Insight

# Fiscal Benefits of the CRA, Regulatory Reform

**SAM BATKINS | APRIL 20, 2017**

As the American Action Forum (AAF) has detailed in the past, regulations impose costs not only on private entities and states, but also on American taxpayers generally. For example, amending student loan repayment plans cost taxpayers more than $15 billion; the expansion of the overtime rule will cost state governments $115 million. Just as there are fiscal costs for new significant rules, there can be savings from repealing old rules through comprehensive regulatory reform. According to AAF, recent regulatory actions, including Congressional Review Act (CRA) votes, could produce more than $86 billion in savings for taxpayers, on top of the potential for $18.8 billion in annual regulatory savings.

## Background

Congress has already passed 13 CRA resolutions, repealing more than $1.1 billion (annually) in past regulations from the Obama Administration. In addition, President Trump has formally delayed and signaled an intention to amend several other major rules. Combined, these actions could generate more than $18 billion in annual regulatory savings for businesses, investors, and consumers.

The regulations that Congress and the administration repealed also carried fiscal impositions, in addition to private-sector regulatory costs. For this research, AAF examine the possible spending implications of regulations repealed via the CRA or delayed formally by the administration.

## Results

Combined, five regulations would have cost more than $86 billion in federal funds. Easily the largest rule was the Department of Education's "Accountability and State Plans" final

measure, implementing the "Every Student Succeeds Act." The regulatory burdens were notable ($73 million in costs and 930,000 paperwork burden hours), but the fiscal imposition could have topped $86 billion alone. The largest component, which was not necessarily struck down by the CRA vote, would have spent $59 billion to fund operations at state and local educational agencies. These are known as Title I funds and likely unaffected by the CRA vote. The regulation contained certain conditions for accessing these funds, but they have still been appropriated and authorized. In addition, "Supporting Effective Instruction" would have appropriated an additional $9.3 billion. Combined, appropriations, "over and above what would have been spent," reached $86.9 billion.

The CRA vote repealed the Accountability and State Plans rule. According to the previous administration, there was no statutory deadline for the regulation, so Secretary of Education Betsy DeVos has discretion to reissue a new rule, but under the CRA, "it may not be reissued in substantially the same form." As AAF has noted, there is no clear definition of the ambiguous term, "same form," but legislative intent, both during the drafting of the CRA and the debates during the disapproval of the rule will factor into the analysis.

For example, during the disapproval of the state plans measure, Congressman Todd Rokita was explicit, "We wrote a very specific law saying the States are in charge. Here we have a Federal agency inserting itself, not just interpreting law, but actually making law and taking us in the exact opposite direction that all of us intended." This denunciation of the regulation, however, does not speak to the form of a substitute rule or if the $86 billion in spending will return (which it likely will). Congressman Rokita went on to note many provisions of the law would continue, but the regulation would not: "States are continuing to develop State plans that comply with the law…. The law itself provides enough guidance."

Does this mean the money from the underlying statute will not be spent? This was never specifically addressed during the debates in the House and the Senate. The Every Student Succeeds Act still exists, but the regulation implementing the state plans does not, although states will still be submitting plans. There might be some debate over how much money repealing the rule will save, but given the vast majority was Title I funds to state and local governments, it is highly unlikely the CRA vote rescinded all of this spending. It is clear the CRA resolution will save taxpayers some money, but likely less than $86 billion.

One regulation that will not likely return is the "Fair Pay and Safe Workplaces" measure, which will impose $400 million in annual costs and more than 2.1 million paperwork hours. In addition to those burdens, regulators also estimated $15 million in year-one government costs and $10.1 million in year-two expenditures. A total of $25 million in total savings is hardly earthshattering, but in concert with the regulatory impact, it provides a notable increase in benefits.

Finally, the formal rescission or revision of the controversial "Waters of the United States" rule could produce up to $16 million in taxpayer savings. According to the regulatory impact analysis, the Army Corps of Engineers will incur $16 million in additional administrative costs because of implementation of the regulation. Although driving this number to $0 after a review seems unlikely, there is little doubt the federal costs will be lower after a significant amendment to the regulation.

## Conclusion

Regulatory reform has taken many shapes during the Trump Administration: CRA votes, increased flexibility in compliance, and formal reviews of major rules. As AAF has documented, this has the ability to generate more than $60 billion in cost savings for American businesses, investors, and consumers. These benefits, through just the first few months of an administration, are profound, but the fiscal savings of regulatory reform should not be overlooked. Broad reforms have the ability to generate billions of dollars in taxpayer savings, and millions of fewer paperwork hours.