CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

December 8, 2011

H.R. 313

Drug Trafficking Safe Harbor Elimination Act of 2011

As ordered reported by the House Committee on the Judiciary on October 6, 2011

CBO estimates that implementing H.R. 313 would have no significant costs 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.

H.R. 313 would prohibit U.S. entities from assisting, supporting, or engaging in conspiracy with entities engaged in activities outside the United States that would violate the Controlled Substances Act if carried out within the United States. Under current law, it is legal to assist or invest in a manufacturing company with operations outside the United States that produces chemicals that are on the U.S. Controlled Substance list. Thus, the government might be able to pursue new cases under the bill that it otherwise would not be able to prosecute. CBO expects that H.R. 313 would apply to a relatively small number of new cases, 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. 313 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.

To the extent that public and private entities, including public and private pension funds, would be prohibited from investing in or aiding those companies, the legislation would constitute an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). The cost of the mandate is uncertain because it would depend on what activities are determined to constitute assistance, support, or conspiracy under the legislation, and those terms may be interpreted narrowly or broadly. Moreover, if investments are prohibited, the cost of complying with the mandate would depend on the difference in returns on the investments that would be prohibited and on alternative investments. CBO does not have data to make those determinations. Therefore, CBO cannot determine whether the aggregate costs of the intergovernmental or private-sector mandates would exceed the annual thresholds established in UMRA ($71 million for intergovernmental mandates and $142 million for private-sector mandates in 2011, adjusted annually for inflation).

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), Melissa Merrell (for the state and local impact), and Marin Randall (for the impact on the private sector). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.