CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

February 9, 2012

H.R. 7
American Energy and Infrastructure Jobs Act of 2012

As ordered reported by the House Committee on Transportation and Infrastructure on February 2, 2012

SUMMARY

H.R. 7 would extend the authority for the surface transportation programs administered by the Federal-Aid Highway Administration (FHWA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Federal Motor Carrier Safety Administration (FMCSA), and certain programs administered by the Federal Rail Administration (FRA).

CBO estimates that enacting the bill would provide total contract authority (the authority to incur obligations in advance of appropriation acts) of $228 billion over the 2012-2016 period. Contract authority is a form of budget authority; the use of that authority for transportation programs has traditionally been controlled by provisions in appropriation acts that limit the amount of contract authority that may be obligated (those provisions are known as obligation limitations). Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing its baseline of future contract authority for transportation programs, CBO assumes that the contract authority provided by the bill for 2016, the last year of the authorization, would continue at the same rate in each of the following years. Using that assumption, CBO estimates that enacting the bill would result in baseline contract authority of $560 billion over the 2012-2022 period. Relative to the amounts of contract authority for surface transportation programs currently projected in CBO's baseline, that funding level represents an increase of $7 billion for the 2012-2017 period and $15.3 billion over the 2012-2022 period.[1]

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1. The Surface and Air Transportation Programs Extension Act of 2011 (Public Law 112-30) provided about $25 billion in contract authority for programs funded by H.R. 7 through March 31, 2012. Following baseline construction rules, CBO assumes that this funding would continue at the same rate for the remainder of fiscal year 2012. H.R. 7 would also provide $25 billion for the second half of fiscal year 2012. As a result, contract authority provided by the bill for 2012 would not increase compared to CBO's baseline.

H.R. 7 would expand federal credit programs administered by the Department of Transportation (DOT) that provide direct loans and loan guarantees. CBO estimates the changes to those programs authorized by the bill would increase direct spending by $110 million over the 2012-2017 period and by $300 million over the 2012-2022 period; therefore, pay-as-you-go procedures apply.

Enacting H.R. 7 could result in the collection of additional civil penalties because it would increase the amount that DOT could impose for violating certain motor carrier and hazardous materials safety regulations. Penalties are recorded in the budget as revenues and deposited in the U.S. Treasury. CBO estimates that any additional penalty collections under the bill would be insignificant.

For this estimate, CBO assumes that most spending for the surface transportation program will continue to be controlled by obligation limitations set in appropriation acts. The obligation limitations for 2012 were enacted in the Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112-55). H.R. 7 would not amend the obligation limitations that have already been enacted for 2012. The bill would authorize obligation limitations totaling $202 billion over the 2013-2016 period.

The bill also would authorize appropriations of $8.4 billion for other surface transportation programs administered by DOT, including transit, rail, and hazardous materials programs. Assuming appropriation of the estimated obligation limitation for 2013-2016, the other amounts specified in the legislation, and amounts estimated to be necessary, CBO estimates that implementing the bill would add $170 billion in discretionary costs over the 2012-2017 period.

CBO has determined that the nontax provisions of H.R. 7 contain intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) on manufacturers, owners, and operators of motorcoaches and on driving schools. The bill would impose additional intergovernmental mandates on states and would preempt state, local, and tribal laws. The bill also would impose private-sector mandates on owners and operators of commercial vehicles, brokers for motor carriers, coordinators of freight shipments, and other private entities. Because of uncertainty about the number of entities affected and the scope of future regulations—particularly those governing motorcoach safety—CBO cannot determine whether the aggregate cost of the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental or private-sector mandates ($73 million and $146 million in 2012, respectively, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 7 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By Fiscal Year, in Millions of Dollars						
	2012	2013	2014	2015	2016	2017	2012-2017
CHANGES IN DIRECT SPENDING							
DOT Contract Authority							
Budget Authority [a]	0	1,035	1,290	1,345	1,665	1,665	7,000
Estimated Outlays	0	0	0	0	0	0	0
Expansion of DOT Loan and Loan Guarantee Programs [b]							
Estimated Budget Authority	0	22	22	22	22	32	120
Estimated Outlays	0	15	20	21	22	32	110
Total Changes							
Estimated Budget Authority	0	1,057	1,312	1,367	1,687	1,697	7,120
Estimated Outlays	0	15	20	21	22	32	110
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Spending from the Highway Trust Fund							
Estimated Obligation Limitation [c]	0	50,124	50,379	50,434	50,758	0	201,695
Estimated Outlays	0	12,551	32,196	40,161	43,807	35,568	164,283
Federal Transit Administration							
Authorization Level	0	2,098	2,098	2,098	2,098	0	8,392
Estimated Outlays	0	329	885	1,295	1,589	1,494	5,592
Bridge and Tunnel Inspection							
Estimated Authorization Level	0	15	15	0	0	0	30
Estimated Outlays	0	2	8	10	5	3	28
Other Authorized Programs							
Authorization Level	0	90	39	39	39	0	207
Estimated Outlays	0	37	60	47	42	10	196
Total Changes							
Estimated Budgetary Resources	0	52,327	52,531	52,571	52,895	0	210,324
Estimated Outlays	0	12,919	33,149	41,513	45,443	37,075	170,099

Notes: DOT = Department of Transportation.

a. CBO estimates that H.R. 7 would increase budget authority by $15.3 billion above the amounts assumed in CBO's baseline for surface transportation programs over the 2012-2022 period.

b. CBO estimates that expanding DOT's loan programs would cost $300 million over the 2012-2022 period.

c. Estimated discretionary outlays reflect use of funds under the 2013-2016 obligation limitations estimated by CBO. (Outlays stemming from additional contract authority for years after 2016 would be authorized in future legislation.)

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 7 will be enacted before the current authorization for surface transportation programs expires on March 31, 2012, that the authorized and necessary amounts will be provided for each year in appropriation acts, and that outlays will follow the historical rate of spending for transportation programs.

Direct Spending

Department of Transportation Contract Authority. H.R. 7 would increase the amount of budget authority (in the form of contract authority) that is projected in CBO's baseline to be available for DOT's surface transportation programs over the 2012-2022 period. Because spending of the contract authority for transportation programs is expected to be controlled by provisions in future appropriation acts, there would be no impact on direct spending expenditures from this provision.

Over the 2012-2016 period, H.R. 7 would provide $228 billion in contract authority for the following programs:

- $185 billion for programs administered by FHWA;
- $38 billion for programs administered by FTA;
- $3 billion for programs administered by NHTSA; and
- $2 billion for programs administered by FMCSA.

About $25 billion in contract authority has already been provided through March 31, 2012. H.R. 7 would continue funding surface transportation programs at the same rate for the rest of the year. That level is consistent with the assumption in CBO's baseline that contract authority provided for part of a year continues at the same rate for the full year.

Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing the baseline, CBO assumes that contract authority provided by the bill for 2016 ($51.2 billion), the last year of the authorization, would continue at the same level in each of the following years. Using that assumption, CBO estimates that enacting the bill would result in baseline contract authority totaling about $560 billion over the 2012-2022 period. That funding level represents an increase in budget authority of $7 billion over the 2012-2017 period and $15.3 billion over the 2012-2022 period above the amounts of contract authority for surface transportation programs currently projected in CBO's baseline.

Expansion of DOT Loan and Loan Guarantee Programs. H.R. 7 would amend and expand two loan and loan guarantee programs within the DOT: the Transportation Infrastructure Finance and Innovation Program (TIFIA) provides credit assistance for certain large transportation projects and the Railroad Rehabilitation and Improvement Financing (RRIF) Program provides loans to develop railroad infrastructure. CBO estimates that those provisions would increase direct spending by $110 million over the 2012-2017 period and $300 million over the 2012-2022 period.

The budgetary treatment of the TIFIA and RRIF programs is governed by the Federal Credit Reform Act (FCRA) of 1990, which requires an appropriation to cover the subsidy and administrative costs associated with federal direct loans and loan guarantees. The subsidy cost is the estimated long-term cost to the government of a loan or loan guarantee, calculated on a net-present-value basis, excluding administrative costs. Administrative costs, which are recorded on a cash basis, include activities related to making, servicing, and liquidating loans as well as overseeing the performance of lenders when a federal guarantee of a private loan is made.

