Guide to the NEED Act (National Emergency Employment Defense Act of 2012)

July 10, 2019

The NEED Act (National Emergency Employment Act), introduced in 2012, but not adopted by Congress, is not easy to read and understand. This guide is intended to help readers understand the language of the Act by reading the Act and the Guide alongside of one another. Portions in *italics* represent commentary intended to provide context for various components of the Act.

What does the Need Act do? (These actions, A-G, will be referred to by letter in the text below in order to help the reader identify where in the act these actions are spelled out.)

A. It changes the way money is created. It ends money creation by banks and, instead, has all new money created by the Federal Government.

Money will no longer be created as credit in the process of bank lending, which means as debt for the borrowers, i.e., for the users of money. Money will be created as a government asset which will enter circulation through government spending, free of any debt, free of any obligation to pay interest on the money in circulation.

B. It establishes a Monetary Authority as an independent unit within the Department of Treasury, the function of which is to determine the rate of new money creation needed to maintain the value of our currency, that is to avoid either inflation or deflation.

The government will control the amount of money in circulation and will let interest rates be determined by competitive market forces, reversing the current practice of having the central bank, The Federal Reserve, set interest rates in the hopes that interest rates will regulate the money supply.

C. It dissolves the Federal Reserve System, retaining necessary components of economic analysis and monetary function within the Treasury Department.

D. It ends Government borrowing except under emergency conditions.

E. It pays off the national debt as the debt becomes due.

F. It specifies that 25% of new money created by the Federal Government will go to the states on a per capita basis, and it recommends additional ways Congress might use the new revenue source arising from money creation.

G. It caps interest rates at 8% per year.

Structure of the NEED Act.

Following a brief statement of what the bill is intended to accomplish, the Act contains an introductory part consisting of 4 sections:

1) Short title,
2) Findings and purposes, (*The findings will have to be brought up to date before resubmission of the Act*.)
3) Definitions, and
4) Coordination with other law.

The bulk of the Act is divided into 5 titles:

1) Origination of United States money,
2) Entry of United States money into circulation,
3) Reconstruction of the Federal Reserve System,
4) Transitional Arrangements, and
5) Additional Provisions

Title I. Origination of US money

Section 101 of this Title says, “the authority to create money within the United States shall hereafter reside exclusively with the Federal Government; and (2) the money so created shall be known as United States Money.” **A**

Section 102 says that anyone else who creates US money, including by lending against deposits, will be subject to a fine and possible jail time. “Lending against deposits” is what banks do now, creating a deposit for the borrower, which represents a liability for the banks, balanced by an asset, which is the borrowers promise to repay the loan. **A**

Section 103 outlines the details of printing of new bills of US money and stops printing of Federal Reserve notes, our current bills. (Note that there is no mention of coins, because coins are already sovereign money created by Government and spent, although indirectly, into circulation.) B

Section 104 declares the US money will be legal tender “for payments of all debts, public and private.”

Section 105 says that all Government disbursement will henceforth be in US money.

Section 106 ends Government borrowing by the Executive Branch and directs the Secretary of the Treasury to fill the gap between Government revenue and spending, subject to the limitations of the Monetary Authority. It forbids borrowing by the Secretary of the Treasury from any source, and it forbids borrowing by other Federal agencies or departments except from the Treasury Department. It does not forbid borrowing by Congress. Congress retains its Constitutional authority to borrow.

The Monetary Authority, described in Section 302, will be an independent body within the Treasury Department; its primary function is to determine the appropriate rate of new money creation in order to support the economy while avoiding either inflation or *its opposite, deflation. To the extent that deficits are to be filled by money creation, there will likely be no need for Congress to borrow.* **B**,**D**

Section 107 directs the Secretary "to retire all outstanding instruments of indebtedness… in US money, as such amounts become due." The Secretary pays off the national debt, not all at once, but as it becomes due. **E**

Section 108 just specifies that appropriate records are to be kept and that the system will be audited biennially by the Comptroller General.

