

ASSURANCE FOR SMALL BUSINESS ACT OF 2024

DECEMBER 10, 2024.—Ordered to be printed

Mr. WILLIAMS of Texas, from the Committee on Small Business,  
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 9031]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 9031) to require Federal agency heads to submit a report on the implementation of the Regulatory Flexibility Act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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#### I. PURPOSE AND BILL SUMMARY

On July 15, 2024, Rep. Stauber introduced H.R. 9031. The purpose of H.R. 9031, the “Assurance for Small Business Act,” is to require all rulemaking agencies to issue a report to Congress on how they define a significant economic impact on a substantial number of small entities.

#### II. NEED FOR LEGISLATION

There is not a standard definition of a significant economic impact on a substantial number of small entities across the federal government because every agency and the rules they issue are different. However, individual agencies use varying definitions when considering a rule’s impact to fit their own narrative. Since every agency uses their own unique analysis to determine what qualifies as a significant economic impact, it makes oversight extremely difficult. While we understand that one single government wide definition may not be practical in every situation, we must at least understand the baseline of any given agency for the Committee to evaluate if they did follow the spirit of the law or are ignoring it.

This bill will require all rulemaking agencies to issue a report to Congress on how they determine a significant economic impact on a substantial number of small entities so that it is easier to hold them to account.

#### III. HEARINGS

In the 118th Congress, the Committee held one hearing examining the issues covered in H.R. 9031. On May 22, 2024, the Committee held a hearing titled “Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses” which examined the impacts of the Biden Administration’s burdensome regulatory landscape and explored ways to support small businesses and overcome agencies’ noncompliance with the RFA.

#### IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on September 10, 2024 and ordered H.R. 9031 reported to the House of Representatives. During the markup no amendments were offered.

#### V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted to favorably report H.R. 9031 to the House of Representatives at 2:42 PM.

118<sup>th</sup> Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024 at 9:45 AM ET

Bill: H.R. - 9031

Time of Vote: 2:42 PM

Republicans	Aye	Nay	Present
Mr. Luetkemeyer (MO-03)			
Mr. Stauber (MN-08)	✓		
Mr. Meuser (PA-09)	✓		
Ms. Van Duyne (TX-24)	✓		
Ms. Salazar (FL-27)	✓		
Mr. Mann (KS-01)	✓		
Mr. Ellzey (TX-06)	✓		
Mr. Molinaro (NY-19)	✓		
Mr. Alford (MO-04)	✓		
Mr. Crane (AZ-02)	✓		
Mr. Bean (FL-04)	✓		
Mr. Hunt (TX-38)			
Mr. Lalota (NY-01)	✓		
Ms. Maloy (UT-02)	✓		
Chairman Williams (TX-25)	✓		
TOTALS:	13		

118<sup>th</sup> Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024 at 9:45 AM ET

Bill: H.R. - 9031

Democrats	Aye	Nay	Present
Mr. Golden (ME-02)		✓	
Mr. Phillips (MN-03)		✓	
Mr. Landsman (OH-01)		✓	
Mr. McGarvey (KY-03)		✓	
Ms. Gluesenkamp Perez (WA-03)		✓	
Ms. Scholten (MI-03)		✓	
Mr. Thanedar (MI-13)		✓	
Ms. Chu (CA-28)		✓	
Ms. Davids (KS-03)		✓	
Mr. Pappas (NH-01)		✓	
Ranking Member Velazquez (NY-07)		✓	
TOTALS:		11	

## VI. SECTION-BY-SECTION OF H.R. 9031

*Section 1: Short title*

The bill may be cited as the “Assurance for Small Business Act.”

*Section 2: Report on implementation of the Regulatory Flexibility Act*

Requires the head of each agency which issues rules to submit a report describing how they apply the RFA within 90 days of enactment. The report shall include the agencies’ definition of “significant economic impact” and “substantial number of small entities”, and a comprehensive list of factors considered when applying these terms.

## VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the House Committee on Small Business during the 118th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation’s estimated effects on spending subject to appropriation and on inter-governmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

**ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION**

Bill number	Title	Status	Last action	Budget function	Direct spending, 2025-2034	Revenues, 2025-2034	Spending subject to appropriation, 2025-2029	Pay-As-You-Go procedures apply?	Budgetary effects after 2034	Mandates	Contact
H.R. 9030	Regulatory Agenda Clarity Act .....	Ordered reported	09/10/24	Multiple functions	Between zero and \$500,000	Between -\$500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman
	<p>H.R. 9030 would require federal agencies to describe the type of business that would be affected by a proposed rule, explain whether the rule would impose significant economic effects on a substantial number of small entities, and display that information on their website. CBO estimates that enacting H.R. 9030 could increase direct spending by some regulatory agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9030 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9030 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.</p>										
H.R. 9031	Assurance for Small Business Act	Ordered reported	09/10/24	Multiple functions	Between zero and \$500,000	Between -\$500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman
	<p>H.R. 9031 would require each rulemaking agency to report to the Congress on how the agency determines whether a rule would impose significant economic effects on a substantial number of small entities. Enacting H.R. 9031 could increase direct spending by some regulatory agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9031 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9031 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.</p>										
H.R. 9033	LABOR Act of 2024 .....	Ordered reported	09/10/24	500	0	0	Not estimated	No	No	No	Margot Berman
	<p>H.R. 9033 would require the Department of Labor to convene a small business advocacy review panel before proposing rules that would have significant economic effects on a substantial number of small entities. Under current law, only the Occupational Safety and Health Administration within the Department of Labor is required to do so. CBO estimates that enacting H.R. 9033 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.</p>										
H.R. 9085	Regulatory Review Improvement Act of 2024.	Ordered reported	09/10/24	Multiple functions	Between zero and \$500,000	Between -\$500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman

H.R. 9085 would expand the information that agencies must include in a 10-year review of a rule's effect on small entities, including the cost for entities to comply with the rule once it goes into effect and an analysis of public comments an agency receives about the rule. The bill also would reduce the time from 5 years to 1 year for an agency to complete a review. CBO estimates that enacting H.R. 9085 could increase direct spending by some agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9085 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9085 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.

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#### VIII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(I) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. The Committee does not believe that there will be any additional costs attributable to this legislation. H.R. 9031 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

#### IX. OVERSIGHT FINDINGS & RECOMMENDATIONS

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in the H.R. 9031 are incorporated into the descriptive portions of this report.

#### X. PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of H.R. 9031 are to require rulemaking agencies to issue a report to Congress on how they define a significant economic impact on a substantial number of small entities.

#### XI. STATEMENT OF DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of H.R. 9031 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

#### XII. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

#### XIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### XV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVI. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 7 of Rule XII of the Rules of the House, the Committee finds that the authority for this legislation in Art. I, § 8, cl. 1 of the Constitution of the United States.

## XVII. MINORITY VIEWS

The Regulatory Flexibility Act (RFA) requires federal agencies to consider the effects of their regulations on small businesses and other small entities. If a regulation is determined to have a “significant economic impact on a substantial number of small entities” (SEISNSE), the RFA requires agencies to conduct more detailed regulatory analysis and consider alternatives.<sup>1</sup>

The RFA does not define the terms, “significant economic impact” and “substantial number of small entities.” With regard to the term “significant economic impact,” the Office of Advocacy (Advocacy) relies on the legislative history of the RFA and has said that these terms should not be measured in absolute terms. Significant impact should be viewed as relative to the size of the business, the size of the competitors’ business, and the impact the regulation has on larger businesses, and Advocacy believes that agencies are in the best position to gauge the impact of the regulation on small entities.<sup>2</sup> In terms of “substantial number of small entities”, Advocacy has also relied on the legislative history, and its guidance encourages agencies to examine the number of affected firms in a particular economic industry. For example, five firms in an industry of more than 1,000 regulated entities would not be the same as five firms in an industry with 20 regulated entities. Advocacy has issued specific guidance on these particular terms and trains agencies on how to comply with the Regulatory Flexibility Act.<sup>3</sup>

This bill would require federal agencies to submit a report to Congress on the application of the RFA on the rulemaking of their respective agencies within 90 days of enactment. With that said, the bill requires each agency head to review every rule that was issued by the agency since 1980, when the RFA was first enacted. The analysis of the rules includes the definitions used by the agency to determine “significant economic impact” and “substantial number of small entities”, as well as a comprehensive list of factors for the regulatory flexibility analysis, which includes the threshold analysis, initial regulatory flexibility analysis, and the final regulatory flexibility analysis. The requirement for additional analysis is exceptionally broad, and it is unclear how the report would be helpful to Congress. Moreover, it is highly unlikely the reports could be completed within 90 days. Advocacy has indicated that the report will not provide any consistent response.

Agencies have written procedures and have developed criteria, and these procedures are posted on their websites. Executive Order 13272 requires Advocacy to provide compliance training to federal

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<sup>1</sup> CONG. RESEARCH SERV., *THE REGULATORY FLEXIBILITY ACT: AN OVERVIEW*, 2 (Aug. 16, 2021).

<sup>2</sup> OFF. OF ADVOCACY, *A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act*, U.S. SMALL BUS. ADMIN. (Aug. 2017), <https://advocacy.sba.gov/wp-content/uploads/2019/06/How-to-Comply-with-the-RFA.pdf>.

<sup>3</sup> *Id.*

regulatory officials, and in FY 2023, Advocacy offered nine training sessions for 139 federal officials.<sup>4</sup> More training of rule-writing staff at agencies would help to further improve the RFA process.

NYDIA M. VELÁZQUEZ,  
*Ranking Member.*

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<sup>4</sup>Off. of Advocacy, Report on the Regulatory Flexibility Act, FY 2023 (Jun. 2024).