



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 8, 2015

### **H.R. 2048** **USA FREEDOM Act of 2015**

*As ordered reported by the House Committee on the Judiciary on April 30, 2015*

H.R. 2048 would make several amendments to the investigative and surveillance authorities of the United States government, and would specify the conditions under which the federal government may conduct certain types of surveillance. CBO does not provide estimates for the cost of classified programs; therefore, this estimate addresses only the unclassified aspects of the bill. Under that limitation, CBO estimates that implementing H.R. 2048 would cost \$15 million over the 2016-2020 period, subject to the appropriation of the necessary amounts.

Enacting H.R. 2048 also could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. The bill could result in the collection of additional criminal penalties because it would extend the authority of the government to conduct surveillance in certain instances for four years and would establish new crimes relating to certain acts of terrorism. Such penalties are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO anticipates that any additional amounts collected under the bill would be minimal and the net impact on the deficit of any additional collections and spending would be insignificant.

#### **Effects on the Federal Budget**

The bill would amend the Foreign Intelligence Surveillance Act (FISA). Those amendments would affect the operations of the Foreign Intelligence Surveillance Court (FISC) and the Judiciary. First, H.R. 2048 would require the FISC to designate at least five amici curiae, or “friends of the court,” to assist the court when the government makes an application under FISA that presents a novel or significant interpretation of FISA. Second, the bill would limit the collection of telephone call records, thereby requiring the intelligence agencies—acting through the Department of Justice—to seek additional warrants from the FISC to access such data. Finally, the bill would require an annual report by the Director of the Administrative Office of the U.S. Courts (AOUSC) that includes data on certain types of FISA orders. Based on information from the AOUSC, CBO estimates that implementing those requirements would cost \$5 million over the 2016-2020 period, assuming appropriation of the necessary amounts.

In addition, the bill would require federal agencies to conduct several program assessments and reviews, and would establish new reporting requirements. Section 108 would require the Inspectors General of the Justice Department and the Intelligence Community to assess the effectiveness of the surveillance programs affected by the bill; section 402 would require the Director of National Intelligence to conduct declassification reviews of certain court decisions, orders, and opinions related to FISA. CBO estimates that fulfilling those requirements would cost \$10 million over the 2016-2020 period, assuming appropriation of the necessary amounts.

### **Intergovernmental and Private-Sector Mandates**

H.R. 2048 would impose two mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on both private and intergovernmental entities. The bill would expand liability protections and limit the ability of plaintiffs to sue in cases where a defendant provides information to the federal government pursuant to a FISA order. It also would require entities, when compelled to provide information about telephone calls to federal officials, to protect the secrecy of the records and to minimize any disruption of services.

CBO estimates that the costs of those mandates would be small. The change in expanded liability protection is a slight modification to current law, and CBO estimates that the elimination of any legal right of action for future plaintiffs would affect a limited number of potential lawsuits. Information from the Department of Justice indicates that public entities receive few requests for call records, and the costs to those entities of providing that information are negligible. In addition, since public and private entities already take action to protect private information in complying with requests from the government, the incremental cost to those entities would be insignificant. Further, public and private entities would be compensated by the federal government at the prevailing rate for the services they would be required to provide. Consequently, CBO estimates that the total costs to public and private entities of all the mandates in the bill would fall below the intergovernmental and private-sector thresholds established in UMRA (\$77 million and \$154 million in 2015, respectively, adjusted annually for inflation).

Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that Title VIII of the bill fits within that exclusion, because that title would implement the obligations of various treaties for maritime and nuclear activities to which the U.S. is a party.

## **Staff Contacts**

The CBO staff contacts for this estimate are Mark Grabowicz, Marin Burnett, and Bill Ma (for federal costs), J'nell L. Blanco (for the intergovernmental effects), and Logan Smith (for the private-sector effects). This estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.