



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 9, 2008

H.R. 1650 **Railroad Antitrust Enforcement Act of 2008**

As ordered reported by the House Committee on the Judiciary on April 30, 2008

H.R. 1650 would expand the authority of the Department of Justice (DOJ) and the Federal Trade Commission (FTC) to prosecute, under the Sherman and Clayton Acts, certain antitrust violations relating to railroads. Currently, the Surface Transportation Board (STB) has the primary authority to regulate mergers, acquisitions, rate-setting, and pooling arrangements under the Interstate Commerce Act. The roles of DOJ and FTC are generally limited to investigating potential violations and providing advice to the STB.

Based on information provided by DOJ, CBO estimates that implementing H.R. 1650 would have no significant effect on the federal budget. We expect that DOJ would continue to perform investigations of railroads, but that very few of those investigations would result in enforcement actions. (CBO also expects that DOJ, rather than FTC, would handle antitrust enforcement matters specified under the bill; thus, we do not anticipate that FTC would incur significant additional enforcement costs.) Anyone convicted of antitrust violations specified in the bill would be subject to criminal fines, which are recorded as revenues, deposited in the Crime Victims Fund, and later spent. Thus, enacting H.R. 1650 could increase revenues and direct spending, but CBO estimates that any such effects would be insignificant given the small number of cases involved.

H.R. 1650 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

H.R. 1650 would impose a private-sector mandate, as defined in UMRA, on railroads by eliminating exemptions from certain antitrust laws. It is unclear how making railroads subject to provisions of those antitrust statutes would affect current business practices, if at all. The extent to which railroad carriers would have to forgo business opportunities and what the value of those lost opportunities would be are also uncertain. Because of these uncertainties, CBO has no basis for estimating the cost to railroads and whether that cost would exceed the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).

On November 21, 2007, CBO transmitted a cost estimate for S. 772, the Railroad Antitrust Enforcement Act of 2007, as ordered reported by the Senate Committee on the Judiciary on September 20, 2007. S. 772 and H.R. 1650 are similar, and CBO's estimates of costs are the same.

The CBO staff contacts for this estimate are Leigh Angres (for federal costs) and Jacob Kuipers (for the private-sector impact). This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.