CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 28, 2012

H.R. 373
Unfunded Mandates Information and Transparency Act of 2011

As ordered reported by the House Committee on Oversight and Government Reform on November 17, 2011

SUMMARY

H.R. 373 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 impacts of regulations. The bill also would require independent regulatory agencies to perform broad analyses (including costs and benefits) of regulations by requiring those agencies to comply with standards established in UMRA relating to the rule making process.

The legislation 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 to conduct assessments of costs to state, local, and tribal governments resulting from any changes to conditions of certain federal assistance programs.

CBO estimates that the new requirements placed on independent regulatory agencies, such as the Federal Reserve and the Federal Deposit Insurance Corporation (FDIC), would require additional resources to carry out. Net spending by the Federal Reserve is recorded in the federal budget as a change in revenues, and expenses of the FDIC are classified as direct spending; therefore, pay-as-you-go procedures apply. CBO estimates that enacting the legislation would decrease revenues by $1 million in 2014 and $9 million over the 2013-2022 period. CBO estimates that enacting H.R. 373 would result in no net effect on direct spending over the 2014-2022 period because costs incurred by the FDIC would be offset by premiums collected from insured depository institutions. Assuming the

1. The intergovernmental and private-sector thresholds established in UMRA were $50 million and $100 million, respectively in 1996, adjusted annually for inflation. In 2012, the thresholds are $73 million for intergovernmental mandates and $146 million for private-sector mandates.

appropriation of necessary amounts, the legislation also would have a discretionary cost of $1 million in 2014 and $9 million over the 2014-2022 period, CBO estimates.

CBO expects that several independent agencies would increase fees to offset the costs of implementing the additional regulatory activities required by the bill; thus, H.R 373 would increase the costs of existing mandates on public and private-sector entities that would be required 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.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 373 is shown in the following table. The costs of this legislation fall within budget function 370 (advancement of commerce), and other budget functions that contain spending for salaries and expenses.

	By Fiscal Year, in Millions of Dollars												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012-2017	2012-2022
CHANGES IN REVENUES													
Estimated Revenues[a]	0	*	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-9
CHANGES IN SPENDING SUBJECT TO APPROPRIATION													
Estimated Authorization Level	0	*	1	1	1	1	1	1	1	1	1	4	9
Estimated Outlays	0	*	1	1	1	1	1	1	1	1	1	4	9

Notes: * = less than $500,000.

CBO estimates that enacting H.R. 373 would result in direct spending costs that total less than $500,000 annually. Because we expect premiums to increase to cover those costs, on net, over the 2013-2017 and the 2013-22 periods, we estimate that total direct spending costs would not be significant.

a. For revenues, positive numbers indicate a decrease in the deficit and negative numbers indicate an increase in the deficit.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the legislation will be enacted by the end of 2012, 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. 373 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 impacts 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, such as the Federal Reserve and the FDIC, from complying with standards established in UMRA relating to the rulemaking process. Based on information from several agencies, CBO expects that the new 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 and Revenues

Based on information from the Federal Reserve, CBO expects that it would hire additional staff in order to comply with H.R. 373, which would increase operating costs and decrease net earnings. Net earnings of the Federal Reserve are remitted to the Treasury and recorded in the federal budget as revenues. In total, CBO estimates that the legislation would decrease revenues by $1 million in 2014 and by $9 million over the 2013-2022 period.

CBO also estimates that the FDIC would incur additional costs totaling less than $500,000 annually to implement H.R. 373. FDIC has the authority to collect premiums from insured depository institutions to support administrative expenses; therefore, CBO estimates that those increased costs would be offset over the 2013-2017 and 2013-2022 periods.

Spending Subject to Appropriation

To meet the regulatory standards established in H.R. 373, CBO estimates that at least 12 independent regulatory agencies would face an increased workload and would eventually incur costs of $1 million annually. We expect that it would take two years to reach that level of effort, resulting in gross costs of $43 million over the 2013-2022 period. Under current law, four of those agencies, the Federal Energy Regulatory Commission, the Federal Communications Commission, the Nuclear Regulatory Commission, and the Securities and Exchange Commission, 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 would have a net discretionary cost of $1 million in 2014 and $9 million over the 2013-2022 period, subject to the availability of appropriated funds.

Finally, H.R. 373 would require CBO, at the request of any Chairman or Ranking Minority Member of a committee, to conduct an assessment of costs to state, local, and tribal governments resulting from any changes to conditions of federal assistance programs. CBO estimates that the costs to conduct such assessments would not be significant.

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 the deficit from changes in revenues 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. 373, as ordered reported by the House Committee on Oversight and Government Reform on November 17, 2011

	By Fiscal Year, in Millions of Dollars												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012-2017	2012-2022
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	0	1	1	1	1	1	1	1	1	1	4	9

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 373 would increase the costs of existing mandates on public and private entities that are required 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. Because we expect some of those agencies to increase fees to offset the costs of their additional regulatory activities, the bill would increase the costs of existing mandates by requiring public and private entities to pay higher fees. 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 ($73 million and $146 million in 2012 respectively, adjusted annually for inflation).

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