Title II. Entry of US money into circulation

Section 201 lists the ways the Secretary of Treasury can enter US money into circulation. **A** They are:

1) any disbursement of funds authorized by Congress,

2) to retire Government debt as it becomes due,

3) any contribution to the Revolving Fund (described in Section 302) within the limits imposed by the Monetary Authority (described in Section 302),

The Revolving Fund, described in Section 302, is established primarily to help maintain the money supply during the transition to the new system by lending from the Fund to banks as needed to assure that banks will have money to lend for maintaining production of goods and services.

4) any action required in the transition to the NEED Act including conversion of deposits in transaction accounts (described in Section 402) into US Money,

Section 402 describes t*ransaction accounts as similar to current checking accounts, but the money in these accounts will remain the possession of the depositors and be unavailable to banks to use for lending to their customers. Transaction accounts are distinguished from savings accounts which are deposited for a specified period of time and which banks will use for lending.*

5) last resort lending under emergency conditions (described in Section 305),

6) the purchase of stock of Federal Reserve Banks, which are to be eliminated (described in Section 301), and

7) anything else that is needed to implement the Act as long as it is authorized by Congress.

Title III. Reconstruction of the Federal Reserve System **B,C**

Section 301. This directs the Secretary of the Treasury to purchase all net assets of the Federal Reserve System, including the Federal Reserve banks, in accordance with rules contained in the Federal Reserve Act. It also states that reserves of those commercial banks which are members of the Federal Reserve System will be returned to those banks in US money, subject to provisions of Sections 401 and 402(b). (Section 402b directs the Monetary Authority to figure out how to do this; Section 401 deals with the conversion of paper money from Federal Reserve notes, currently in circulation, to US Money, which will be in circulation under the NEED Act.)

Section 302. The Monetary Authority. This section establishes the Monetary Authority as an independent body within the Department of Treasury and spells out its composition, its duties, and its governing principles. Its duties are to establish monetary supply policy and monitor the nation's monetary status, and to do additional things the President or Congress directs it to do. Other sections of the Act specify some additional tasks for the Monetary Authority (Section 305, 402, 501, 507 and 510).

> *There is some ambiguity in this section. It clearly intends for the Authority to be independent, forbidding the Secretary of the Treasury from intervening in Authority decisions, and yet it says that the Authority will operate under the "general oversight of the Secretary of the Treasury." Writers of the Act might have preferred to place the Monetary Authority in a separate branch of government to avoid this ambiguity, but to do that would have required constitutional amendment. Instead, the Authority was placed within the Treasury Department, with specifications as to its independence.*

The governing principles are to maintain the money supply so that the money supply does not by itself become inflationary or deflationary but will maintain commerce.

> *In the past the Fed has attempted to regulate the money supply by manipulating interest rates in order to influence lending patterns, but the money supply itself was determined by bank lending patterns. The NEED Act allows the money supply to be regulated directly by government by determining the amount of money in circulation and lets interest rates be determined by competition within the market.*
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> *The economic goals of monetary policy to be followed are similar to those of the Federal Reserve System, including the achievement of maximum potential long-term growth. This assumes that growth can and should be maintained, an assumption which can be questioned as society crosses the limit of consumption imposed by a finite planet.*

Section 302 also specifies that the Monetary Authority will be made of 9 members with no more than four being from the same political party. **B**

Section 303, in order to make existing law comply with the provisions of the NEED Act, adds to subchapter 1 of chapter 3 of title 31 of U.S. code, bearing the label, Section 314, wording to set up within the Treasury Department a Bureau of the Federal Reserve, the duties of which are to administer, under the direction of the Secretary, the origination and entry into circulation of US money, subject to limitations imposed by the Monetary Authority, and to administer lending to banks from the Revolving Fund (describe in Section 403). The Bureau also takes on functions which had previously been done by the Fed and which are consistent with the NEED Act. The make-up of the new Bureau is specified. The Board of Governors of the Federal Reserve is dissolved. **C**

Section 304 directs the Secretary of the Treasury to forecast disbursement requirements and report to Congress and to the public and maintain a research capacity to do that and to assess the impacts of disbursements.

Section 305 is intended to set limits on government lending under emergency conditions. It refers to a feature of the Federal Reserve Act which has allowed the Fed wide discretion in lending during situations of national emergency.

> *Normally the Fed lent only to banks, but during the 2008 financial crisis the Fed lent to non-banks as well, for example the AIG insurance company.*

Section 305 says that the Monetary Authority cannot take such liberties without the approval of an Emergency Board consisting of 14 leaders from the Executive Branch and from Congress, spelled out in Section 106. More on this in Section 403. **B**

The reference in the NEED Act to the "third undesignated paragraph of Section 13 of the Federal Reserve Act" refers to Section 13(3) of the Federal Reserve Act. Section 13 is entitled "Powers of the Federal Reserve Banks," and Paragraph 3 is called "Discounts for individuals, partnerships, and corporations."

> *Apparently, previous versions of the Federal Reserve Act contained paragraphs that were difficult to identify because they were unnumbered, but subsequent amendments to the Federal Reserve Act fixed this inconvenient formatting and, as a result, previously "undesignated" paragraphs were now easier to identify going forward. There is a footnote to the current version of Section 13 of the Federal Reserve Act clarifying past references to the "third undesignated paragraph of Section 13 of the Federal Reserve Act". This footnote reads in part: "As enacted by Public Law 111-203 (124. Stat. 2115), "any reference in any provision of Federal law to the third undesignated paragraph of section 13 of the Federal Reserve Act [FRA] (12 USC 343) shall be deemed to be a reference to section 13(3) of the FRA."*

Section 306 just states that, under the new system, all of the obligations incurred under the Federal Reserve System will be honored. This section also describes transfer of employees of the Federal Reserve System to the Bureau of the Federal Reserve established in this Act. **C**

Title IV. Transitional arrangements.

Section 401 spells out the replacement of our paper money, namely, Federal Reserve notes, with notes of US money. **A**

Section 402 is a long one containing the details of the operation of the new system. It establishes two different kinds of bank accounts. One is similar to current checking accounts; the other is similar to current certificates of deposit, which have a specified duration and for which there is a penalty for early withdrawal. These two types are identified as "transaction accounts" and "fixed-term savings accounts." The term "deposit" is used to refer to money in transaction accounts only.

Under "Deposits" (Part (a) (1)(B)) the text says that our deposits in depository institutions (banks) will be treated differently than they are now. They will no longer be available to the bank to be used in any way the bank chooses, e.g., to lend out or to use to make investments. Instead the banks will hold those deposits "as bailment", that is, they will be held in trust. No interest will be paid on these deposits. These accounts will later in this section be defined as "transaction accounts." With the change-over, the banks no longer have on their balance sheets a liability to their depositors. That liability to the depositors is now that of the Federal Government, although depositors still access their accounts through banks.

Fixed-term savings accounts (Part (a)(1)(C)) are different; interest can be paid on those accounts, and the banks can use that money to lend to customers seeking loans, or for other investment purposes. These fixed-term savings accounts will not be considered insured deposits under the Federal Deposit Insurance Act or Federal Credit Union Act.

Under "Outstanding credit," Part (a)(2), the Act spells out what happens to repayments of loans banks have made to customers under the old system. This section directs the repayment of the principal of loans made before the change-over to go to the Federal Government.

> *This can be viewed as reducing the banks' assets to match their reduced liabilities that result from the new treatment of deposits in transaction accounts.*

The banks continue to collect and keep the interest from the loans made prior to the change-over.

> *Note that bank profit is not affected, since under the old system repayment of loan principal simply causes the money to disappear; bank profit was always limited to interest payments.* **A**
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> *Under the NEED Act the redirection of loan principal payment to the government is necessary in order to maintain the money supply. Under the old system of credit used as money, the loan principal, in effect, disappeared from the overall supply of money circulating in the economy upon repayment of loans. The money supply was maintained by continued money creation in the form of new loans. With the banks no longer creating money with their lending, if repayments were allowed to reduce the money supply, the money supply would fall. In order to avoid that, the repayments of loan principal are directed into the Government's Revolving Fund described Section 403, from which it can be redirected into the economy through government lending and thereby remain in the supply of circulating money.*

Section (b) addresses handling of reserves currently held for banks at the Federal Reserve. Section 301 already said that reserves will be "returned" to banks. This section simply says that the Monetary Authority will work out how this is to be done. **B** and **E**

Section (c) says that the Monetary Authority will work out accounting regulations for the handling of transaction accounts and fixed-time savings accounts by banks. **B**

Section (d) defines "transaction accounts." But first it repeats that fractional reserve banking, *which is one way to describe the process by which money is created by banks*, is ended. It specifies again that deposits are to be held by banks for the exclusive use of depositors and cannot be used by banks to fund loans or investments. Transaction accounts are defined as those accounts from which withdrawals may be made at any time, including for payments made to others – by check, by electronic transfer or any other means. Banks may charge a reasonable fee for this service. This section also says that "a dollar of US money shall be on hand or in a

Federal Government account for each dollar in a transaction account," but it doesn't specify the nature of these accounts. *Specification of these accounts may require additional legislation.* **A**

Section (e) specifies the sources of money which banks can use for lending. These include investor equity, money borrowed from the Federal Government (*presumably at low interest rates from the Revolving Fund*), or money borrowed through the issuance of bonds or other securities.

> *Although not stated here, funds deposited in fixed-term accounts by bank customers can also be loaned out by banks ((Section 402 (a) (1)(C)). What can't be used for lending are deposits in transaction accounts.*

Section (f) encourages profit-making money lending by banks but repeats the prohibition of "lending credit against depository receipts, sometimes referred to as fractional reserve banking." **A**

Section 403. The Revolving Fund. This directs the Secretary to establish "a revolving loan fund" where amounts received from depository institutions (the repayment of principal of bank loans made under the old system) shall be deposited. Money from this fund is to be available to loan to banks. This section also permits utilization of up to 80% of this fund for purposes of dealing with national emergencies in accordance with Section 305, but states that it must be restored within 3 years.

> *The Fund provides assurance to banks of a continued source of liquidity for lending, which may be important during the transition to the new monetary system. The fund will grow as repayment of loans made prior to the enactment of the NEED Act are deposited into it. Eventually, as all loans are paid off, it will become equal to the total bank loans outstanding at the time of enactment, less what has been loaned to banks after enactment and/or loaned for government use under emergency conditions specified in section 305.* **A**

Title V. Additional provisions

Section 501 Directs the Secretary of the Treasury to report to Congress on opportunities to utilize direct funding for infrastructure, both physical and social. Direct funding is to be undertaken throughout the nation based on a per capita basis "to assure equity as determined by the Monetary Authority." **F**

> *Another task for the Monetary Authority*

Section 502 limits interest rates to 8% per annum and limits interest payments on any loan to the amount of the principal. **G**

Section 503 directs the Chairperson of the FDIC to study and make recommendations for any appropriate changes in the FDIC. **B**

> *The FDIC may become entirely superfluous with transaction accounts being by their nature secured by the Federal Government.*

Section 504 instructs the Secretary to disburse to the states grants equal to 25% of the new money created during the preceding year, or, in the case of the first year, 25% of the anticipated disbursements. **F**

Section 505 directs the Secretaries of both Treasury and Education to recommend funding for education. **F**

Section 506 directs the Secretary to submit requests to cover any impending deficits in the Social Security Trust Fund accounts. **F**

Section 507 directs the Secretary in consultation with the Monetary Authority to study the effects of a citizens' dividend and to recommend to Congress the payment of such a dividend to every citizen residing in the US. **F**

> *This may be important to help the economy before the effects of infrastructure spending can go into effect*.

Section 508 reminds Congress that funding through this Act is available for a universal health care plan. **F**

Section 509 Reminds Congress that funding is available through this Act for resolving aspects of the mortgage crisis. **F**

> *This is now out of date. At this time we do not have a mortgage crisis as we had when the NEED Act was introduced in 2011.*)

Section 510 directs the Secretary to provide recommendations to Congress for a program of interest-free lending to state and local government entities, including school boards and emergency fire services, based on per capita amounts "to assure equity as determined by the Monetary Authority." **F**

> *Another task for the Monetary Authority.*

Note: members of the Athens Monetary Literacy group who prepared this guide are John Howell, John Glazer, Bill Safranek, Harry Coffey, R.E. Hogan, and Ray V. Foss