CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 29, 2007

S. 1889
Railroad Safety Enhancement Act of 2007

As ordered reported by the Senate Committee on Commerce, Science, and Transportation on September 27, 2007

SUMMARY

CBO estimates that S. 1889 would authorize the appropriation of about $1.9 billion over the 2008-2012 period. Those amounts include funds for:

- Operating the Federal Railroad Administration (FRA);
- Building a rail facility in Pueblo, Colorado;
- Providing grants to increase safety throughout the rail system; and
- Implementing National Transportation Safety Board (NTSB) programs to assist the families of passengers who are in rail accidents.

Assuming appropriation of the amounts authorized and estimated to be necessary, CBO estimates that implementing the bill would cost about $1.3 billion over the 2008-2012 period and about $600 million after 2012.

CBO estimates that additional penalties of $60 million over the 2008-2017 period would be collected under the bill. Penalty collections are classified as revenues in the budget. Enacting S. 1889 could increase direct spending, but CBO estimates that any increase in direct spending would be insignificant.

S. 1889 contains several intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would require railroads to limit the number of hours worked by employees, certify and train employees, carry out safety procedures, and report certain information. It also would preempt certain state laws. The total cost to comply with those mandates is uncertain and would depend in part on regulations that have not yet been established. Due to the small number of public entities

involved, however, CBO estimates that compliance costs for those entities would not exceed the annual threshold established in UMRA for intergovernmental mandates ($66 million in 2007, adjusted annually for inflation). Depending on future regulations, the cost to comply with some of the safety requirements could be substantial for private entities. However, because the cost for private entities to comply with those requirements is uncertain, CBO has no basis for determining whether the aggregate costs of mandates in the bill would exceed the annual threshold established in UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1889 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. 1889 will be enacted near the start of calendar year 2008, that the authorized and necessary amounts will be appropriated each year, and that outlays will follow the historical rate of spending for similar programs.

Spending Subject to Appropriation

S. 1889 would reauthorize the programs of FRA through 2013. The current authorization for FRA expired at the end of fiscal year 1998 (although the agency has received appropriations in the intervening years). The legislation would specifically authorize the appropriation of about $1.9 billion over the next six years for FRA programs, including grants to improve the safety of rail operations. Of that total, DOT could use up to $271 million for research and development. In addition, title 5 would require the NTSB to provide assistance to the families of passengers involved in rail accidents that result in a loss of life. CBO estimates that provision would cost $1 million annually.

	By Fiscal Year, in Millions of Dollars				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Federal Rail Administration Programs					
Authorization Level	245	260	270	280	290
Estimated Outlays	172	219	253	275	285
Pueblo, Colorado, Facility					
Authorization Level	18	0	0	0	0
Estimated Outlays	11	4	2	1	0
Grants for Programs to Increase Rail Safety					
Authorization Level	37	38	38	37	37
Estimated Outlays	5	17	28	34	36
NTSB Assistance after Rail Accidents					
Estimated Authorization Level	1	1	1	1	1
Estimated Outlays	1	1	1	1	1
Total Spending Under S. 1889					
Estimated Authorization Level	301	299	309	318	328
Estimated Outlays	189	241	284	310	322
CHANGES IN REVENUES [b]					
Estimated Revenues	6	6	6	6	6

a. For 2008, a full-year appropriation has not yet been provided to the Department of Transportation; 2007 appropriations for programs that would be authorized by S. 1889 totaled about $200 million.

b. CBO estimates that additional revenues of $6 million would be collected each year over the 2013-2017 period.

Federal Rail Administration (FRA). The bill would require railroad operators to comply with new safety requirements in the bill and would require FRA to establish a chief safety officer. Under the provisions of the bill, FRA would:

- Administer new safety grants;

- Establish pilot programs to evaluate and manage risks to safety on railroads and reduce fatigue of rail employees;

- Hire new employees;

- Issue studies and reports with respect to rail safety;
- Review and approve plans submitted by railroad operators;
- Create model legislation for states regarding the safety of grade crossings and the prevention of vandalism to railroad safety measures; and
- Establish and enforce regulations regarding the safety and certification requirements in the bill.

The bill would authorize the appropriation of about $1.6 billion over the 2008-2012 period, and $337 million in 2013 for support of those programs. CBO estimates that implementing those provisions would cost $1.3 billion over the 2008-2012 period, and about $600 million thereafter.

Authorization for Facility in Pueblo, Colorado. The bill would authorize the appropriation of $18 million to design, develop, and construct the Facility for Underground Rail Station and Tunnel Testing and Training at the Transportation Technology Center in Pueblo, Colorado. Assuming appropriation of the authorized amount, CBO estimates that implementing this provision would cost $11 million in 2008 and $18 million over the 2008-2012 period.

Grants for Programs to Increase Rail Safety. S. 1889 would direct FRA to administer three new grant programs. Assuming appropriation of the specified amounts, CBO estimates that grants would cost $120 million over the 2008-2012 period and $104 million thereafter. The grants would support the increased use of technologies and the construction, improvement, and rehabilitation of infrastructure to increase rail safety. The grants also would support Operation Lifesaver—a nonprofit organization with the mission to end accidents at grade crossings.

Grants for the Deployment of Railroad Safety Technology. Section 406 would authorize the appropriation of funds to support the deployment of several technologies intended to increase the safety of rail operations. The bill would authorize the appropriation of $20 million annually over the 2008-2013 period for such grants.

Grants for Operation Lifesaver. Section 206 would direct FRA to make additional grants to Operation Lifesaver—a nonprofit organization with the mission to end accidents at places where roadways cross train tracks and on railroad rights-of way. Under the current authorization for highway programs (Public Law 109-59), Operation Lifesaver receives $560,000 a year of contract authority (budget authority that is subject to annual obligation limitations) through fiscal year 2009. The bill would specifically authorize the appropriation of an additional $2 million annually over the 2008-2010 period and $1.5 million annually over the 2011-2013 period for Operation Lifesaver.

NTSB Assistance After Rail Accidents. Title 5 would require the NTSB to provide assistance to the families of passengers who are in rail accidents on Amtrak that result in a major loss of life. The bill also would require DOT to establish a task force that would recommend ways to improve family assistance and to more accurately determine the number of passengers on board a train involved in an accident. Based on information from the NTSB and assuming appropriation of the necessary amounts, CBO estimates that implementing this provision would cost $1 million a year.

Direct Spending and Revenues

S. 1889 would establish new civil penalties on railroads that fail to comply with reporting requirements regarding grade crossings and increase penalties for general violations of safety laws addressed by the bill. Collections of civil fines are recorded as revenues and deposited in the Treasury. The bill would increase the maximum penalty for violations of the law from $10,000 to $25,000 and would raise the maximum penalty for violations that are grossly negligent or that represent a repeating pattern of offenses from $20,000 to $100,000. According to FRA, under current law, such civil fines generate about $15 million in revenues annually. CBO expects that an increase in the fines would decrease the number of violations, but we expect that the increased penalties would generate additional revenues of $6 million a year.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 1889 contains several intergovernmental and private-sector mandates as defined in UMRA because it would require railroads to comply with new safety standards and procedures. It also would preempt certain state laws. The total cost to comply with those mandates is uncertain and would depend, in part, on regulations that have not yet been established. Due to the small number of public entities involved, however, CBO estimates that the aggregate costs for those entities to comply with the bill's mandates would not exceed the annual threshold established in UMRA for intergovernmental mandates ($66 million in 2007, adjusted annually for inflation). Depending on future regulations, the cost to comply with some of the safety requirements could be substantial for private entities. However, because the cost for private entities to comply with those requirements is uncertain, CBO has no basis for determining whether the aggregate costs of mandates in the bill would exceed the annual threshold established in UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

Other provisions of the bill would authorize grants for which state, local, and private-sector entities would be eligible. Any costs those entities might incur would result from participation in grant programs and would be incurred voluntarily.

Mandates that Affect Both the Public and Private Sector

By requiring railroads to carry out safety procedures, limit the number of hours worked by employees, report certain information, and certify and train employees, and by preempting certain state laws, S. 1889 would impose both intergovernmental and private-sector mandates as defined in UMRA.

Mandates with Uncertain Costs. CBO cannot estimate the total costs of several mandates in the bill because we do not have sufficient information about how railroads would choose to adjust their employees' schedules to comply with the restrictions, and because costs would depend upon future actions of the Secretary of Transportation. Those mandates would:

- Require railroads to submit plans to address technology improvements, railroad worker fatigue, and infrastructure safety;
- Increase restrictions on the number of hours that signalmen and train crews are allowed to work over certain time periods;
- Require that railroads report information on the status of grade crossings;
- Require railroads to certify train conductors and carmen, establishing minimum training standards for each craft of railroad employees as well as track and railroad equipment inspectors;
- Increase restrictions on the use of personal electronic devices by certain railroad employees;
- Require freight railroads, and any other railroads deemed appropriate, to submit plans to address the needs of employees that are involved in accidents; and
- Require railroads to use rail safety technology in certain areas.

Mandates with Minimal Costs. The bill would require railroads to carry out procedures to prevent accidents and to enhance recovery efforts. It also would establish new protections for railroad employees. Those mandates would impose minimal additional costs on railroads because compliance likely would involve only a small adjustment in current procedures, or because railroads or individuals would be unlikely to engage in the prohibited activities. Additionally, the bill would establish a grant program for state and local governments and the private sector to address some of these requirements.

Mandates that Affect Only the Public Sector

The bill would preempt state laws that require railroads to use certain technology at highway-rail crossings. It also would preempt state laws that require operators of solid waste facilities to secure a permit before operating such facilities. The bill also would give the Administrator of the FRA the right to (1) access criminal justice data maintained by the states, (2) use state or local radio, data links, or warning systems that provide public safety information, and (3) receive communications from state or local police officers.

CBO estimates that the additional costs to state, local, and tribal governments of complying with the preemptions and the other mandates in the bill would be small.

Mandates that Affect Only the Private Sector

The bill would impose additional mandates that affect only private rail carriers. If rail carriers provide sleeping quarters for their employees, those quarters must be equipped with toilet facilities, potable water, and other features that would protect the health of their employees. According to industry sources, most sleeping quarters are already equipped with similar features. Because compliance with this mandate would involve only a small adjustment in current procedures, CBO estimates the cost to those entities would be small relative to the annual threshold.

The bill also would require the Secretary of Transportation to regulate the use of camp cars by railroads, which may include the prohibition of camp cars. Camp cars are mostly used by railroad carriers operating in remote areas where sleeping accommodations are not readily available. Given that few railroad carriers use camp cars as sleeping quarters, CBO estimates that the cost to comply with this mandate also would likely be small.

Other Impacts: Grants

The bill would establish a grant program for passenger and freight railroad carriers and state and local governments to install train controls, switch-position indicators, and other component technologies. Any costs those entities might incur would result from complying with conditions of federal assistance.

PREVIOUS CBO ESTIMATE

On July 3, 2007, CBO transmitted a cost estimate for H.R. 2095, the Federal Railroad Safety Improvement Act of 2007, as ordered reported by the House Committee on Transportation and Infrastructure. That bill would authorize appropriations over the 2008-2011 period for FRA operations and would reorganize that agency, changing its name to the Federal Rail Safety Administration. The differences in CBO's estimates reflect differences between the two bills.

ESTIMATE PREPARED BY:

Federal Spending: Sarah Puro
Federal Revenues: Zachary Epstein
Impact on State, Local, and Tribal Governments: Elizabeth Cove
Impact on the Private Sector: Jacob Kuipers

ESTIMATE APPROVED BY:

Peter H. Fontaine
Assistant Director for Budget Analysis