CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 23, 2018

H.R. 50
Unfunded Mandates Information and Transparency Act of 2017

As ordered reported by the House Committee on Oversight and Government Reform on March 15, 2018

SUMMARY

H.R. 50 would amend the Unfunded Mandates Reform Act of 1995 (UMRA) to increase the information available to the Congress and the public concerning federal mandates in proposed legislation and regulations. Enacting the bill would codify many current practices of federal agencies as they analyze the potential effects of proposed regulations. The bill also would broaden the coverage of UMRA to require independent regulatory agencies to comply with standards relating to rulemaking and to allow judicial review of regulatory actions that fail to comply with that law. Under current law, independent regulatory agencies are exempt from complying with UMRA.

H.R. 50 also would amend the Congressional Budget and Impoundment Control Act of 1974 to establish a point of order that a Member of Congress may raise against legislation that creates a private-sector mandate with costs above the threshold established in UMRA.[1] The bill also would require CBO, upon request, to assess the costs to state, local, and tribal governments resulting from legislation that would change conditions that must be met to receive federal assistance.

CBO estimates that carrying out the new requirements placed on independent regulatory agencies would require additional resources. Assuming the appropriation of necessary amounts, CBO estimates implementing the bill would have a net discretionary cost of $6 million over the 2019-2023 period.

CBO estimates that enacting H.R. 50 would affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that any net change in direct spending would not be significant. Enacting the bill would not affect revenues.

1. The intergovernmental and private-sector cost thresholds established in UMRA were $50 million and $100 million, respectively, in 1996; they are adjusted annually for inflation. In 2018, the thresholds are $80 million for intergovernmental mandates and $160 million for private-sector mandates.

CBO estimates that enacting H.R. 50 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 50 would increase the costs of existing mandates on public and private-sector entities to pay fees, but CBO estimates that the additional costs would be small and would fall well below the annual thresholds for intergovernmental and private-sector mandates established in UMRA ($80 million and $160 million in 2018, respectively, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 50 is shown in the following table. The costs of the legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars						
	2018	2019	2020	2021	2022	2023	2019-2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION [a]							
Estimated Authorization Level	0	*	1	1	2	2	6
Estimated Outlays	0	*	1	1	2	2	6

a. In addition, CBO estimates that implementing the bill would require increased spending by some agencies that have permanent spending authority under current law. However, CBO estimates that the legislation would not have a significant effect on direct spending because CBO expects that those agencies would offset the bill's new costs by collecting additional fees.

Components may not sum to totals because of rounding; * = between zero and $500,000.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 50 will be enacted near the end of 2018, that the necessary amounts will be appropriated near the start of each fiscal year beginning in 2019, and that spending patterns will follow historical patterns for regulatory analysis activities.

H.R. 50 would amend UMRA to codify certain current practices, including those listed in Executive Orders 12866 and 13563. Those orders require federal agencies to analyze the effects of regulations on state, local, and tribal governments and on the private sector and to prepare detailed cost-benefit analyses of rules that would result in total economic effects estimated at $100 million or more annually. In addition, H.R. 50 would codify

Executive Order 13579 and remove a current-law provision that exempts independent regulatory agencies from complying with rulemaking standards established in UMRA.

Under current law, the adequacy of certain federal analyses and statements developed in accordance with UMRA is not subject to judicial review. Under H.R. 50, such products of the regulatory process could be challenged in the courts. CBO cannot predict the frequency or outcome of such challenges, but any resulting costs probably would be borne primarily by the Department of Justice. Any additional costs for litigation stemming from this provision would be subject to the availability of appropriations.

Discretionary Costs

Assuming the appropriation of necessary amounts, CBO estimates implementing the bill would have a net discretionary cost of $6 million over the 2019-2023 period.

Independent Regulatory Agencies. Fifteen independent agencies would be affected by H.R. 50, including the Securities and Exchange Commission (SEC), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Federal Communications Commission (FCC).

On the basis of information from several affected agencies, CBO expects that the bill's requirements would increase the workload of independent regulatory agencies. They would be required to devote more resources to broader analyses of regulations and to support judicial reviews and hearings pertaining to agency regulations.

CBO estimates that at least 11 independent regulatory agencies that receive discretionary appropriations would face an increased workload under H.R. 50. Annual costs per agency would vary depending on their size and the number of major rules they review each year. CBO estimates that each agency would require, on average, 1 to 3 additional staff to comply with the bill's requirements (depending on its size and the number of major rules that it issues each year) and that annual salary and benefits for each staff member would total about $150,000 (based on compensation levels in recent years).

Under current law, four of those agencies—the FCC, the SEC, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission—are authorized to collect fees sufficient to offset their annual appropriations. CBO estimates that those four agencies would incur gross costs of about $16 million over the 2019-2023 period, and we assume that future appropriations would direct those agencies to offset those costs with fees. CBO also estimates that agencies not authorized to collect fees would eventually incur additional annual costs of less than $500,000 each, resulting in a total cost of $5 million over the 5-year period.

Other Agencies. H.R. 50 also would require the Office of Information and Regulatory Affairs (OIRA) to provide guidance and oversight to the independent agencies to ensure that their regulations are consistent with the requirements of UMRA. Using information from the agency, CBO expects that OIRA ultimately would require one new staff member to handle the additional workload. Using an average salary of $150,000, CBO estimates the requirement would cost about $1 million over the 2019-2023 period, assuming availability of appropriated funds.

Finally, H.R. 50 would require CBO, at the request of any Chair or Ranking Member of a Congressional committee, to assess costs to state, local, and tribal governments resulting from legislation that would change conditions that must be met to receive federal assistance. CBO estimates that the costs of a single assessment would not be significant; however, if CBO were required to prepare a sizable number of assessments, the agency's administrative costs would increase. CBO estimates that those costs in any given year would total well below $500,000, and any such costs would be subject to the availability of appropriated funds.

Mandatory Costs

Four independent regulatory agencies that would be required to meet the new regulatory standards under H.R. 50 have permanent spending authority. CBO estimates that the affected agencies, including the FDIC and the OCC, each would incur additional annual costs of $1 million, on average, to fulfill the bill's requirements. Those agencies collect fees from the industries they regulate to cover administrative expenses. CBO estimates that such collections would largely offset the costs of implementing the bill over the 2019-2028 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that the net effects of H.R. 50 on direct spending would not be significant. Enacting the bill would not affect revenues.

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 50 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

MANDATES

H.R. 50 would increase the costs of existing mandates on public and private entities that pay fees assessed by certain independent agencies. The bill would expand the scope of analyses that independent agencies are required to conduct when they issue regulations. Such a change would increase their workload and annual operating costs. Some independent agencies collect fees sufficient to offset the cost of their regulatory activities. Because those agencies are expected to raise fees to offset the costs of their additional workload, CBO estimates that the bill would increase the cost of existing mandates on public and private entities that would be required to pay those higher fees.

Using information from the independent agencies, CBO estimates that the cost of implementing the additional regulatory activities would not be significant. Therefore, any additional cost to public and private entities would be small and would fall well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($80 million and $160 million in 2018 respectively, adjusted annually for inflation).

ESTIMATE PREPARED BY

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