



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

July 30, 2007

**H.R. 3046
Social Security Number Privacy and Identity Theft
Prevention Act of 2007**

*As ordered reported by the House Committee on Ways and Means
on July 18, 2007*

SUMMARY

H.R. 3046 would provide new safeguards for the use of Social Security numbers (SSNs) and penalties for SSN misuse. The bill would:

- Bar the sale, purchase, or display of the SSN in both the public and private sectors, with certain exceptions;
- Prohibit the display of SSNs (including magnetic strips or bar codes that contain them) on government checks, employer-issued identification cards or tags, and Medicare cards;
- Require government and private entities to limit access to SSNs and assure that they have safeguards to prevent breaches of confidentiality;
- Require the Government Accountability Office (GAO) and the Social Security Administration (SSA) to study the effectiveness of regulations related to this bill and the feasibility of additional safeguards; and
- Create or expand civil and criminal penalties for SSN misuse.

Enacting H.R. 3046 could affect direct spending and revenues, but CBO estimates that any such effects would not be significant. Complying with the bill's standards would cause federal agencies to incur additional administrative expenses. Those costs—which CBO estimates at \$43 million over the 2008-2012 period—would generally come from agencies' salary and expense budgets, which are subject to annual appropriation.

H.R. 3046 contains a number of intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), including limitations on the sale, display, and use of SSNs by state, local, and tribal governments. CBO estimates that the aggregated costs of complying with those mandates would probably exceed the threshold established in UMRA for intergovernmental mandates (\$66 million in 2007, adjusted annually for inflation) in at least one of the first five years that the mandates are in effect.

H.R. 3046 also would impose private-sector mandates as defined in UMRA. CBO cannot determine whether the aggregate direct costs of complying with those mandates would exceed the annual threshold for private-sector mandates established by UMRA (\$131 million in 2007, adjusted annually for inflation) because such costs would depend on the specific regulations that would be issued under the bill.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3046 is shown in the following table. The costs of the legislation fall primarily in budget functions 050 (national defense), 570 (Medicare), 650 (Social Security), and 700 (veterans benefits and services), but could affect numerous other budget functions as well. As explained below, CBO cannot estimate some potential costs in cases where agencies do not yet know how they would implement certain provisions.

BASIS OF ESTIMATE

Federal agencies already comply, or are moving to comply, with most requirements of H.R. 3046. The bill's budgetary effects would stem from a few provisions that would change agencies' practices or assign new enforcement responsibilities. For this estimate, CBO assumes that the bill will be enacted in the fall of 2007.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 3046 would cost \$43 million over the 2008-2012 period, assuming that the necessary amounts will be appropriated near the start of each fiscal year and that spending will follow historical patterns for similar activities.

	By Fiscal Year, in Millions of Dollars				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ^a					
Prohibiting Display of SSN on Government ID Tags or Cards					
Estimated Authorization Level	16	*	6	10	10
Estimated Outlays	11	5	5	10	10
Regulation and Enforcement					
Estimated Authorization Level	1	*	*	*	*
Estimated Outlays	1	*	*	*	*
Studies					
Estimated Authorization Level	*	*	1	*	*
Estimated Outlays	*	*	1	*	*
Total Changes					
Estimated Authorization Level	17	*	7	10	10
Estimated Outlays	12	5	6	10	10

Note: SSN = Social Security number; * = less than \$500,000.

- a. Enacting H.R. 3046 also could affect direct spending and revenues, but CBO estimates that any such effects would not be significant.

Prohibiting Display of SSN on ID Tags or Cards. The bill would prohibit government agencies from displaying SSNs (including magnetic strips or bar codes that contain them) on certain government-issued identification cards or tags. Government agencies could not display an SSN on employee, student, or patient identification tags or on Medicare cards. The requirement would affect cards or tags issued one year after the date of enactment, or in the case of Medicare cards, two and one-half years after enactment. In total, CBO estimates that implementing the provision would cost \$41 million over the 2008-2012 period, subject to the availability of appropriated funds. The estimated costs to major agencies are described below.

Department of Defense. The Geneva Convention calls for military personnel to have a number displayed on their identification cards, and the Department of Defense (DoD) has chosen to use the SSN. Under the bill, DoD would have to revamp its records and cards to use another unique identifier for 6.5 million personnel. Based on information from DoD, CBO estimates that implementing this provision would cost \$2 million over the 2008-2009 period, assuming the availability of appropriated funds. Subsequent ongoing costs would be negligible.

Veterans Affairs. The bill would prohibit the Department of Veterans Affairs (VA) from using a patient's SSN on the identity cards or tags used by its medical facilities. Based on information from the department, CBO estimates that it would cost \$9 million to make the necessary changes to its computer systems. In addition, VA would plan to replace older, but still valid, cards at a cost of \$5 million. Assuming appropriation of the estimated amounts, CBO estimates that VA would spend \$10 million in 2008 and \$4 million in 2009 to implement the requirement.

