed receivers. Because the bill would apply only to agencies of the District of Columbia, CBO estimates that enacting H.R. 3995 would have no impact on the federal budget. The bill would not affect direct spending or receipts, so pay-as-you-go procedures would not apply.

H.R. 3995 contains an intergovernmental mandate because it effectively would require the departments within the District of Columbia that are currently administered by a court-appointed receiver to adopt certain management practices to improve their financial stability. CBO estimates that the cost of complying with this mandate would be minimal, and thus would not exceed the threshold established in the Unfunded Mandates Reform Act (\$55 million in 2000, adjusted annually for inflation). The bill contains no private-sector mandates as defined in that act.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 31, 2000.

Hon. DAN BURTON,
*Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3995, the District of Columbia Receivership Accountability Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs), and Susan Sieg Tompkins (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3995—District of Columbia Receivership Accountability Act of 2000

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The CBO staff contacts are John R. Righter (for federal costs), and Susan Sieg Tompkins (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

IX. SPECIFIC CONSTITUTIONAL AUTHORITY FOR THIS LEGISLATION

Clauses 1 and 18 of Article I, Sec. 8 of the Constitution grant Congress the power to enact this law.

X. COMMITTEE RECOMMENDATIONS

On May 18, 2000, a quorum being present, the Committee ordered the bill, as amended, favorably reported.

Committee on Government Reform—106th Congress—Rollcall

Date: May 18, 2000.

Final Passage of H.R. 3995, as amended.

Offered by: Hon. Dan Burton offered an amendment in the nature of a substitute.

Adopted by voice vote.

XI. UNFUNDED MANDATES REFORM ACT; PUBLIC LAW 104-4, SECT. 423

H.R. 3995 contains an intergovernmental mandate but would not exceed the threshold established in the Unfunded Mandates Reform Act (\$55 million in 2000, adjusted annually for inflation).

XII. FEDERAL ADVISORY COMMITTEE ACT (5 U.S.C. APP.) SECTION 5(B)

The Committee finds that H.R. 3995 does not establish or authorize establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

XIII. CHANGES IN EXISTING LAW

H.R. 3995 does not change existing law.

