Congressional Budget Office
Cost Estimate

June 5, 2023

At a Glance

H.R. 277, REINS Act of 2023

As ordered reported by the House Committee on the Judiciary on May 24, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	a	a	a
Revenues	a	a	a
Increase or Decrease (-) in the Deficit	a	a	a
Spending Subject to Appropriation (Outlays)	a	a	a

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2034?	a	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2034?	a	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

a. CBO has no basis to estimate the budgetary effects of enacting H.R. 277.

The bill would
- Require the Congress to affirmatively approve any major rule issued by a federal agency for it to take effect
- Establish special Congressional procedures and timelines for enacting a joint resolution of approval for major rules
- Require the Government Accountability Office to study how many rules are in effect across the federal government and to estimate the economic cost imposed by those rules

Estimated budgetary effects would mainly stem from
- Changes in the number and content of major rules that federal agencies would issue in the future

Areas of significant uncertainty include
- The number and content of major rules that federal agencies would issue in the future, including the economic costs and benefits of those rules
- Decisions made by the Congress about whether to approve those rules

Detailed estimate begins on the next page.

See also
CBO's Cost Estimates Explained, *CBO Describes Its Cost-Estimating Process*, *Glossary*

Bill Summary

Under current law, a final federal rule can take effect unless the Congress enacts a joint resolution of *disapproval*. In contrast, H.R. 277 would require the Congress to enact a joint resolution of *approval* before any major rule could take effect. Thus, under H.R. 277, new major regulations issued by federal agencies would depend on future legislation.

Estimated Federal Cost

CBO and the staff of the Joint Committee on Taxation (JCT) cannot determine the budgetary effect of making all future major rules subject to Congressional approval, but we expect that, in the absence of subsequent legislative action affecting those rules, enacting H.R. 277 would have significant effects on direct spending, revenues, and spending subject to appropriation.

Basis of Estimate

For this estimate, CBO assumes that the bill will be enacted in August 2023.

Background

The Congressional Review Act (CRA) of 1996 requires federal agencies to submit final rules to the Congress and the Comptroller General before they may take effect. Final rules may be annulled by the Congress if a joint resolution of disapproval is enacted into law. H.R. 277 would amend current law to require instead that the Congress enact a joint resolution of *approval* before any major rule may take effect, thereby making implementation of major rules contingent on future Congressional action.

The CRA defines a major rule as one that the Office of Management and Budget finds has resulted in or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets.[1]

H.R. 277 would establish special Congressional procedures and explicit timelines for enacting a joint resolution of approval for major rules. Under the bill, if a joint resolution of approval is not enacted within 70 legislative (or session) days of the Congress receiving the major rule and an accompanying report from a federal agency, the rule would not take effect. Further, the Congress could not reconsider a joint resolution of approval relating to that rule

1. See 5 U.S.C. § 804(2) (2006).

in the same Congress. However, a major rule could take effect for one 90-calendar-day period without Congressional approval if the President determines, via an executive order, that it was necessary for one of four reasons: (1) to respond to an imminent threat to health or safety, (2) to enforce criminal laws, (3) to protect national security, or (4) to implement an international trade agreement.

Historical data show that federal agencies published 78 major rules in 2022, and 93 major rules, on average, over the past five fiscal years.[2] Major rules published in recent years include ones that established emissions standards for motor vehicles, set Medicare payment rates, and increased the minimum wage for federal contractors. However, looking to recent major rules as a way to estimate the number or scope of future major rules that would be affected by H.R. 277 may not be a good guide to what would happen under the bill because agencies might change the number of major rules they issue or implement policies differently if the bill was enacted.

Because major rules are issued to implement current law, the budgetary effects of anticipated rules are reflected in CBO's baseline projections. For example, annual rules establish new payment rates for a variety of Medicare services that reflect changes in the price indices used for those services under current law. Those rules often result in an increase in payment rates and thus an increase in spending, which are incorporated in the baseline.

Under the Balanced Budget and Emergency Deficit Control Act of 1985 (Deficit Control Act), which governs the contents of the baseline, actions that are contingent on future Congressional action are generally not included in CBO's projections. H.R. 277 would amend that Act to require that CBO continue to assume that any planned major rule will go into effect, unless the rule has already been issued and the Congress has not enacted a resolution of approval within the specified 70-day period. (Without that provision amending the Deficit Control Act, H.R. 277 would result in baseline projections that did not reflect the budgetary effects of major rules.)

Under H.R. 277, CBO's baseline projections would continue to include the budgetary effects of major rules even though future Congressional action would be necessary to approve them. For example, if H.R. 277 is enacted, baseline projections would continue to reflect the assumption that payment rates and related federal spending for Medicare providers would rise over time, even though raising those rates would require future Congressional action. Accordingly, a Congressional resolution of approval for a major rule raising such rates would be estimated as having no cost relative to CBO's baseline projections. (CBO's subsequent baseline projections would be updated to exclude the budgetary effects of a proposed rule if is the Congress does not approve it.)

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2. Government Accountability Office, "Congressional Review Act," Database (accessed June 2, 2023), https://www.gao.gov/legal/other-legal-work/congressional-review-act.

Direct Spending

To assess the budgetary effects of H.R. 277, CBO considered the costs and savings that would be realized if anticipated major rules do not take effect. The consequences would vary tremendously because the budgetary effects of different rules vary considerably.

Preventing some major rules from taking effect would result in costs to the federal government, while preventing others would result in savings. On net, CBO estimates that enacting H.R. 277 would probably have a significant effect on direct spending (more than $500,000), but we cannot determine the magnitude or direction of those changes for any year or over time.

Many major rules that occur routinely under current law are related to the government's health care programs, in particular Medicare. For example, some rules establish annual updates to payment rates for services provided by hospitals, skilled nursing facilities, and other Medicare providers. Enacting H.R. 277 would freeze payment structures for those providers at current levels pending future Congressional actions. Similarly, payment rates (such as the annual benefit amount for each person) under some other federal programs might also be frozen under the bill in the absence of future Congressional actions. CBO cannot estimate the net effect of all such changes.

Revenues

Enacting H.R. 277 also would affect tax revenues, and JCT expects that preventing regulations from going into effect could reduce collections of revenues in some cases and increase collections in other cases. JCT cannot determine the sign or magnitude of the possible effects on revenues.

Spending Subject to Appropriation

H.R. 277 also would affect programs funded through the annual appropriation process. However, CBO cannot determine the magnitude of such effects. For example, if major rules issued by the Environmental Protection Agency could not take effect, spending by the agency would decline, assuming future appropriations were reduced accordingly.

The legislation also would require the Government Accountability Office (GAO) to quantify the number of major and nonmajor rules in effect as of the date of enactment, and to estimate their total economic cost. Using information from GAO about the cost of similar studies, CBO estimates that completing that requirement would cost less than $500,000.

Uncertainty

On net, CBO estimates that enacting H.R. 277 would likely have a significant effect on direct spending and revenues, but we cannot determine the magnitude or direction of those changes for any year or over time.

The budgetary effects of enacting the legislation are highly uncertain principally because CBO cannot predict:

- The number and content of major rules that federal agencies would issue in the future,
- Decisions made by the Congress about whether to approve those rules, or
- The economic costs and benefits of those rules, including their effects on the federal budget.

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. Pay-as-you-go procedures apply to H.R. 277 because enacting the legislation would affect direct spending and revenues. However, CBO and JCT cannot determine the magnitude or direction of those effects.

Increase in Long-Term Net Direct Spending and Deficits

CBO cannot determine the magnitude or direction of the budgetary effects of H.R. 277. As a result, CBO cannot determine whether the legislation would increase net direct spending by more than $2.5 billion or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2034.

Mandates

H.R. 277 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. However, by requiring major rules to be approved by a joint resolution of the Congress the bill could affect public and private entities. Those joint resolutions could delay or halt the implementation of major rules that could slow reimbursements to public and private entities or change regulatory requirements followed by those entities. CBO has no basis for estimating the magnitude of those effects because of the uncertainty about the number and content of regulations affected, but the costs and savings to public and private entities could be significant.

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