



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 17, 2006

### **H.R. 5814** **Department of Homeland Security Authorization Act** **for Fiscal Year 2007**

*As ordered reported by the House Committee on Homeland Security on July 19, 2006*

#### **SUMMARY**

Public Law 109-295, the Department of Homeland Security Appropriations Act for 2007, provided \$33.7 billion to the Department of Homeland Security (DHS) for 2007 operations. CBO estimates that H.R. 5814 would authorize the appropriation of \$34.8 billion for fiscal year 2007 to fund DHS operations—about \$1 billion more than the amount appropriated thus far in 2007.

In addition, CBO estimates that the bill would authorize the appropriation of nearly \$10 billion for the Transportation Security Administration (TSA) and a few other programs within DHS over the 2008-2012 period. CBO estimates that implementing H.R. 5814 would result in new discretionary spending of \$10.4 billion over the 2007-2012 period in addition to the amounts already appropriated to DHS for 2007.

CBO also estimates that enacting a provision to authorize TSA to charge fees to non-U.S. citizens seeking recurrent training at flight schools would slightly increase both offsetting receipts and subsequent direct spending of those receipts. We estimate that any resulting net change in direct spending would not be significant in any year. Enacting H.R. 5814 would not affect revenues.

H.R. 5814 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would require certain public transportation agencies to conduct vulnerability assessments and to create and implement security plans. While CBO cannot estimate the aggregate costs of these mandates, based on information from industry and government sources, we estimate that the costs to state, local, and tribal governments would exceed the threshold (\$64 million in 2006, adjusted annually for inflation) in at least one of the first five years after enactment. The bill would authorize appropriations of funds to cover those costs.

Other provisions of the bill would change how certain DHS grants for first responders are allocated to states and localities. Some states would receive less funding than in previous years, while others would receive more. On balance, state, local, and tribal governments would benefit from the provisions in this bill.

H.R. 5814 would impose several private-sector mandates, as defined in UMRA, on rail carriers, transportation systems, and certain individuals. CBO estimates that the direct cost of complying with most of those mandates would be small and fall well below the annual threshold for private-sector mandates established by UMRA (\$128 million in 2006, adjusted annually for inflation). However, because the cost of one of the mandates would depend on regulations that have not yet been issued, CBO cannot determine whether the aggregate cost of all the private-sector mandates in the bill would exceed the annual threshold.

## **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of H.R. 5814 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense), 300 (natural resources and environment), 400 (transportation), 450 (community and regional development), 550 (health), 600 (income security), 750 (administration of justice), and 800 (general government).

## **BASIS OF ESTIMATE**

CBO estimates that implementing H.R. 5814 would cost an additional \$10.4 billion over the 2007-2012 period relative to the amount already appropriated to DHS for 2007, assuming appropriation of the amounts authorized and estimated to be necessary. For this estimate, we assume that the necessary amounts will be appropriated each year. Estimated outlays are based on historical spending patterns for existing or similar programs. In addition, CBO estimates that the bill would have an insignificant effect on direct spending.

	By Fiscal Year, in Millions of Dollars					
	2007	2008	2009	2010	2011	2012
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
<b>DHS Spending Under Current Law</b>						
Estimated Budget Authority <sup>a</sup>	33,734	0	0	0	0	0
Estimated Outlays	43,578	7,598	3,597	1,368	358	172
<b>Proposed Changes:</b>						
<b>Major DHS Programs</b>						
Authorization Level <sup>b</sup>	964	0	0	0	0	0
Estimated Outlays	492	212	145	67	29	15
<b>ODND</b>						
Estimated Authorization Level	0	547	558	569	580	592
Estimated Outlays	0	273	443	561	572	584
<b>Net Funding for Aviation Security</b>						
Estimated Authorization Level	0	2,155	2,205	2,299	0	0
Estimated Outlays	0	1,422	2,181	2,274	781	0
<b>Other Transportation Security Activities</b>						
Estimated Authorization Level	53	51	51	51	51	51
Estimated Outlays	46	51	51	51	51	51
<b>Other DHS Programs</b>						
Estimated Authorization Level	13	23	24	3	3	0
Estimated Outlays	9	22	23	5	3	2
<b>Total Changes</b>						
Estimated Authorization Level	1,030	2,776	2,837	2,922	634	643
Estimated Outlays	546	1,980	2,843	2,959	1,436	652
<b>Spending Under H.R. 5814</b>						
Estimated Authorization Level	34,764	2,776	2,837	2,922	634	643
Estimated Outlays	44,124	9,578	6,440	4,327	1,794	824

