CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 17, 2007

S. 294
Passenger Rail Investment and Improvement Act of 2007

As ordered reported by the Senate Committee on Commerce, Science, and Transportation on April 25, 2007

SUMMARY

CBO estimates that implementing S. 294 would cost $10.1 billion over the 2008-2017 period. S. 294 authorizes the appropriation of about $8.9 billion over the 2008-2012 period for grants to Amtrak to cover operating expenses, capital projects, debt repayment, and security improvements. The legislation also would authorize the appropriation of about $1.8 billion over the 2008-2012 period to the Department of Transportation (DOT) for new grant programs for certain projects completed by state railroad entities, to enable Amtrak and participating states to share railroad equipment, for grants to improve rail security, and for assessments and research of rail operations. The bill would require Customs and Border Protection (CBP) to expand its operations at its leased rail facility in Vancouver, Canada. In addition to those amounts specifically authorized to be appropriated, S. 294 would impose additional costs on the Department of Homeland Security (DHS) and certain agencies within DOT by requiring them to oversee Amtrak operations, to assess rail operations and rail security, and to submit reports to the Congress.

S. 294 would affect direct spending by authorizing the Surface Transportation Board (STB) to assess penalties on freight railroads for damages they cause by delaying Amtrak trains and to provide those penalties to Amtrak. CBO expects that the net impact on the budget would be insignificant because the STB would spend whatever it collects for damages. The bill also would authorize the Department of the Treasury to repay Amtrak debt—without further appropriation—if the department chooses to negotiate with Amtrak's creditors to restructure the debt. CBO does not expect that the Treasury would seek to restructure and repay Amtrak's debt. If, however, the Treasury did repay Amtrak's debt, that provision would increase direct spending by more than $2 billion over the next several years.

CBO estimates that the other civil penalties authorized in the bill would have a negligible effect on revenues.

S. 294 contains intergovernmental 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 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 those costs would not exceed the annual threshold established by UMRA for intergovernmental mandates ($66 million in 2007, adjusted annually for inflation). Other provisions of the bill would benefit states by authorizing about $2.4 billion in new grants to improve rail service and security. Any costs those entities would incur to comply with conditions of federal assistance would be incurred voluntarily.

S. 294 contains several private-sector mandates as defined in UMRA because it would require Amtrak and other rail carriers to comply with reporting requirements and certain security procedures. The bill also would impose additional requirements on Amtrak related to the performance of routes and meeting certain passenger needs. The cost to the private sector for complying with those mandates is uncertain and would depend on future regulations. CBO cannot determine whether the aggregate cost of mandates in the bill would exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation). Other provisions of the bill would authorize grants for Amtrak. Any costs that Amtrak 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. 294 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 294 will be enacted near the end of fiscal year 2007 and that the authorized and necessary amounts will be appropriated each year beginning in fiscal year 2008. S. 294 also would authorize the appropriation of $1.7 billion in 2007 for Amtrak and other activities related to rail transportation; however, those amounts are not included in this cost estimate. (For this estimate, CBO assumes that no further appropriations will be provided in 2007 for Amtrak.) Estimates of spending are based on historical spending patterns of existing and similar programs.

S. 294 would authorize the appropriation of $10.8 billion over the 2008–2012 period. That amount includes funds for grants to Amtrak for capital, operating, security, and debt expenses, grants to rail operators for security, grants to states for rail operations, and funds to support customs operations at the Vancouver rail station in Canada. In addition, CBO estimates that complying with the bill's requirements for DHS and certain agencies within DOT would cost $38 million over the 2008-2012 period, subject to the availability of appropriated funds.

	By Fiscal Year, in Millions of Dollars				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Grants to Amtrak					
Authorization Level	1,867	1,870	1,834	1,760	1,566
Estimated Outlays	1,867	1,870	1,834	1,760	1,566
Grants for Rail Security					
Authorization Level	133	133	133	0	0
Estimated Outlays	83	118	133	50	15
Grants to States for Rail Projects					
Authorization Level	100	246	274	369	406
Estimated Outlays	22	72	139	205	277
Other Authorized Programs					
Authorization Level	20	9	9	6	6
Estimated Outlays	11	11	10	8	7
Oversight, Reporting, and Assessments					
Estimated Authorization Level	15	8	6	5	6
Estimated Outlays	7	14	6	5	6
Total Changes					
Estimated Authorization Level	2,135	2,266	2,256	2,140	1,984
Estimated Outlays	1,990	2,085	2,122	2,028	1,871

Spending Subject to Appropriation

Amtrak. S. 294 would authorize the appropriation of about $8.9 billion for grants to Amtrak over the 2008–2012 period. This total includes $2.7 billion for operating expenses, $4.1 billion for capital projects, and $1.5 billion for the repayment of the principal and interest on its debt. The bill also includes $599 million to improve the safety of tunnels in Maryland, New York, and the District of Columbia, and to upgrade security throughout the Amtrak system. Currently, DOT makes appropriations immediately available to Amtrak for such expenses. Assuming appropriation of the specified amounts, CBO estimates that those grants to Amtrak would cost $8.9 billion over the 2008–2012 period.

