



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 2, 2012

H.R. 5949 **FISA Amendments Act Reauthorization Act of 2012**

As ordered reported by the House Committee on the Judiciary on June 19, 2012

H.R. 5949 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 H.R. 5949 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. H.R. 5949 would extend the provisions of that act by five years (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 H.R. 5949 would apply to a relatively small number of additional offenders, however, 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.

Because those prosecuted and convicted under H.R. 5949 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 limit civil actions and require providers of communication services to provide information. There is little information about the prevalence of electronic surveillance in those cases or the scope or size of potential awards from such cases. Consequently, CBO cannot determine whether the costs of those mandates 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 for such information, and the costs on them would be small. The bill also would extend an existing preemption on state and local governments regarding legal rights of action. 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 May 18, 2011, CBO transmitted a cost estimate for H.R. 1800, the FISA Sunsets Reauthorization Act of 2011, as ordered reported by the House Committee on the Judiciary on May 12, 2011. That bill would extend certain powers of the federal government to investigate terrorist acts. CBO estimated that implementing H.R. 1800 would have no significant cost to the federal government.

The CBO staff contacts for this estimate are Mark Grabowicz and Jason Wheelock (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.