NOTE: ODND = Office of Defense Nuclear Detection.

- a. The estimated 2007 level is the amount of appropriations less offsetting collections for that year for operations of DHS.
- b. The amount shown is the difference between H.R. 5814's gross authorization level for 2007 and the amount already appropriated for that year.

## **Spending Subject to Appropriation**

H.R. 5814 would authorize appropriations for major DHS programs in 2007. It also would authorize additional appropriations in 2007 and later years for programs related to domestic nuclear detection, transportation security, and other activities.

**Major DHS Programs.** Section 101 of H.R. 5814 would authorize the appropriation of \$34.8 billion for fiscal year 2007 to fund the major operations of DHS other than the Transportation Security Agency's aviation security programs, which are funded in title IX of the bill. The bill would not authorize any appropriation after 2007 for these activities. Public Law 109-295, the Department of Homeland Security Appropriation Act for 2007, provided \$33.7 billion for DHS for 2007; thus, H.R. 5814 would authorize the appropriation of about \$1 billion more in 2007 for major DHS operations.

**Office of Defense Nuclear Detection (ODND).** Of the amount authorized in section 101 of H.R. 5814, the bill would provide \$536 million for ODND and would authorize the appropriation of such sums as may be necessary for each subsequent year for that office. CBO estimated the authorization levels for ODND for fiscal years 2008 through 2011 by adjusting the 2007 level for anticipated annual inflation. Public Law 109-295 provided \$481 million for ODND for fiscal year 2007.

**Aviation Security.** H.R. 5814 would authorize the appropriation of necessary sums for TSA's aviation security programs for fiscal years 2007-2010, particularly for salaries for screeners of passengers and baggage, and for related expenses. For fiscal year 2007, the Congress has already provided net funding of \$2.3 billion for TSA's aviation security programs. In addition, TSA also has authority to spend \$2.4 billion in fees that we expect the agency will collect this year. For this estimate, we assume that those amounts are sufficient to carry out aviation security activities authorized under H.R. 5814 for 2007.

CBO estimates that, under H.R. 5814, continuing aviation security programs over the 2008-2010 period would require gross appropriations totaling \$15.1 billion. That estimate assumes that funding for those activities would remain at 2007 levels, adjusted to keep pace with anticipated inflation in future years.

For this estimate, CBO assumes that a portion of the \$15.1 billion authorized for aviation security over the next three years would come from certain fees that TSA is authorized to collect to offset the agency's costs. Most of those collections would result from fees charged on tickets sold by commercial airlines. Additional collections would result from certain fees paid directly to TSA by air carriers. (Under existing law, TSA's authority to collect and spend such fees is subject to appropriation.) Based on information from TSA about anticipated numbers of airline passengers and other key factors, CBO estimates that such fees would offset about \$8.4 billion of amounts provided for aviation security over the 2008-2010

period, thus reducing the net level of funding from the U.S. Treasury that would be necessary to implement the bill. Accordingly, we estimate that fully funding aviation security programs under H.R. 5814 would require net appropriations totaling \$6.7 billion over the 2008-2010 period (averaging a little more than \$2.2 billion a year as shown in the table above).