Grants for Rail Security. The bill would authorize the appropriation of $399 million over the 2008-2010 period for grants to rail carriers for improving 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 $399 million over the 2008-2012 period.

Grants to States for Rail Projects. S. 294 would authorize DOT to make grants to states for capital projects that would improve intercity rail service. For those grants, the bill would authorize the appropriation of $1.4 billion over the 2008–2012 period. Assuming appropriation of the specified amounts, CBO estimates those grants would cost $715 million over the 2008–2012 period and about $700 million after 2012.

Other Authorized Programs. Other provisions of the bill would authorize the appropriation of $50 million over the 2008–2012 period, including:

- $30 million for DOT to improve models for understanding railroad transportation and to study how railroad transportation could be improved;

- $5 million for the Federal Railroad Administration, Amtrak, and interested states to form a committee to develop standards for certain rail equipment. The bill would allow Amtrak and participating states to enter into agreements or establish a corporation for acquiring such equipment;

- $9 million for DHS to develop a program to encourage the use of wireless tracking systems for rail cars that are transporting certain hazardous materials; and

- $6 million for CBP to implement a program to prescreen individuals traveling by rail between Vancouver, Canada, and Seattle, Washington.

Assuming appropriation of those specified amounts, CBO estimates that implementing those provisions would cost $11 million in 2008 and $50 million over the 2008–2012 period.

Oversight, Reporting, and Assessments. S. 294 would require DHS and certain agencies within DOT to oversee Amtrak operations, assess the nation's rail infrastructure, the safety and security of rail operations, and the performance of Amtrak, and to complete several reports to the Congress on Amtrak's operations and rail security. The bill also would require those departments to review plans for security and infrastructure improvements submitted by states and rail carriers to increase the public awareness of rail security issues. The bill would authorize the appropriation of $5 million to DHS in 2008 to complete a risk assessment of freight and passenger rail transportation and require the department to prepare subsequent annual updates to that assessment.

Based on information from DOT and DHS, CBO estimates that implementing those provisions would cost $7 million 2008 and $38 million over the 2008–2012 period.

Direct Spending and Revenues

The bill would authorize the Treasury to repay Amtrak debt. S. 294 would authorize the Surface Transportation Board to assess penalties on freight railroads that cause damages to Amtrak operations and to provide those amounts to Amtrak. However, CBO expects that the impact of those provisions on direct spending would be insignificant.

Repayment of Amtrak Debt. S. 294 would authorize the Department of the Treasury to negotiate with Amtrak's creditors to restructure Amtrak's long-term debt with the goal of reducing costs to Amtrak and the government. Treasury's authority to initiate such negotiations would expire on October 1, 2008. The bill also would direct the Treasury—without further appropriation—to repay whatever debt the department is able to restructure if the government and Amtrak would realize savings.

Based on information from Amtrak and the Departments of Transportation and Treasury, CBO does not expect that the Secretary of the Treasury would opt to negotiate with Amtrak's creditors, and as a result, would not repay any of Amtrak's debt under this bill. Thus, CBO does not estimate that this provision would affect direct spending. As of March 31, 2007, Amtrak held about $3.4 billion in long-term debt. Of this total, almost $900 million is held in an escrow account for repayment, leaving about $2.5 billion available for restructuring under S. 294. If the Treasury did negotiate with Amtrak's creditors and restructure and repay this debt, CBO estimates that the repayment would increase direct spending by more than $2 billion over the next several years.

Freight Railroad Damages. S. 294 would direct the STB to investigate Amtrak's failure to meet certain performance measures and determine when the performance failure is due to a freight rail carrier's refusal to provide Amtrak preference over its tracks. The bill would authorize the STB to charge damages to freight rail carriers for refusing to give Amtrak such preference, and the bill would direct STB to provide those penalties to Amtrak. Collecting the penalties and providing them to Amtrak would affect direct spending and revenues, but CBO estimates that the net impact on the federal deficit would be insignificant. CBO estimates that such penalties would total less than $500,000.

S. 294 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 each year would not be significant.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 294 contains several intergovernmental 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 cost to public entities 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 those costs would not exceed the annual threshold established by UMRA for intergovernmental mandates ($66 million in 2007, adjusted annually for inflation).

Rail Worker Security Training

Through regulations to be established by the Department of Homeland Security, section 410 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 28,500 public-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 DHS would require additional training. Further, it is likely that many employees would need to be trained more than once over a five-year period. Therefore, costs to train workers would probably exceed the current costs for security training. Because costs would depend upon the future actions of DHS, for which information is not available, CBO cannot precisely estimate the total cost of this mandate. We expect, however, that the incremental cost likely would be small for public entities.

Whistleblower Protection

Section 411 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, but this bill would grant additional whistleblower protections that would impose an intergovernmental mandate on rail carriers, as defined in UMRA. Because compliance with those broader whistleblower protections likely would involve only a small adjustment in current administrative procedures, CBO estimates that the provision would impose only minimal additional costs on rail carriers.

Other Impacts

Title I would authorize about $1.4 billion over the 2007-2012 period for grants to states to improve intercity rail service. Title II would require certain states with Amtrak routes to agree on a formula for the distribution of capital and operating costs. The federal government—via Amtrak—currently subsidizes those routes, and the bill effectively would increase the price of federal service. The bill would also authorize about $1 billion over four years for grants to improve the security of both passenger and freight rail, establish a rail security and research program, and upgrade Amtrak tunnels in New York, New Jersey, Baltimore, and Washington, D.C. To the extent that state, local, or tribal governments 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.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 294 contains several private-sector mandates as defined in UMRA because it would require Amtrak and other rail carriers to comply with reporting requirements and certain security procedures. The bill also would impose additional requirements on Amtrak related to the performance of routes and meeting certain passenger needs. The cost to the private sector for complying with those mandates is uncertain and would depend on future regulations. CBO cannot determine whether the aggregate cost of mandates in the bill would exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation). Other provisions of the bill would authorize grants for Amtrak. Any costs that Amtrak would incur to comply with conditions of federal assistance would be incurred voluntarily.

Requirements Specific to Amtrak

S. 294 would impose various private-sector mandates, as defined in UMRA, on Amtrak. The bill includes reforms related to financial reporting that would require Amtrak to submit an annual budget and a five-year fiscal plan for Amtrak to the Secretary of Transportation and DOT's Inspector General. Amtrak would also be required to implement a modern financial accounting and reporting system, subject to review by DOT. The bill also would require Amtrak to evaluate the performance of each long-distance passenger rail route annually and complete the improvements necessary to make all existing stations readily accessible to and usable by persons with disabilities. Further, the bill would require that Amtrak:

- Develop new or improve existing metrics and minimum standards for measuring performance and service quality of intercity train operations;

- Develop and implement a plan to improve onboard service within one year after those metrics and minimum standards are established;

- Submit a plan to the Chairman of the National Transportation Safety Board and the Secretary of Transportation for addressing the needs of families of passengers involved in fatal rail accidents involving Amtrak intercity trains; and

- Implement new agreements for usage with various public-sector entities.

According to industry sources, most of the requirements included in the bill already are being met by Amtrak. For those requirements that may require additional effort or changes to current efforts, the cost to make such changes would be small.

Requirements on Rail Carriers (including Amtrak)

S. 294 would require rail carriers to train certain workers in security procedures, would grant whistleblower protections to their employees, and would place new requirements on carriers that transport high hazard materials.

Rail Worker Security Training. Section 410 would require rail carriers to create and submit plans for security training and then complete the training for all front-line workers. The security training programs must be developed in accordance with the guidance to be issued by DHS under the bill. CBO estimates that approximately 165,000 private-sector employees would fit the definition of front-line workers under the bill.

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 DHS 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, costs to train workers would probably exceed the current costs for security training. Because this mandate depends upon the future actions of DHS, for which information currently is not available, CBO cannot provide an estimate for the cost of this mandate. CBO expects, however, that the additional cost for the private sector could be substantial, depending on the guidelines set forth by DHS.

Whistleblower Protection. Section 411 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 whistleblower protections would impose a private-sector mandate on rail carriers, as defined in UMRA. Because compliance with these broader whistleblower 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.

Requirements on Hazmat Carriers. Section 412 would require rail carriers who transport high hazard materials, as defined in the bill, to develop a security risk mitigation plan for such materials. Currently, the Department of Transportation requires rail carriers who transport those hazardous materials to submit a security plan. However, the bill would expand the 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 already complying with many of the requirements in the bill. Therefore, CBO estimates that the additional cost to comply with the mandate would be minimal.

PREVIOUS CBO ESTIMATE

On February 28, 2007, CBO transmitted a cost estimate for S. 184, the Surface Transportation and Rail Security Act of 2007, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on February 15, 2007. That bill would authorize $599 million in grants to Amtrak to secure tunnels and make security upgrades and $399 million in grants to improve rail security nationwide. It also would require DHS and DOT to complete several reports, some of which would also be required by S. 294. Both bills would require rail carriers to create and submit plans for security training and then to complete such training for all front-line workers and would protect whistleblowers. The differences between the bills are reflected in CBO's cost estimates.

In addition to several mandates on motor carriers and pipeline operators, S. 184 contained many of the same mandates on rail carriers as are contained in S. 294. Because of uncertainty about regulations to be implemented under the bill, CBO could not determine whether the aggregate costs of those mandates on the private sector would exceed UMRA's annual threshold for private-sector mandates.

ESTIMATE PREPARED BY:

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

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis