



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 28, 2007

S. 184

Surface Transportation and Rail Security Act of 2007

*As reported by the Senate Committee on Commerce, Science, and Transportation
on February 15, 2007*

SUMMARY

S. 184 would authorize the appropriation of \$1.1 billion over the 2008-2012 period for security-related programs carried out by the Department of Homeland Security (DHS) and the Department of Transportation (DOT) involving railroads, buses, trucks, and pipelines. Assuming appropriation of the amounts specified in the legislation, CBO estimates that providing the grants would cost about \$280 million in 2008 and nearly \$1.1 billion over the 2008-2012 period. Enacting the bill would not affect direct spending. CBO estimates that the civil monetary penalties authorized by the bill would have a negligible effect on revenues.

In addition to authorizing appropriations for security-related grants, the bill would require DHS to assess the security of the transportation of certain hazardous materials by rail and motor carriers, to create a public awareness campaign for rail security issues, and to issue security training guidance for certain rail personnel. Finally, the bill would require DHS to report to the Congress on the security of rail, pipeline, and bus transportation. Assuming appropriation of the necessary amounts, CBO estimates that implementing those provisions would cost about \$22 million over the 2008-2012 period.

S. 184 contains several intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would require rail and motor carriers to comply with reporting requirements and certain security procedures. The bill also would preempt certain state laws. The aggregate cost to public entities and the private-sector for complying with those mandates is uncertain and would depend on future regulations. Because of the small number of entities involved, however, CBO estimates that the aggregate costs for public entities to comply with those mandates would not exceed the annual threshold established by UMRA for intergovernmental mandates (\$66 million in 2007, adjusted annually for inflation). In contrast, CBO cannot determine whether the aggregate costs to the private sector would exceed the annual threshold for private-sector mandates (\$131 million in 2007, adjusted annually for inflation). Other provisions of the bill would

authorize about \$1 billion in grants for which state, local, tribal and private-sector entities would be eligible. Any costs those entities would incur to comply with conditions of federal assistance would be incurred voluntarily.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 184 is shown in the following table. The costs of this legislation fall within budget functions 400 (transportation).

	By Fiscal Year, in Millions of Dollars				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Grants to Amtrak					
Authorization Level	185	148	148	118	0
Estimated Outlays	185	148	148	118	0
Grants for Rail Security					
Authorization Level	133	133	133	0	0
Estimated Outlays	83	118	133	50	15
Grants for Over-the-Road Bus Security					
Authorization Level	12	25	25	0	0
Estimated Outlays	2	9	17	17	11
Other Authorized Programs					
Authorization Level	11	11	9	0	0
Estimated Outlays	10	11	9	1	0
Reports, Assessments, and Guidance					
Estimated Authorization Level	10	4	4	4	4
Estimated Outlays	3	7	4	4	4
Total Proposed Changes					
Estimated Authorization Level	351	321	319	122	4
Estimated Outlays	283	293	311	190	30

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 184 will be enacted in fiscal year 2007 and that the authorized amounts will be appropriated each year. Estimates of spending are based on historical spending patterns of similar programs.

S. 184 would authorize the appropriation of \$1.1 billion over the 2008-2012 period for federal programs related to transportation security. That amount includes funds to support programs aimed at improving the security of rail and surface transportation through programs administered by DOT and DHS. In addition, CBO estimates that complying with the bill's reporting and other administrative requirements would add \$22 million in discretionary costs over the next five years.

Spending Subject to Appropriation

Grants to Amtrak. S. 184 would authorize the appropriation of \$599 million over the 2008-2011 period for grants to Amtrak to improve the security of the Amtrak rail system. That amount includes \$472 million to support projects to improve the safety of tunnels in New York, Maryland, and the District of Columbia and \$3 million for the preliminary design of a new tunnel in Baltimore, Maryland. It also includes \$124 million to implement physical changes to stations and trains so that they are more secure from attack, obtain additional communications equipment, and provide security training to Amtrak employees. CBO estimates that implementing these provisions would cost \$185 million in 2008 and \$599 million over the 2008-2011 period.

Grants for Rail Security. The bill would authorize the appropriation of \$399 million over the 2008-2010 period for grants to improve rail security. That amount includes \$300 million to upgrade the security of the national freight and passenger rail system by improving emergency communications, securing capital assets, and training employees. The bill also would authorize the appropriation of \$99 million over the 2008-2010 period for grants to research and develop methods to improve the security of freight and intercity rail transportation. CBO estimates implementing those provisions would cost \$83 million in 2008 and \$399 million over the 2008-2012 period.