**Other Transportation Security Activities.** H.R. 5814 would authorize the appropriation of \$50 million a year over the 2007-2010 period and necessary sums thereafter for TSA to research and develop technologies to improve transportation security. The bill also would authorize TSA to complete various other activities, studies, and reports to the Congress. Based on historical spending patterns for similar programs and assuming appropriation of the specified and estimated amounts, CBO estimates that those activities would cost \$46 million in 2007 and \$301 million over the 2007-2012 period.

**Other DHS Programs.** H.R. 5814 would authorize the appropriation of \$3 million for each of fiscal years 2007 through 2011 for DHS to make grants to U.S. canine breeders to improve the department's canine detection program. The bill also would authorize the appropriation of \$10 million for 2007 for the Human Smuggling and Trafficking Center, an interagency program involving DHS, the Department of State, the Department of Justice, and the intelligence community. Finally, H.R. 5814 would authorize the appropriation of sums necessary for fiscal years 2008 and 2009 for DHS to prepare assessments of terrorist threats using chemical, biological, nuclear, and other weapons or agents. Based on information from DHS about the funding provided for threat assessments for fiscal year 2006, CBO estimates that implementing this provision would cost about \$20 million annually over the 2008-2009 period.

## **Direct Spending**

CBO estimates that enacting H.R. 5814 would increase offsetting receipts from fees charged by TSA to perform background checks on non-U.S. citizens seeking training at U.S. flight schools. Based on information from TSA about the increased number of background checks the agency would perform under the bill, we estimate that additional receipts would total about \$1.5 million annually. Because TSA has permanent authority to spend such receipts, we estimate that any such increases would be offset by corresponding increases in direct spending of about the same amount. Therefore, any net change in direct spending under the bill would not be significant in any year.

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

H.R. 5814 contains intergovernmental mandates as defined in UMRA because it would require certain public transportation agencies to conduct vulnerability assessments and to create and implement security plans. While CBO cannot estimate the aggregate costs of those mandates, based on information from industry and government sources, we estimate that the costs to state, local, and tribal governments would exceed the threshold (\$64 million in 2006, adjusted annually for inflation) in at least one of the first five years after enactment. The bill would authorize appropriations of funds to cover those costs.

### **Mandates on Public Transit Entities**

H.R. 5814 would require certain public transportation agencies to conduct vulnerability assessments and to create and implement security plans within two years after enactment of the legislation. The requirements would affect more than 300 public transit entities and ferry systems. Under current law, about one-third of affected agencies have already conducted such assessments and have implemented security plans. They likely would not be required to repeat the process.

More than 200 transit and ferry systems, however, would be required to conduct vulnerability assessments and to create and implement security plans as a result of this bill's enactment. Although the costs to each individual system would likely vary, based on information from industry and government sources, CBO estimates that the aggregate costs to transit and ferry systems likely would exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation) in at least one of the first five years after enactment. The bill would authorize the appropriation of \$400 million in fiscal year 2007 to cover these costs.

### **Other Impacts**

Other provisions of the bill would make several changes to existing grant programs for state, local, and tribal governments. First, it would change the criteria for at least three current programs—the State Homeland Security Grant, the Law Enforcement Terrorism Prevention Program, and the Urban Area Security Initiative—and change how those funds are allocated. Some states would receive less funding than in previous years, and others would receive more. This bill would allow some local governments to apply for funds directly (rather than receiving them through their states) and would expand eligible activities to include covering the costs of some overtime activities during heightened threat alerts and training activities.

The bill also would authorize DHS to transfer funds directly to the local recipients if states fail to provide funds to local first responders in a timely manner. States would be required to provide at least 80 percent of the funds or resources to local recipients within 45 days of receipt.

