Congressional Budget Office
Cost Estimate

November 15, 2023

At a Glance

S. 1271, FEND Off Fentanyl Act

As reported by the Senate Committee on Banking, Housing, and Urban Affairs on June 22, 2023

By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	12	60
Revenues	0	14	77
Increase or Decrease (-) in the Deficit	0	-2	-17
Spending Subject to Appropriation (Outlays)	1	2	not estimated

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2034?	< $2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

The bill would
- Impose and codify various sanctions on foreign persons involved in illicit drug trafficking
- Extend the statute of limitations for certain penalties from 5 years to 10 years
- Authorize the Financial Crimes Enforcement Network (FinCEN) to impose special measures on foreign transactions and accounts if it determines that they facilitate illicit opioid trafficking
- Impose various reporting requirements on the Department of the Treasury
- Impose private-sector mandates by prohibiting entities in the United States from engaging in activities that would otherwise be permitted under current law, such as accessing property that would be frozen by the sanctions

Estimated budgetary effects would mainly stem from
- Increased criminal penalty collections and associated spending stemming from the longer statute of limitations and new sanctions
- Personnel and administrative costs for FinCEN

Areas of significant uncertainty include
- Estimating the increase in revenues from the longer statute of limitations

Detailed estimate begins on the next page.

See also
CBO's Cost Estimates Explained, *CBO Describes Its Cost-Estimating Process*, *Glossary*

Bill Summary

S. 1271 would impose sanctions on foreign persons involved in fentanyl trafficking and codify existing sanctions targeting illicit drug trafficking established under Executive Order 14509. That order authorizes the Department of the Treasury to seize assets and block transactions of any foreign persons who engage in or support those who engage in illicit drug trafficking. The bill also would extend the statute of limitations for penalties under other laws from 5 years to 10 years and impose various reporting requirements on the Treasury.

Additionally, S. 1271 would authorize the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) to require that U.S. financial institutions impose special measures, including increased due diligence and restrictions, on foreign transactions or financial accounts if the agency determines that they facilitate illicit opioid trafficking. The bill also would require FinCEN to issue guidance on filing suspicious activity reports related to fentanyl trafficking by transnational criminal organizations and to report to the Congress on trade-based money laundering originating in certain countries.

Estimated Federal Cost

The estimated budgetary effect of S. 1271 is shown in Table 1. The costs of the legislation fall within budget functions 150 (international affairs) and 750 (administration of justice).

Table 1.
Estimated Budgetary Effects of S. 1271

	By Fiscal Year, Millions of Dollars											
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2024-2028	2024-2033
Increases in Direct Spending												
Estimated Budget Authority	0	0	2	4	6	8	10	10	10	10	12	60
Estimated Outlays	0	0	2	4	6	8	10	10	10	10	12	60
Increases in Revenues												
Estimated Revenues	0	0	2	5	7	10	13	13	13	14	14	77
Net Decrease (-) in the Deficit From Changes in Direct Spending and Revenues												
Effect on the Deficit	0	0	*	-1	-1	-2	-3	-3	-3	-4	-2	-17
Increases in Spending Subject to Appropriation												
Estimated Authorization	1	1	*	*	*	n.e.	n.e.	n.e.	n.e.	n.e.	2	n.e.
Estimated Outlays	1	1	*	*	*	n.e.	n.e.	n.e.	n.e.	n.e.	2	n.e.

n.e. = not estimated; * = between -$500,000 and $500,000.

Basis of Estimate

For this estimate, CBO assumes that the bill will be enacted near the end of calendar year 2023.

Revenues and Direct Spending

CBO estimates that enacting S. 1271 would increase revenues by $77 million and direct spending by $60 million over the 2024-2033 period.

Extension of Statute of Limitations. S. 1271 would extend the statute of limitations on civil and criminal penalties under the International Emergency Economic Powers Act and the Trading with the Enemy Act from 5 years to 10 years. Civil and criminal penalties are recorded in the budget as revenues. Using information from the Office of Foreign Assets Control (OFAC), CBO estimates that increasing the length of time during which violators would be subject to such penalties would increase revenues by $77 million over the 2024-2033 period. Under current law, 75 percent of those penalties are deposited in the United States Victims of State Sponsored Terrorism Fund and spent without further appropriation. Thus, the additional revenues would increase direct spending by $60 million over the 2024-2033 period.

Sanctions. The bill also would impose sanctions on foreign persons involved in fentanyl trafficking. Using information about similar sanctions, CBO expects that few additional people would be sanctioned under the bill. Thus, CBO estimates that enacting this provision would increase revenues and direct spending for the Victims of State Sponsored Terrorism Fund by less than $500,000 over the 2024-2033 window.

Spending Subject to Appropriation

CBO estimates that implementing S. 1271 would cost $2 million over the 2024-2028 period. Spending would be subject to the availability of appropriated funds.

FinCEN. S. 1271 would authorize the Financial Crimes Enforcement Network (FinCEN) to require that U.S. financial institutions impose special measures on foreign transactions or financial accounts if the agency determines that they facilitate illicit opioid trafficking. FinCEN can already require U.S. financial institutions to impose special measures under current law. Using information from FinCEN, CBO estimates that the agency would need two employees to issue guidance, conduct outreach to the private sector, and report to the Congress. In total, CBO estimates that implementing this provision would cost $2 million over the 2024-2028 period.

Department of the Treasury. The bill also would require the Department of Treasury to report about drug trafficking, staffing at OFAC, and their own efforts to impose sanctions that disrupt and dissuade fentanyl trafficking. Using information about similar reports, CBO estimates that satisfying that requirement would cost less than $500,000 over the 2024-2028 period; any spending would be subject to availability of appropriated funds.

Uncertainty

The estimate of the costs of S. 1271 is subject to considerable uncertainty with respect to the number of people who could be subject to penalties under the extended statute of limitations. Revenues and the consequent direct spending could be lower or higher if the number of people who are affected by the bill differs from CBO's estimate.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 2.

Table 2.
CBO's Estimate of the Statutory Pay-As-You-Go Effects of S. 1271, the FEND Off Fentanyl Act, as Reported by the Senate Committee Banking, Housing, and Urban Affairs on June 22, 2023

	By Fiscal Year, Millions of Dollars											
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2024-2028	2024-2033
	Net Increase or Decrease (-) in the [On-Budget] Deficit											
Pay-As-You-Go Effect	0	0	0	-1	-1	-2	-3	-3	-3	-4	-2	-17
Memorandum:												
Changes in Outlays	0	0	2	4	6	8	10	10	10	10	12	60
Changes in Revenues	0	0	2	5	7	10	13	13	13	14	14	77

Increase in Long-Term Net Direct Spending and Deficits

CBO estimates that enacting S. 1271 would not increase net direct spending by more than $2.5 billion in any of the four consecutive 10-year periods beginning in 2034.

CBO estimates that enacting S. 1271 would not increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2034.

Mandates

S. 1271 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). Sanctions would prohibit individuals or entities in the United States from engaging in transactions involving assets and property that have been frozen. Those transactions are otherwise permitted under current law. The cost of the mandate would be any income lost because of the prohibition. CBO expects that because a small number of people or entities would be affected, the loss of income from any incremental increase in restrictions imposed by the bill would be small as well. CBO estimates that the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates ($198 million in 2023, adjusted annually for inflation).

S. 1271 contains no intergovernmental mandates as defined in UMRA.

Previous CBO Estimate

On June 13, 2023, CBO transmitted a cost estimate for H.R. 3203, the Stop Chinese Fentanyl Act of 2023, as ordered reported by the House Committee on Foreign Affairs on May 16, 2023. Section 111 of S. 1271 is similar to section 4 of H.R. 3203: Both bills would extend the statute of limitations for criminal and civil penalties under the International Emergency Economic Powers Act and the Trading with the Enemy Act from 5 years to 10 years.

On September 28, 2023, CBO transmitted a cost estimate for H.R. 3244, the Stop Fentanyl Money Laundering Act of 2023, as ordered reported by the House Committee on Financial Services on July 26, 2023. Title II of S. 1271 is similar to H.R. 3244 and CBO's estimates of their budgetary effects are the same.

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