CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 20, 2017

H.R. 772
Common Sense Nutrition Disclosure Act of 2017

As ordered reported by the House Committee on Energy and Commerce on July 27, 2017

SUMMARY

H.R. 772 would amend the Federal Food, Drug, and Cosmetics Act to revise information certain restaurants and retail food establishments must disclose about nutrition to the consumer. CBO estimates that implementing H.R. 772 would cost $8 million over the 2018-2022 period, assuming appropriation of the necessary amounts. Enacting H.R. 772 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 772 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 772 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not impose costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 772 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By Fiscal Year, in Millions of Dollars						
	2017	2018	2019	2020	2021	2022	2017-2022
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	0	2	2	1	1	1	8
Estimated Outlays	0	2	2	1	1	1	8

Note: Components may not sum to totals because of rounding.

BASIS OF ESTIMATE

H.R. 772 would modify the labeling requirements for nutrition information displayed by restaurants and other retail food establishments. The Food and Drug Administration (FDA) issued a final rule on such labeling in December 2014, and subsequently several guidance documents to implement those requirements. The legislation would require the Secretary of Health and Human Services to issue new proposed regulations within a year to modify the current requirements. Some of those modifications would include:

- Providing options for displaying the number of calories for menu items, such as displaying the number of servings and calories per serving for each item;

- Defining acceptable variations, such as serving size and inadvertent human error in formulation or preparation of the menu item; and

- Allowing restaurants or similar retail food establishments where the majority of orders are placed by customers who are off-premises at the time to post nutrition information on a remote-access platform, such as the Internet, as the sole method of disclosure.

CBO estimates those modifications would take several years to fully implement because they would significantly change the current regulation. CBO expects FDA would have to develop and publish a new regulation and additional guidance to comply with modifications. Using information from FDA, CBO estimates the agency would need about nine additional employees in each of the first two years to develop and publish the regulations, and about five additional employees each year from 2020-2022 to implement the regulations including engaging with affected stakeholders. CBO estimates an average annual cost per employee of about $290,000 across the 2018-2022 window. (That estimate accounts for the effects of inflation.) On that basis, CBO estimates that implementing those activities would cost FDA $8 million over the 2018-2022 period, assuming appropriation of the necessary amounts.

PAY-AS-YOU-GO CONSIDERATIONS: None.

INCREASE IN LONG TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 772 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 772 contains no intergovernmental mandates as defined in UMRA and would not impose costs on state, local, or tribal governments. Section 2(b) of the bill would remove the ability of states to petition the FDA to enforce their own nutrition labeling requirements on food sold in some chain restaurants or similar retail food establishments. The ability of states to enforce such requirements without FDA approval is already preempted by federal law. Because existing law provides FDA with broad authority over state nutrition laws, the removal of the option for states to petition FDA for the ability to enforce their own laws is not considered a new mandate.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

This bill contains no private-sector mandates as defined in UMRA.

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