



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 26, 2018

S. 2848

Fighting Opioid Abuse in Transportation Act

*As ordered reported by the Senate Committee on Commerce, Science, and Transportation
on May 22, 2018*

The Department of Transportation (DOT) issues regulations concerning drug and alcohol testing of workers in the transportation industry. The Department of Health and Human Services (HHS) issues guidelines concerning drug testing in federal workplaces.

S. 2848 would require DOT and HHS to issue and revise regulations regarding who is subject to drug and alcohol testing and to report to the Congress regarding the implementation of previous regulations. The bill also would require DOT to establish a public database on drug and alcohol testing of employees in the transportation industry and to require the Governmental Accountability Office to complete a report.

Under current law, DOT collects information from employers about the drug and alcohol testing of employees. S. 2848 also would require DOT to revise current rules about which categories of railroad employees are subject to drug and alcohol testing. CBO expects that to expand that information into a publicly available database, the agency would have to hire up to two employees over a three-year period (at an average annual cost of \$125,000 per employee) to develop the database and to complete the required rulemaking and reports.

HHS establishes the scientific and technical guidelines for federal drug-testing programs in the workplace. Current guidelines address testing for certain opioid drugs, but do not include testing for the synthetic opioid fentanyl. The bill would require HHS to update its drug testing guidelines to include fentanyl or to issue a report to the Congress that explains its decision not to do so. Based on feedback from HHS, CBO estimates that carrying out those activities would require the equivalent of about two employees for two years (at an average cost of about \$125,000 per employee) and additional work from an outside contractor if HHS updated the current guidelines.

As a result, CBO estimates that implementing the bill would cost about \$1 million over the 2019-2023 period; such spending would be subject to the availability of appropriated amounts.

Enacting S. 2848 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 2848 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 2848 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by requiring railroads regulated by DOT to expand drug testing to include mechanical employees and yardmasters. Because of the relatively small number of these employees and the fact that many railroads already test them, CBO expects that the costs of the mandate would be small.

In addition, the bill would impose a mandate on public and private employers across various transportation sectors regulated by DOT if HHS determines that drug testing guidelines should be updated to include fentanyl. In that scenario, the costs of the mandate would be the additional costs employers would incur to test their employees for use of fentanyl. According to DOT, approximately 5 million employees—including about 4 million employees who have been issued commercial driver's licenses—would be subject to testing. Under the current testing system, only a fraction are randomly tested in any given year. The costs of the mandate would vary depending on how many variants of fentanyl HHS chooses to include in its guidelines, and also would vary depending on the size of each employer. Using information from DOT and transportation industry sources, CBO estimates that the costs of the mandate could be significant, but would not exceed the annual thresholds for intergovernmental and private-sector mandates established in UMRA (\$80 million and \$160 million in 2018, respectively, adjusted annually for inflation).

The CBO staff contact for this estimate are Sarah Puro (for DOT programs), Andrea Noda (for HHS programs) and Jon Sperl (for mandates). The estimate was reviewed by Theresa Gullo, Assistant Director for Budget Analysis.