Congressional Budget Office
Cost Estimate

May 24, 2019

At a Glance

H.R. 1595, SAFE Banking Act of 2019

As ordered reported by the House Committee on Financial Services on March 28, 2019

By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	-2	-3
Revenues	0	*	-1
Deficit Effect	0	-2	-2
Spending Subject to Appropriation (Outlays)	0	*	n.e.

Pay-as-you-go procedures apply?	Yes	**Mandate Effects**	
		Contains intergovernmental mandate?	No
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	< $5 billion	Contains private-sector mandate?	Yes, Cannot Determine Costs

n.e. = not estimated; * = between -$500,000 and $500,000.

The bill would

- Prevent the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA) from taking action against banks or credit unions that serve cannabis-related businesses
- Prevent those regulators from limiting access to financial institutions by cannabis-related businesses
- Require the Financial Crimes Enforcement Network (FinCEN) and the Federal Financial Institutions Examination Council (FFIEC) to issue guidance for institutions that provide services to cannabis-related businesses
- Require reporting by financial regulators and the Government Accountability Office
- Impose or increase the cost of private-sector mandates on financial institutions and remove a private right of action against financial institutions

Estimated budgetary effects would primarily stem from

- Increases in insurance premiums collected by the FDIC and in capital deposits collected by the NCUA
- Increases in losses from the FDIC's Deposit Insurance Fund and from the NCUA's Share Insurance Fund

Areas of significant uncertainty include

- The terms of the guidance issued by FinCEN and FFIEC
- Responses of financial institutions and cannabis-related businesses
- Changes in reporting on existing insured deposits from cannabis-related businesses
- The amount of new insured deposits that would result from the bill's enactment

Detailed estimate begins on the next page.

Bill Summary

H.R. 1595 would prevent federal entities from taking action against financial institutions or insurers that serve cannabis-related businesses and service providers that engage in activity that is legal under state laws.[1] It also would prohibit federal regulators from limiting access to deposit insurance or financial services solely because of an account holder's connection to a cannabis-related business. The bill would direct the Financial Crimes Enforcement Network and the Federal Financial Institutions Examination Council (a formal interagency body whose members include the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System) to issue guidance and examination procedures to financial institutions. In addition H.R. 1595 would require federal banking regulators and the Government Accountability Office (GAO) to report on the outcomes of the legislation.

Estimated Federal Cost

The estimated budgetary effect of H.R. 1595 is shown in Table 1. The costs of the legislation fall within budget function 370 (commerce and housing credit).

Basis of Estimate

This cost estimate is based on analyses underlying CBO's May 2019 baseline budget projections for federal financial resolution programs. That baseline incorporates estimated costs of future failures of financial institutions that are calculated using a weighted probability of various outcomes. For this estimate, CBO assumes that H.R. 1595 will be enacted near the end of fiscal year 2019.

Under guidance issued by FinCEN, H.R. 1595 would change federal policies governing services currently offered to cannabis-related businesses by banks and credit unions.[2] CBO anticipates that as a result of the bill's enactment, financial institutions would accept additional deposits from cannabis-related businesses. In doing so, those deposits would increase federal liability for failed financial institutions, thereby increasing resolution costs relative to CBO's current-law baseline.

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1. Under H.R. 1595, those entities are manufacturers, producers, or any person or company that participates in handling, cultivating, producing, manufacturing, selling, transporting, displaying, dispensing, distributing, or purchasing cannabis or cannabis products. Service providers include businesses, organizations, and people who sell goods or services to cannabis-related businesses. For this estimate, *cannabis-related business* includes service providers.

2. There were 438 banks and 113 credit unions offering such services as of December 2018.

Table 1.
Estimated Budgetary Effects of H.R. 1595

	By Fiscal Year, Millions of Dollars											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-2024	2019-2029
Increases or Decreases (-) in Direct Spending[a]													
Insured Deposits													
Estimated Budget Authority	0	0	0	-2	-1	*	*	*	*	*	*	-3	-4
Estimated Outlays	0	0	0	-2	-1	*	*	*	*	*	*	-3	-4
Administrative Costs													
Estimated Budget Authority	0	*	*	*	*	*	*	*	*	*	*	1	1
Estimated Outlays	0	*	*	*	*	*	*	*	*	*	*	1	1
Total													
Estimated Budget Authority	0	*	*	-2	*	*	*	*	*	*	*	-2	-3
Estimated Outlays	0	*	*	-2	*	*	*	*	*	*	*	-2	-3
Decreases in Revenues													
Estimated Revenues	0	*	*	*	*	*	*	*	*	*	*	*	-1
Net Increase or Decrease (-) in the Deficit From Changes in Direct Spending and Revenues													
Effect on the Deficit	0	*	*	-2	*	*	*	*	*	*	*	-2	-2

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

a. Implementing H.R. 1595 also would increase spending subject to appropriation by less than $500,000.

Direct Spending

The bill's budgetary effects would stem primarily from the small increase in deposits insured by the FDIC through its Deposit Insurance Fund (DIF) and by the NCUA through its Share Insurance Fund (SIF). Spending by each fund for resolution costs is recorded in the budget as direct spending. Those costs would be offset by additional premiums charged by the FDIC and capital deposits paid to the NCUA, which are recorded in the budget as reductions in direct spending.