Medicare. The Medicare program uses the SSN as the basis of its Health Insurance Claim Number and displays that number on the Medicare card. Over 42 million Medicare beneficiaries have a Medicare card and several million new beneficiaries are added to the Medicare rolls annually.

Under H.R. 3046, CBO assumes that the Centers for Medicare and Medicaid Services (CMS) would continue to use the SSN-based claim number to process and pay claims, but would remove the number from the Medicare card. CBO estimates that CMS would increase spending on beneficiary outreach and provider education in 2009, but that such costs would total less than \$500,000. In 2010, CMS would begin to issue Medicare cards that do not display a claim number to new enrollees and beneficiaries who request a replacement card. CBO estimates that it would cost CMS \$5 million in 2010, and \$10 million in each of fiscal years 2011 and 2012 to implement the changes. The bulk of the new costs would stem from handling additional inquiries from beneficiaries and providers who would be confused by the change. Based on information provided by CMS and SSA, CBO estimates that up to 10 million beneficiaries would be affected by the change annually and that 10 percent of them would contact the agencies with questions. In addition, the agencies would incur small costs for replacement cards for beneficiaries who request them.

CMS could choose to adopt a different strategy and change the claim number so that it is no longer based on the SSN. That strategy would require changes to CMS computer systems that would be more expensive than removing the claim number from the card.

Regulation and Enforcement. The Social Security Administration would take the lead in drafting regulations to govern compliance with the new law in both the public and private sectors and would prosecute violations. CBO estimates the agency's new tasks would cost \$1 million in 2008, assuming the availability of appropriated funds. Costs would be less than \$500,000 in other years.

Some additional costs are likely, however. H.R. 3046 would require all federal agencies to demonstrate to SSA that they allow access only to employees who need SSNs to carry out their statutory responsibilities and have safeguards to prevent unauthorized access and breaches of confidentiality. That provision would apply to all SSNs in the agencies'

possession, including paper records. Its implications for contractors (who handle key responsibilities, especially in the areas of welfare and child support enforcement) are unclear. According to GAO, every federal agency uses the SSN in some way. CBO cannot estimate the cost of this provision to SSA or to other agencies because it would depend on SSA's approach to implementing the bill's requirements.

Studies. H.R. 3046 would authorize two new studies. It would require the Commissioner of SSA to contract with the National Research Council to study the feasibility of banning the SSN as a primary means of authenticating identity. It also would require GAO to conduct a review of the effectiveness of the regulations issued pursuant to this legislation and report on the results. CBO estimates that the combined cost of the studies would total about \$1 million in 2010, but would be less than \$500,000 in other years.

Direct Spending and Revenues

Implementing H.R. 3046 could affect direct spending and revenues, but CBO estimates that any such effects would not be significant.

Civil Actions. H.R. 3046 would permit individuals to sue the federal government in federal district court for violations relating to the privacy of SSNs. Under the bill, if a plaintiff prevailed in such lawsuit, payment for damages and attorneys fees would be made by the Treasury's Judgment Fund. Payments from that fund are considered increases in direct spending. Considering current governmentwide practices regarding privacy and identity theft, CBO estimates that enacting H.R. 3046 would lead to an increase in the number of civil actions against the government and an increase in direct spending to pay claims, but that such costs would likely be less than \$500,000 in each year.

Civil and Criminal Penalties. H.R. 3046 could increase federal revenues and direct spending as a result of the collection of additional civil and criminal penalties assessed for misuse of SSNs. Collections of civil penalties are recorded in the budget as revenues and deposited in the Treasury. Collections of criminal penalties are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO estimates that any additional revenues and direct spending would not be significant because of the relatively small number of cases likely to be involved.

Child Support Enforcement. Requiring government agencies to remove SSNs from checks could raise administrative costs to the child support enforcement (CSE) program and/or delay distribution of collections. Many states currently use SSNs as their primary identifier when distributing child support, and the federal government covers the bulk of states' costs for

administering CSE. CBO expects that the bill's requirement would have an additional cost to the federal government but that cost would be small because of the widespread and increasing use of electronic funds transfers to distribute payments rather than checks.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3046 contains a number of intergovernmental mandates as defined in UMRA. Specifically, the bill would restrict or prohibit government agencies from:

- Selling or displaying SSNs that have been disclosed to the agency because of a mandatory requirement (applies only to documents issued after the requirements become effective);
- Displaying SSNs on checks or check stubs;
- Placing SSNs on student or employee identification cards or coding them into magnetic strips or bar codes on those documents; and
- Allowing prisoners access to SSNs of other individuals.

