



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 14, 2012

S. 3276 **FAA Sunsets Extension Act of 2012**

As reported by the Senate Committee on the Judiciary on July 19, 2012

S. 3276 would extend the authority of the federal government to conduct surveillance pursuant to the FISA Amendments Act of 2008 (Public Law 110-261). Because CBO does not provide cost estimates for classified programs, this estimate addresses only the budgetary effects on unclassified programs affected by the bill. On that basis, CBO estimates that implementing S. 3276 would have no significant cost to the federal government.

Enacting the bill could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any effects would be insignificant for each year.

The FISA Amendments Act of 2008 clarified the authority of the federal government to surveil and intercept communications of certain persons located outside the United States. S. 3276 would extend the provisions of that act through June 1, 2015 (otherwise, they expire after December 31, 2012). As a result, the government might be able to pursue cases that it otherwise would not be able to prosecute. CBO expects that S. 3276 would apply to a relatively small number of additional offenders, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

In addition, S. 3276 would require the Inspector General of the Intelligence Community to review certain procedures and guidelines to protect the privacy rights of persons in the United States and prepare a report based on that review. Based on information from the intelligence community, CBO estimates that any additional costs to complete those activities would not be significant in any year.

Because those prosecuted and convicted under S. 3276 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are deposited as revenues in the Crime Victims Fund and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the relatively small number of cases likely to be affected.

The bill would impose both private-sector and intergovernmental mandates by extending an existing mandate that would require providers of electronic communication services to furnish information. The bill also would extend an existing mandate by exempting electronic communication service providers from liability when they comply with an order to furnish information. CBO cannot determine whether the costs to electronic communication service providers to furnish information as required by the bill or the forgone damages of individuals that sue such providers would exceed the annual threshold established by the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$146 million in 2012, adjusted annually for inflation). However, few public entities receive requests to provide information, so the costs to intergovernmental entities would be small. The bill also would impose a mandate by extending an existing preemption of state and local liability laws. CBO estimates that the costs to public entities of all the intergovernmental mandates in the bill would be small and well below the annual threshold established in UMRA (\$73 million in 2012, adjusted annually for inflation).

On July 19, 2012, CBO transmitted a cost estimate for S. 3276, the FISA Amendments Act Reauthorization Act of 2012, as reported by the Senate Select Committee on Intelligence on June 7, 2012. That version of the bill would not require reviews or reports by the Inspector General of the Intelligence Community; otherwise, the bills are similar and the cost estimates are the same.

On July 2, 2012, CBO transmitted a cost estimate for H.R. 5949, the FISA Amendments Act Reauthorization Act of 2012, as ordered reported by the House Committee on the Judiciary on June 19, 2012. On July 19, 2012, CBO transmitted a cost estimate for H.R. 5949 as reported by the House Permanent Select Committee on Intelligence on June 28, 2012. CBO estimated that both versions of H.R. 5949 would have no significant cost to the federal government.

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), J'nell L. Blanco (for the impact on state and local governments), and Elizabeth Bass (for the impact on the private sector). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.