Insured Deposits. Under H.R. 1595, depository institutions; entities or insurers associated with depository institutions; and officers, directors, or employees of those entities would not be subject to federal liability solely for providing services to a cannabis-related business. The bill also would eliminate penalties for investing any income derived from such financial services and would disallow criminal, civil, or administrative forfeiture of collateral for loan or other financial services provided to cannabis-related businesses.

Because of changes that would be made by the bill, CBO expects that enacting H.R. 1595 would increase insured deposits by bolstering legal certainty for institutions that provide affected services and estimates that beginning in 2022 insured deposits at banks would increase by about $1.2 billion and at credit unions by about $200 million. Those amounts would rise to $2.1 billion and $350 million, respectively, by 2029.[3] In total, CBO estimates, future direct spending for resolving bank failures would increase by $5 million.

However, those costs would be offset by assessments levied on insured financial institutions; those assessments would total $9 million, CBO estimates. As a result, CBO estimates, H.R. 1595 would decrease net direct spending by $4 million over the 2019-2029 period.

Administrative Costs. H.R. 1595 would require the FFIEC to develop uniform guidance and examination procedures for depository institutions that provide financial services to cannabis-related businesses and to report annually on recommendations regarding access to those services—in particular by minority- or women-owned businesses.

Using information from several federal banking regulators, CBO estimates that enacting those provisions would increase direct spending by about $3 million over the 2019-2029 period. However, the OCC and the NCUA are authorized to collect premiums and fees from the institutions they regulate to cover direct spending costs. Because those collections are recorded in the budget as offsets to direct spending, CBO estimates, that the net increase in direct spending would be $1 million over the 2019-2029 period.

Revenues

Costs incurred by the Federal Reserve to implement the bill would reduce remittances to the Treasury, which are recorded in the budget as revenues. CBO estimates that enacting the bill would decrease those revenues by $1 million over the 2019-2029 period.

Spending Subject to Appropriation

H.R. 1595 would require several federal banking regulators that are funded through annual appropriations to issue guidance and contribute to producing the FFIEC's annual report. CBO estimates that implementing that provision would cost less than $500,000 over the 2019-2024 period; any spending would be subject to the availability of appropriated funds.

H.R. 1595 also would require GAO to study barriers to market entry and financial services for potential or existing minority- or women-owned cannabis-related businesses and to publish studies on the effectiveness of report filings of suspicious transactions. CBO estimates that those requirements would cost less than $500,000 annually over the 2020-2024 period.

3. Those amounts equal an increase of about 1 basis point in insured deposits relative to CBO's current baseline for each program. A basis point is one one-hundredth of a percentage point.

Uncertainty

This cost estimate has several noteworthy areas of uncertainty:

- The guidance provided by the FinCEN and the FFIEC could be stricter or more lenient than current guidance, which would directly affect the decisions of financial institutions and cannabis-related businesses offering or seeking financial services. Those decisions would affect the amount of new insured deposits.
- The limited data on the amount of cannabis-related deposits in financial institutions—including amounts from activity that may not be classified as such—could mean that new insured deposits could be greater or smaller than estimated.
- If changes in insured deposits are higher or lower than CBO estimated, costs for the DIF and the SIF could be higher or lower depending on the amount of premium collections and capital deposits and on changes in the resolution costs for financial institutions.

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. The net changes in outlays and revenues that are subject to those procedures are shown in Table 2.

Table 2.
CBO's Estimate of Pay-As-You-Go Effects of H.R. 1595

	By Fiscal Year, Millions of Dollars												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-2024	2019-2029
	Net Decrease in the Deficit												
Statutory Pay-As-You-Go Effect	0	0	0	-2	0	0	0	0	0	0	0	-2	-2

Increase in Long-Term Deficits

CBO estimates that enacting H.R. 1595 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2030.

Mandates

H.R. 1595 contains private-sector mandates as defined in the Unfunded Mandates Reform Act. However, CBO cannot determine whether those mandates would exceed the 2019 threshold of $164 million, adjusted annually for inflation.

Under current law, banks and credit unions may offer services to cannabis-related businesses under FinCEN's guidance. If new uniform guidance and examination procedures from FinCEN and the FFIEC under H.R. 1595 are more stringent than current regulations, the costs of a private-sector mandate on financial institutions would increase. That cost would be the additional expenses incurred by those institutions. CBO cannot anticipate the differences from current law under the new guidelines and thus cannot determine whether the costs would exceed the private-sector threshold.

H.R. 1595 would impose an additional mandate by removing a private right of action. The bill would limit a plaintiff’s right to file suit against a financial or depository institution that provides certain services to cannabis-related businesses. The cost of the mandate would be the forgone net value of awards and settlements that would have been granted for such claims in the absence of the bill. Because CBO cannot estimate either the number of precluded lawsuits or the amount of potential forgone settlements, we cannot determine whether the mandate’s cost would exceed the annual private-sector threshold.

Finally, if federal banking regulators increased fees or premiums to offset the costs of implementing the bill, the cost of an existing private-sector mandate to pay those fees also would increase. Using information from federal banking regulators, CBO estimates that the increase would total about $2 million over the 2019-2024 period.

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