On balance, state, local, and tribal governments would benefit from provisions that require DHS to create, with input from local first responders and trade representatives, essential capabilities and voluntary standards for equipment and training.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

H.R. 5814 would impose several private-sector mandates, as defined in UMRA, on rail carriers, transportation systems, and certain individuals. CBO estimates that the direct cost of complying with most of those mandates would be small and fall well below the annual threshold for private-sector mandates established by UMRA (\$128 million in 2006, adjusted annually for inflation). However, because the cost of one of the mandates would depend on regulations that have not yet been issued, CBO cannot determine whether the aggregate cost of all the private-sector mandates in the bill would exceed the annual threshold.

### **Vulnerability Assessments and Security Plans**

Section 901 would require the Secretary of the Department of Homeland Security to establish by regulation standards, protocols, and procedures for vulnerability assessments and security plans for rail or public transportation systems. The bill would require a designated rail or public transportation system to conduct a vulnerability assessment and to prepare and implement a security plan that addresses the vulnerabilities identified in the assessment. Under the bill, a designated rail or public transportation system would include commuter, freight, and passenger rail systems, ferry systems, and intracity or intercity bus systems. Many of those transportation systems are private-sector entities. According to industry and government sources, a large number of those entities are currently engaged in activities similar to the assessment and planning that would be required under the bill. The incremental cost of complying with those requirements would depend on regulations that have not yet been issued, and therefore, CBO has no basis to estimate the cost to the private sector.

## **Security Screening Inspection Claims**

Section 914 would impose a new private-sector mandate on certain individuals filing claims for civil damages as a result of a security screening inspection. The bill would provide liability protection for transportation security officers or employees of the United States if the officer or employee performed such inspection in good faith. Because the bill would eliminate existing rights to seek compensation for damages caused by security inspectors, it would impose a private-sector mandate. The direct cost of the mandate would be the forgone net value of awards and settlements in such claims. According to DHS, there are no claims currently filed for such civil damages, and the amount of past settlements have been small relative to UMRA's annual threshold. Therefore, CBO expects that the number of future claims and the value of settlements and awards that would occur in the absence of this legislation would be small, if any.

## **Recurrent Aircraft Training**

Section 916 would impose a new mandate on individuals applying for recurrent training to operate aircraft having maximum take-off weight of more than 12,500 pounds by requiring them to pay a fee for threat assessment as determined by DHS. The fee would be used to properly identify the individual and to determine if the individual is a present risk to aviation or national security. According to DHS, about 20,000 individuals would be required to pay this new fee, and the fee would most likely be \$75 per individual. Therefore, CBO estimates that the direct cost of complying with the mandate would be about \$1.5 million per year.

## **Prohibited Items on Passenger Aircraft**

Section 927 would impose a new mandate on airline crews and passengers by prohibiting scissors of any length (except ostomy scissors shorter than four inches) and certain tools such as screwdrivers, wrenches, and pliers from being carried aboard a passenger aircraft. Under current regulations, those items are allowed to be carried aboard passenger aircraft. According to government sources, the cost of complying with the mandate would be minimal, if any.

## **Department of Homeland Security Name, Initials, Insignia, and Seal**

Section 1001 would impose a mandate prohibiting individuals and entities from using specific words, initials, titles, insignia, or the seal of DHS in connection with certain activities without written permission. The bill would expand restrictions beyond those in

current law. The cost of the mandate would be the cost of acquiring written permission from the department or the forgone net value attributable to such uses in the event that permission is not granted. Based on information from DHS, CBO expects that the direct cost to comply with the mandate would be minimal.

## **PREVIOUS CBO ESTIMATE**

On March 29, 2006, CBO transmitted a cost estimate for S. 1052, the Transportation Security Improvement Act of 2005, as reported by the Senate Committee on Commerce, Science, and Transportation on February 27, 2006. S. 1052 would authorize the appropriation of specific amounts over the 2007-2009 period for security-related programs carried out by TSA within DHS, particularly for aviation security. Because H.R. 5814 would authorize additional appropriations in 2010, our estimate of total security-related spending under that bill is higher than under S. 1052.

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