*TIFIA Expansion***.** In recent years, TIFIA loans have had an average estimated subsidy rate of about 10 percent. That rate reflects the risk that such transportation projects may default on a loan from the government. (The subsidy rate of a federal loan reflects the subsidy cost for each dollar of the face value of the loan. For example, a $10 million TIFIA loan with an estimated 10 percent subsidy rate would have a cost in the federal budget of $1 million in the year that the loan is made.)

H.R. 7 would:

- Provide budget authority of $1 billion per year over the 2013-2016 period (in the form of contract authority) to pay for the subsidy cost of TIFIA loans and guarantees;

- Increase the share of total project costs that TIFIA loans and guarantees can cover from 33 percent to 49 percent;

- Under certain conditions, authorize prospective borrowers to pay DOT an amount equivalent to the estimated subsidy cost of their approved TIFIA loan or guarantee. (This authority is referred to here as a borrower-financed credit subsidy.)

If no funds were provided for TIFIA or if the funds authorized by H.R. 7 were fully obligated, section 1201 would authorize DOT to accept payments from transportation project sponsors that are equivalent to the estimated federal subsidy cost of those loans or guarantees. CBO estimates that enacting those provisions would increase direct spending by $90 million over the 2017-2022 period, when we expect that the funds appropriated by the bill for subsidy costs would be fully obligated. That amount reflects our estimate of the future demand for TIFIA loans and our view that borrower-financed credit subsidies are likely to result in a net cost to the government.[2]

CBO expects that, under H.R. 7, the demand for TIFIA credit assistance would increase. In both 2010 and 2011, TIFIA received loan applications that had a face value of more than $8 billion. Those projects requested federal loans that would cover, on average, about 30 percent of total project costs (almost the maximum allowed under current law). Because of budget constraints, DOT was able to provide loans and guarantees for less than 10 percent of the requested loan volume at an estimated subsidy cost of about $100 million per year. As a result, there remains a significant backlog of proposed projects that are probably qualified to receive a TIFIA loan.

Because of provisions in the bill that would authorize TIFIA to provide loans to cover up to 49 percent of project costs, CBO expects that most individual loan requests would probably be larger under H.R. 7 than under current law. Based on information from DOT and project financing experts, we estimate that the face value of loans funded through the TIFIA program could reach $5 billion per year during the 2013-2016 period and total $1 billion to $2 billion per year in 2017 and subsequent years as new projects are developed and built.

In any year that the TIFIA program has insufficient budget authority to provide credit subsidies, H.R. 7 would authorize DOT to accept payments from TIFIA borrowers equal to the estimated subsidy cost of their loans. CBO expects that this provision would be used by DOT and borrowers to issue direct loans with a value between $1 billion to $2 billion each year over the 2017-2022 period after the amounts provided in H.R. 7 have been fully obligated.

CBO expects that prospective TIFIA borrowers considering whether to pay the subsidy costs of the federal credit backing they seek would generally refuse to implement projects if they conclude that the subsidy cost was too great. However, those prospective TIFIA borrowers would tend to obtain federal credit backing if they conclude that the subsidy cost of TIFIA credit is not too high. CBO expects that this sets up an asymmetry in the characteristics of projects that proceed with borrower-financed credit subsidies, which would create a situation where the TIFIA loan portfolio would have more projects where the subsidy cost paid by borrowers is less than the cost to the government as calculated under FCRA. CBO estimates that the subsidy cost charged to borrowers under this

2. The types of transportation projects supported by TIFIA loans involve significant construction and operations risk. Typically, private loans are available for either the construction period or the operational phase of the project. TIFIA provides one loan for both components, thus reducing the cost of capital for transportation projects and possibly improving a project's financial viability. However, if a borrower pays the subsidy cost of a TIFIA loan or guarantee, that added cost, which would otherwise be borne by the government, would contribute to a reduction in the creditworthiness of the project. Because many projects backed by TIFIA would not be financially feasible without a federal credit subsidy, there is a practical limit to the amount of additional cost (in the form of subsidies) that such projects could bear without significantly increasing the risk that the borrower will default.

provision would, on average, be about 1 percent lower than the likely cost of the federal loan or loan guarantee. Applying that 1 percent subsidy rate to our estimate of the average annual demand for credit assistance from TIFIA of between $1 billion and $2 billion from 2017-2022 results in our estimate that enacting this provision would cost $90 million.

RRIF Program Expansion. Under the RRIF program, the FRA provides direct loans and loan guarantees to develop railroad infrastructure. The cost of RRIF loans are calculated under FCRA, and borrowers pay fees up front to offset the estimated subsidy cost. (In recent years, RRIF loans have had an average subsidy rate of about 5 percent.) Subtitle D of title VIII would change how FRA accounts for the value of certain collateral railroads offer to obtain RRIF loans.[3] CBO expects that this change would result in DOT assigning a higher value to that collateral than it otherwise would, making RRIF loans more appealing to borrowers and thus increasing the demand for RRIF loans. According to the FRA, this required change in the method used to value this type of collateral would likely underestimate the subsidy rate of the loans. CBO estimates that underestimating would reduce the subsidy rate on RRIF loans by about 5 percent. Further, CBO expects the RRIF program to operate at a net cost to the government over time because the program requires DOT to refund the fees collected from the borrower when a loan was issued if the borrower has not defaulted. However, the government is not authorized to collect additional money if the borrower fees do not fully cover the subsidy cost of the loan.

Increasing the estimated value of certain collateral for RRIF loans would increase the perceived credit worthiness of projects, in turn lowering the apparent subsidy rate for loans under the program and thereby the fees charged to borrowers. With lower fees, CBO expects demand for RRIF loans to grow—from a historical loan volume of $200 million per year to about $400 million annually. That expansion would increase costs for the RRIF program from both the asymmetrical selection of projects and provisions in the bill mandating how DOT should value certain loan collateral. CBO estimates that enacting those provisions would increase direct spending by $210 million over the 2013-2022 period.

Spending Subject to Appropriation

Subject to appropriation of the specified and necessary amounts, CBO estimates that implementing H.R. 7 would have discretionary costs of $170 billion over the 2012-2017 period.

3. The bill would require FRA to value collateral offered to secure loans at 100 percent of the liquidated asset value and would require that for loans offered to railroads installing positive train control systems—a type of safety technology—FRA would include the total cost of labor and materials as the value of that collateral. Under current practice and to accurately reflect the potential cash flows to and from the government (in accordance with FCRA), FRA discounts the value of collateral that railroads offer because the value of the asset depreciates over time. Also, the government may have to wait to be able to liquidate the asset, delaying the cash flow into the Treasury, and reducing the net present value of any transaction. In the case of positive train control, the government would at no point be able to recoup any costs that the railroad incurred for labor.

Spending from the Highway Trust Fund. CBO expects that the contract authority provided in the bill would be controlled by limitations on obligations set in annual appropriation acts. CBO estimates that H.R. 7 would authorize total obligation limitations of $202 billion over the 2013-2016 period, including $163 billion for programs administered by FHWA and about $34 billion for programs administered by FTA. While this bill would not authorize an obligation limitation level for programs administered by NHTSA or FMCSA, CBO's estimate of discretionary spending under this legislation assumes obligation limitations that are equal to the contract authority provided in the bill for programs administered by those agencies—$5 billion. (Historically the Congress has set obligation limitations at or near such levels.) For this estimate, CBO did not project this discretionary authority past fiscal year 2016, the end of the authorization period covered by the legislation. Because the 2012 obligation limitation has already been enacted, CBO's estimate of the costs of the bill include the amounts authorized for 2013-2016. CBO estimates that implementing those provisions would cost $164 billion over the 2013-2017 period.

Federal Transit Administration. H.R. 7 would authorize the appropriation of about $2.1 billion a year over the 2013-2016 period. Those amounts could be used for: grants to state and local governments to construct new transit systems that use dedicated or controlled rights-of-way (such as subways or light rail lines) including costs to develop corridors to support such systems; programs to carry out research, outreach, and technical assistance; and administrative costs for the FTA. Assuming appropriation of the authorized amounts, CBO estimates that implementing those provisions would cost about $5.6 billion over the 2012-2017 period.