Grants for Bus Security. S. 184 would authorize the appropriation of \$62 million over the 2008-2010 period for grants to operators of over-the-road buses and bus terminals to improve the security of this transportation system. (Over-the-road buses are characterized by an elevated passenger deck above a baggage compartment.) These amounts include funds for security training, emergency drills, and upgrading certain capital assets. Assuming

appropriation of the specified amounts, CBO estimates implementing those provisions would cost \$2 million in 2008 and \$56 million over the 2008-2012 period.

Other Authorized Programs. Other provisions of the bill would authorize the appropriation of \$31 million over the 2008-2012 period, including:

- \$9 million for DHS to develop a program to encourage the use of wireless tracking systems for rail cars that are transporting certain hazardous material;
- \$9 million for DHS to develop a program to encourage the tracking of certain hazardous materials transported by motor carrier;
- \$6 million for DHS to review motor carriers' security plans for the transportation of hazardous materials;
- \$3 million for DHS to consider developing a system to monitor security and emergency alerts about the transportation of certain hazardous materials and to disseminate that information to the public; and
- \$4 million for DHS to develop and implement a plan to review the security plans for certain pipeline systems.

Assuming appropriation of the specified amounts, CBO estimates implementing those provisions would cost \$10 million in 2008 and \$31 million over the 2008-2012 period.

Reports, Assessments, and Guidance. S. 184 would require DHS to assess the security of rail and pipeline transportation and to prepare several reports to the Congress on that issue. The bill would authorize the appropriation of \$5 million in 2008 to complete a risk assessment of freight and passenger rail transportation. DHS would prepare subsequent annual updates to that assessment.

The bill would require DHS to develop, issue, and update, as necessary, detailed guidance for a program to train certain rail workers in security procedures and to review the security plans of rail carriers.

The bill also would require DHS to complete a report on the status of rail security at the Canadian border, review the hazardous materials security plans for operators of rail transportation, and develop and implement a plan to make the public aware of rail security issues. Further, the bill would require DHS to assess and report on the existing and proposed routes for the transportation—by motor carrier—of certain hazardous material, and to study

the security of the trucking industry and establishing security fees for use of the maritime and surface transportation system.

Based on information from DHS, CBO estimates that implementing those provisions would cost \$3 million in 2008 and \$22 million over the 2008-2012 period.

Revenues

S. 184 would establish new civil penalties for violating certain regulations established by DHS and for failing to comply with the requirement to supply DHS with certain security plans. Thus, the federal government might collect additional fines if the bill is enacted. Collections of civil fines are recorded as revenues and deposited in the Treasury; however, CBO expects that any increase in revenues related to those penalties would not be significant.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 184 contains several intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act because it would require rail and motor carriers to comply with reporting requirements and certain security procedures. The bill also would preempt certain state laws. The aggregate cost to public entities and the private sector for complying with those mandates is uncertain and would depend on future regulations. Because of the small number of entities involved, however, CBO estimates that the aggregate costs for public entities to comply with those mandates would not exceed the annual threshold established by UMRA for intergovernmental mandates (\$66 million in 2007, adjusted annually for inflation). In contrast, CBO cannot determine whether the aggregate costs to the private sector would exceed the annual threshold for private-sector mandates (\$131 million in 2007, adjusted annually for inflation). Other provisions of the bill would authorize about \$1 billion in grants for which state, local, tribal, and private-sector entities would be eligible. Any costs those entities would incur to comply with conditions of federal assistance would be incurred voluntarily.

Mandates that Affect Both the Public and Private Sectors

S. 184 would require rail carriers to train certain workers in security procedures and would grant whistle-blower protections to their employees.

Rail Worker Security Training. Through regulations to be established by the Department of Homeland Security, section 109 would require rail carriers to create and submit plans for

security training and then complete the training for all front-line workers. Front-line workers are defined in the bill as security personnel, dispatchers, train operators, other onboard employees, maintenance and maintenance support personnel, bridge tenders as well as other appropriate employees of rail carriers as defined by the Secretary. CBO estimates that approximately 190,000 public and private-sector employees—about 85 percent of which are private-sector employees—would fit that definition.

According to experts from the rail industry, the amount of training required varies depending on the industry sector (passenger vs. freight). It is likely that in either sector, the regulations issued by the Department of Homeland Security would require additional training over and above current practice. Further, it is likely that many employees would need to be trained more than once over a five-year period. Therefore, it is likely that under new regulations, costs to train workers would exceed the current costs for security training. Because this mandate depends upon the future actions of DHS, for which information is not available, CBO cannot provide an estimate for the total cost of this mandate. CBO expects, however, that the incremental cost would be small for public entities, while the additional cost for the private sector could be substantial, depending on the guidelines set forth by DHS.

