



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

April 25, 2016

H.J. Res. 88

A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Department of Labor relating to the definition of the term “Fiduciary”

*As ordered reported by the House Committee on Education and the Workforce
on April 21, 2016*

H.J. Res. 88 would disapprove the final rule submitted by the Department of Labor (DOL) and published in the Federal Register on April 8, 2016, relating to investment advice within pension and retirement plans; those regulations are sometimes referred to as the “fiduciary rule.” H.J. Res. 88 would invoke a legislative process established by the Congressional Review Act (Public Law 104-121) to disapprove the new rule. If H.J. Res. 88 is enacted, the rule would have no force or effect.

CBO expects that, if this legislation were enacted, DOL would likely not propose a new rule related to the definition of fiduciary because the Congressional Review Act prohibits agencies from issuing any new rule in substantially the same form as a disapproved rule, unless specifically authorized by subsequent legislation.

Under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code, a person who is paid to provide investment advice is considered a fiduciary and is obligated to work in the best sole interest of their clients. The rule published on April 8 broadens the definition of investment advice within pension and retirement plans and therefore applies the fiduciary standard to more advisors.

CBO and the staff of the Joint Committee on Taxation (JCT) estimate that the bill would have a negligible effect on revenues over the 2016-2026 period. Enacting the bill would not affect direct spending. Because enacting H.J. Res. 88 would affect revenues, pay-as-you-go procedures apply.

CBO and JCT estimate that enacting H.J. Res. 88 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

CBO and JCT have determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On February 10, 2016, CBO transmitted a cost estimate of H.R. 4294, the Strengthening Access to Valuable Education and Retirement Support Act of 2015, as ordered reported by the House Committee on Ways and Means on February 3, 2016.

On April 20, 2016, CBO transmitted a cost estimate of H.R. 4293, the Affordable Retirement Advice Protection Act, as ordered reported by the House Committee on Education and the Workforce on February 2, 2016.

On April 20, 2016, CBO transmitted a cost estimate of H.R. 4294, the Strengthening Access to Valuable Education and Retirement Support Act of 2015, as ordered reported by the House Committee on Education and the Workforce on February 2, 2016.

All three bills contained a provision that would prevent the fiduciary rule or any similar regulations from becoming effective unless a bill or joint resolution approving them was passed within 60 days of enactment of the proposed legislation. Like H.J. Res. 88, those bills would have a negligible effect on revenues and would not affect direct spending.

The CBO staff contact for this estimate is Noah Meyerson. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.