



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 19, 2010

### **H.R. 2765** **Securing the Protection of our Enduring and Established** **Constitutional Heritage Act**

*As ordered reported by the Senate Committee on the Judiciary on July 13, 2010*

H.R. 2765 would prohibit U.S. district and state courts from enforcing foreign defamation judgments that are inconsistent with Constitutional protections and certain telecommunications laws. In general, foreign courts do not have jurisdiction over the United States, and U.S. courts would not recognize a foreign judgment against the United States. (Under the Federal Tort Claims Act, the federal government waived its sovereign immunity and consented to being sued in federal courts only in particular cases.) Therefore, CBO estimates that H.R. 2765 would have no significant effect on the federal budget. Because the legislation would not affect direct spending or revenues, pay-as-you-go procedures would not apply.

H.R. 2765 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state laws related to foreign judgments. CBO estimates that state courts would incur no significant costs to comply with the preemption; therefore, the costs of the mandate would not exceed the annual threshold established in UMRA for intergovernmental mandates (\$70 million in 2010, adjusted for inflation).

H.R. 2765 would impose private-sector mandates as defined in UMRA on individuals seeking to have certain foreign defamation judgments enforced in the United States. New requirements on those individuals would limit an existing right to recover damages and direct them to reimburse attorney's fees in the event a domestic court does not uphold a foreign judgment. The cost of the mandate would be the net value of forgone awards and settlements in such claims and any fees paid to opposing parties. Based on information about foreign defamation cases, CBO expects that the cost of the mandates would fall below the annual threshold established in UMRA for private-sector mandates (\$141 million in 2010, adjusted annually for inflation).

On June 12, 2009, CBO transmitted a cost estimate for H.R. 2765, a bill to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments against the providers of interactive

computer services, as ordered reported by the House Committee on the Judiciary on June 10, 2009. The two versions of the legislation are similar, and the CBO cost estimates are the same.

The CBO staff contacts for this estimate are Martin von Gnechten (for federal costs) and Marin Randall (for the private-sector impact). This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.