The bill also would require state and local governments to restrict access to SSNs and their derivatives to employees whose access is essential to effective administration of programs. In addition, the governments would have to implement safeguards to preclude unauthorized access to SSNs and their derivatives and to protect individual confidentiality.

While state and local governments have taken steps to reduce the use of SSNs, many continue to use them for a variety of purposes. Based on information from GAO and from state and local officials, CBO estimates that the costs of complying with the mandates in the bill would probably exceed the intergovernmental threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.

The bill would allow exceptions for the display or sale of SSNs when such use or display is authorized by the Social Security Act, necessary for law enforcement, national security or tax law purposes, done in compliance with certain motor vehicle laws, or used for consumer reporting practices and nonmarket research for advancing the public good. The bill's restrictions on the sale or display (which includes Internet transmissions that are not encrypted or otherwise secured) of SSNs would be prospective, and would not require state and local governments to redact SSNs from existing documents that are publicly available.

However, if state and local governments do not currently have a system in place to safeguard SSNs, any such governments would have to implement a new system for handling any documents issued when the regulations become effective (up to two and a half years following enactment). If state or local governments use SSNs on checks and check-stubs as part of their recordkeeping and tracking procedures, they would have to alter those systems and remove the SSNs. They also would have to implement systems for removing SSNs from many documents that currently include SSNs and that are available to the public. Likewise, some public institutions of higher education might have to alter their document systems for identification cards or tags to remove SSNs that are coded electronically onto a magnetic strip or digitized as part of a bar code. Finally, any government agency that uses SSNs would have to implement safeguards to preclude unauthorized access to SSNs and their derivatives and to protect confidentiality.

Because of the large number of governments affected by these provisions (particularly municipal governments), even small changes to existing systems would result in total costs that exceed the threshold established in UMRA. There are over 75,000 municipal governments, so even small one-time costs—for example, as little as \$5,000—would add up to costs over \$66 million in a given year. Counties and states, on the other hand, while fewer in number (there are about 3,600 counties in the United States), are more dependent on SSNs for various recordkeeping and identification purposes and would thus be likely to face significantly higher costs because of the complexity and scope of their recordkeeping systems. (Some counties estimate that altering their systems to use identifiers other than SSNs or to eliminate display of SSNs would result in one-time costs ranging from \$40,000 to over \$1 million, depending on the county and the scope of the changes that would need to be made).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 3046 would impose private-sector mandates, as defined in UMRA, on certain private entities. CBO cannot determine the direct costs of complying with those mandates because such costs would depend on the specific regulations that would be issued under the bill. Consequently, CBO cannot determine whether the aggregate direct costs of complying with those mandates would exceed the annual threshold for private-sector mandates established by UMRA (\$131 million in 2007, adjusted annually for inflation).

The bill would impose private-sector mandates on certain private entities by generally prohibiting the purchase, sale, or display of an SSN to the general public, including on the Internet, with some exceptions. In addition, the bill would establish a uniform truncation

standard requiring that truncated SSNs be limited to the last four digits of the number. Private entities also would be prohibited from:

- Making unnecessary disclosures of another individual's SSN to government agencies;
- Displaying an SSN on checks;
- Displaying an SSN on cards or tags issued to employees, family members, or other individuals; and
- Displaying an SSN on any card or tag issued to another person to access goods, services, or benefits.

Private entities that maintain SSNs in their records for the conduct of their business would be required to limit access to those records and institute safeguards to protect the confidentiality of those records. The Commissioner of Social Security would be required to issue regulations to implement the requirements, safeguards, and standards imposed by the bill. The direct cost to private entities of complying with those mandates would depend on regulations issued under the bill.

PREVIOUS CBO ESTIMATE

On May 25, 2007, CBO transmitted a cost estimate for H.R. 948, the Social Security Number Protection Act of 2007, as ordered reported by the House Committee on Energy and Commerce on May 10, 2007. That bill has similar provisions regarding the sale, purchase, or display of SSNs by entities in the private sector, but fewer requirements on government agencies. CBO estimated that H.R. 948 would not have a significant impact on spending subject to appropriation.

H.R. 948 also contains provisions that would impose intergovernmental mandates on state and local governments. However, because the Federal Trade Commission, the federal agency directed to carry out the provisions relating to the use of SSNs, does not have jurisdiction over those governments or public universities, the cost of mandates in H.R. 948 would be below the threshold established in UMRA.

The mandates on the private sector in H.R. 948 are similar to those in H.R. 3046, except that the Federal Trade Commission would be required—under H.R. 948—to issue the regulations prohibiting an entity in the private sector from selling or purchasing a Social Security number.

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