Whistle Blower Protection. Section 110 would prohibit rail carriers from discharging or discriminating against any employee who reports a perceived threat to security.

Under current law, employees are protected if they report any safety issues. The granting of additional whistle-blower protections would impose both an intergovernmental and a private-sector mandate on rail carriers, as defined in UMRA. Because compliance with those broader whistle-blower protections likely would involve only a small adjustment in administrative procedures, however, CBO estimates that the provision would impose only minimal additional costs on rail carriers.

Mandates that Affect Only the Private Sector

S. 184 contains several private-sector mandates, as defined in UMRA, on motor carriers, rail carriers, and pipeline operators. The bill would require that rail carriers and motor carriers develop various security plans, as well as authorize new requirements to be imposed on operators of transmission pipelines in the future.

Requirements on Motor Carriers. Section 201 would expand the number of hazardous materials for which transporters must prepare and maintain a written route plan. Under current law, transporters of certain hazardous materials must prepare a written route plan and supply a copy to both the motor vehicle driver and the shipper. The bill would expand that requirement to include transporters of the remaining hazardous materials for which DOT

requires motor carriers to hold a safety permit to transport. According to industry sources, the cost to comply with this requirement would be significant, resulting from the time-intensive nature of preparing a route plan for each shipment of the covered hazardous materials. Industry sources estimate the cost to develop each route plan could average about \$50. CBO has been unable to obtain data on the annual number of shipments of the hazardous materials referred to in section 201. Consequently, CBO has no basis for estimating the cost of complying with this mandate.

Amtrak. S. 184 would require Amtrak to submit a plan to the Chairman of the National Transportation Safety Board that would be invoked in case of a railway accident involving loss of life. According to industry sources, Amtrak has a contingency plan in place for responding to the needs of families of rail accident passengers that is similar to the provisions contained in the bill. The bill would authorize \$500,000 to be appropriated in fiscal year 2007 to complete the required plan. The bill also would require that Amtrak participate in a working group that would be required to submit a report on securing the northern border. CBO estimates that the cost of providing that report would be nominal.

Requirements on Hazmat Carriers. Section 111 would require rail carriers who transport high hazard materials, as defined in the bill, to develop a security threat mitigation plan for high hazard material. Currently, the Department of Transportation requires rail carriers who transport those hazardous materials to submit a security plan. However, the bill would expand current requirements on rail carriers to include submitting a list of routes used to transport high hazard materials, addressing temporary shipment suspension options, and assessing risks to high-consequence targets. According to railroad industry sources, rail carriers are complying with current DOT regulations. Because rail carriers are already complying with many of the provisions in the legislation, CBO estimates that the additional cost to comply with the mandate would be minimal.

Requirements on Operators of Transmission Pipelines. Section 209 would authorize the Secretary of Homeland Security to establish and enforce new security regulations on operators of transmission pipelines. According to industry sources in both the natural gas and oil pipeline industries, all pipeline operators are abiding by current guidelines as set forth in the DOT September 5, 2002, Pipeline Security Information Circular. If the Secretary were to impose more stringent security regulations on pipeline operators, those entities could face increased costs; however, without information about such requirements CBO cannot determine the cost of compliance.

Other Impacts: Security Grants

The bill would authorize about \$1 billion over four years for grants to improve the security of both passenger and freight rail as well as over-the-road buses and over-the-road bus terminals, establish a rail security and research program, and upgrade Amtrak tunnels in New York, Baltimore, and Washington, D.C. To the extent that state, local, or tribal governments, or private-sector entities apply for and receive such grants, those provisions would provide benefits to those entities. Any costs resulting from complying with the conditions of the grants would be incurred voluntarily.

PREVIOUS CBO ESTIMATE

On February 22, 2007, CBO transmitted a cost estimate for the Public Transportation Terrorism Prevention Act of 2007 as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on February 8, 2007. That bill would authorize DHS to provide \$3.5 billion in grants over the 2008-2010 period to public transportation agencies to improve the security of transit systems and grants and contracts to public and private entities to study methods of deterring terrorist attacks against transit systems and mitigating damages from such attacks. That bill would require DHS to cover the costs of an Information Sharing and Analysis Center and would not authorize grants to Amtrak. The differences between the bills are reflected in CBO's cost estimates.

ESTIMATE PREPARED BY:

Federal Costs: Matthew Pickford and Sarah Puro
Impact on State, Local, and Tribal Governments: Sarah Puro
Impact on the Private Sector: Fatimot Ladipo

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis