CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

February 2, 2015

H.R. 50
Unfunded Mandates Information and Transparency Act of 2015

As ordered reported by the House Committee on Oversight and Government Reform on January 27, 2015

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 with respect to federal mandates contained in proposed legislation and federal regulations. Enacting this legislation would codify in UMRA many practices currently required of most federal agencies when analyzing the potential effect of regulations. The bill also would broaden the coverage of UMRA to require independent regulatory agencies to comply with its standards relating to the rulemaking process and to allow judicial review of regulatory actions that fail to comply with UMRA. (Independent regulatory agencies are exempt from complying with UMRA under current law.)

The legislation also would amend the Congressional Budget Act to establish a point of order, which a Member of Congress may raise, against legislation that creates a private-sector mandate with costs above the threshold established in UMRA.[1] In addition, the legislation would require CBO, upon request, to conduct assessments of 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 new requirements placed on independent regulatory agencies would require additional resources to carry out. Expenses of some of independent agencies affected by H.R. 50 are classified as direct spending; therefore, pay-as-you-go procedures apply. CBO estimates that enacting H.R. 50 would increase net direct spending by $18 million over the 2015-2025 period, primarily for costs incurred by the Bureau of Consumer Financial Protection (CFPB). Assuming the appropriation of necessary amounts, CBO estimates that implementing the bill would have a net discretionary cost of $8 million over the 2015-2020 period.

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1. The intergovernmental and private-sector thresholds established in UMRA were $50 million and $100 million, respectively, in 1996, and are adjusted annually for inflation. In 2015, the thresholds are $77 million for intergovernmental mandates and $154 million for private-sector mandates.

CBO expects that several independent agencies would increase fees to offset some of the costs of implementing the additional regulatory activities required by the bill; thus, H.R. 50 would increase the costs of existing mandates on public and private-sector entities to pay those fees. Based on information from the affected agencies, CBO estimates that the additional costs of those mandates would be small and would fall well below the annual thresholds for intergovernmental and private-sector mandates established in UMRA ($77 million and $154 million in 2015 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 this legislation fall primarily within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-2020	2015-2025
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	*	1	1	2	2	2	2	2	2	2	2	8	19
Estimated Outlays	*	1	1	2	2	2	2	2	2	2	2	8	18
CHANGES IN SPENDING SUBJECT TO APPROPRIATION													
Estimated Authorization Level	*	1	1	2	2	2	2	2	2	2	2	8	18
Estimated Outlays	*	1	1	2	2	2	2	2	2	2	2	8	18

Note: * = less than $500,000; components may not sum to totals because of rounding.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the legislation will be enacted in 2015, that fees and premiums will be levied to cover the additional administrative costs incurred by some regulatory agencies, that the necessary amounts will be appropriated near the start of each fiscal year, and that spending patterns will follow historical patterns for regulatory analysis activities.

H.R. 50 would amend UMRA to codify certain practices currently required under several executive orders, including Executive Orders 12866 and 13563. (Those instructions require agencies in the executive branch to analyze the effects of regulations on state, local, and tribal governments and the private sector. For significant rules with an estimated annual effect on the economy of $100 million or more, agencies must prepare detailed cost-benefit analyses.) The legislation also would codify Executive Order 13579 and remove a provision in current law that exempts independent regulatory agencies from complying with standards established in UMRA relating to the rulemaking process.

Under current law, the adequacy of certain analyses and statements that federal agencies develop in accordance with the rulemaking requirements in UMRA are not subject to judicial review. Under H.R. 50 those products of the regulatory process could be challenged in the courts. CBO cannot predict the frequency or outcome of efforts to challenge agency regulations; we expect that any resulting costs 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.

Sixteen 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), the Federal Communications Commission (FCC), and the CFPB.

Based on information from several of the affected agencies, CBO expects that the bill's requirements would increase the workload of independent regulatory agencies, requiring them to devote more resources to prepare broader analyses of regulations and to support judicial reviews and hearings pertaining to agency regulations.

Direct Spending

CBO has determined that at least five independent regulatory agencies that would be required to meet the new regulatory standards under H.R. 50 have permanent spending authority. We estimate that each of the affected agencies, including the FDIC, the CFPB, and the OCC, would incur additional annual costs totaling about $800,000, on average each year, to fulfill the bill's requirements. Both the FDIC and OCC are authorized to collect premiums and fees from insured depository institutions to support administrative expenses. CBO estimates that, on net, enacting H.R. 50 would increase direct spending by $18 million over the 2015-2025 period, primarily for costs incurred by the CFPB for staffing and overhead.

Spending Subject to Appropriation

CBO estimates that at least 11 independent regulatory agencies that receive discretionary appropriations would face an increased workload under H.R. 50. We estimate that those agencies would eventually incur additional annual costs of about $700,000, on average, per agency to fulfill the bill's requirements. We expect that it would take a few years to reach that level of effort, resulting in gross costs of $36 million over the 2015-2020 period. Under current law, four of those agencies, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the FCC, and the SEC, are authorized to collect fees sufficient to offset their appropriation each year. CBO assumes that future appropriations would direct agencies to exercise that authority. Thus, CBO estimates that implementing the bill at those regulatory agencies would have a net discretionary cost of $6 million over the 2015-2020 period, subject to the availability of appropriated funds.

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. Based on information from the agency, CBO expects that OIRA would ultimately require three new staff to handle the additional workload. We estimate that this requirement would have a discretionary cost of less than $500,000 per year; costs would total $2 million over the 2015-2020 period, assuming appropriation of the necessary amounts.

Finally, H.R. 50 would require CBO, at the request of any Chairman or Ranking Member of a Congressional committee, to conduct an assessment of 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 to conduct any one assessment would probably not be significant; however, a sizable number of assessments prepared in any given year would increase the agency's costs. Depending on the makeup of legislation considered by the Congress and based on the number of bills in past years that contained proposed changes to grant programs, changes to grant programs could occur in up to half of the bills reviewed by CBO. If such an analysis were required for all of those bills, CBO would likely need to add up to two full-time employees at a cost of about $2 million over the 2015-2020 period. However, because of the uncertainty about whether such requests would be made, CBO has not included that cost in this estimate. Any such costs would be subject to the availability of appropriated funds.

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 that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 50, as ordered reported by the House Committee on Oversight and Government Reform on January 27, 2015

	By Fiscal Year, in Millions of Dollars												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-2020	2015-2025
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	1	1	2	2	2	2	2	2	2	2	8	18

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 50 would increase the costs of existing mandates on public and private entities to 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. Some of those independent agencies are authorized to collect fees sufficient to offset the cost of their regulatory activities.

Based on information from the independent agencies, the cost of implementing the additional regulatory activities would not be significant. Therefore, CBO estimates that any additional costs would be small and would fall well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($77 million and $154 million in 2015 respectively, adjusted annually for inflation).

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