Bridge and Tunnel Inspection. Section 1114 would expand the detail and scope of the current national bridge inspection program and require safety inspections of tunnels. Implementing this provision would increase the frequency of inspections of federally owned bridges and would add to the training that inspectors of those bridges need in order to perform this work. Current regulations require that federal agencies that own and operate bridges on public roads comply with all safety requirements under DOT's bridge program. There are about 9,000 such bridges nationwide, mostly owned by the Departments of Agriculture, Defense, and the Interior. Based on information from DOT, CBO estimates that implementing this provision would cost $28 million over the 2012-2017 period, assuming appropriation of the necessary amounts.

Other Authorized Programs. H.R. 7 also would authorize the appropriation of $157 million over the 2012-2016 period for grants to emergency responders for training and planning activities related to the transportation of hazardous materials. It would also authorize the appropriation of $50 million, in 2013, to cover the cost of providing certain RRIF program loans to install safety equipment. CBO estimates that enacting those provisions would cost $196 million over the 2012-2017 period.

Revenues

Enacting H.R. 7 could result in the collection of additional civil penalties because it would increase the amount of such penalties that DOT could impose for violating certain safety regulations affecting motor carriers. The bill would also create new civil penalties for violating FMCSA regulations. Penalties are recorded in the federal budget as revenues and deposited in the U.S. Treasury. CBO estimates that any additional collections under the bill would be insignificant.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 7, the American Energy and Infrastructure Jobs Act of 2012, as ordered reported by the House Committee on Transportation and Infrastructure on February 2, 2012

	By Fiscal Year, in Millions of Dollars												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012-2017	2012-2022
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	15	20	21	22	32	32	32	42	42	42	110	300

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

CBO has determined that the nontax provisions of H.R. 7 contain intergovernmental and private-sector mandates as defined in UMRA by imposing new safety standards on manufacturers, owners, and operators of motorcoaches and new standards for schools that offer training for operators of commercial motor vehicles. The bill would impose additional intergovernmental mandates on states and would preempt state, local, and tribal laws and regulations governing safety standards for motorcoaches, the transportation of hazardous and radioactive materials, and the ability of some state and local governments to hear some environmental cases. H.R. 7 also would impose several new private-sector mandates. For example, employers would be charged a fee for complying with the requirement to check the records of certain employees through FMCSA's clearinghouse concerning alcohol and drug use. Manufacturers, owners, and operators of agricultural equipment would have to comply with new safety standards. Freight forwarders and brokers would have to comply with new registration requirements, and meet a higher minimum threshold of financial responsibility. The bill also would impose mandates on Amtrak, owners and operators of motor vehicles transporting radioactive materials and other entities.

Because of uncertainty about the number of entities affected and the scope of future regulations—particularly those governing motorcoach safety—CBO cannot determine whether the aggregate cost of the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental or private-sector mandates ($73 million and $146 million in 2012, respectively, adjusted annually for inflation).

PREVIOUS CBO ESTIMATES

CBO provided cost estimates for several bills that were ordered reported by the Senate Committee on Commerce, Science, and Transportation on December 14, 2011: S. 1449, the Motor Vehicle and Highway Safety Improvement Act of 2011; S. 1950, the Commercial Motor Vehicle Safety Enhancement Act of 2011; S. 1952, the Hazardous Materials Transportation Safety Improvement Act of 2011; and S.1953, the Research and Innovative Technology Administration (RITA) Reauthorization Act of 2011. CBO also provided cost estimates for: S. 1813, the Moving Ahead for Progress in the 21st Century Act, as ordered reported by the Senate Committee on Environment and Public Works on November 9, 2011, with language provided to CBO on February 2, 2012; and the Federal Public Transportation Act of 2012 as ordered reported by the Senate Committee on Banking on February 2, 2012. Those bills would reauthorize programs administered by NHTSA, FMCSA, the Pipelines and Hazardous Materials Administration, RITA, FHWA, and FTA, respectively. Among other things, the Senate bills would reauthorize the DOT programs only through 2013, while H.R. 7 would reauthorize them through 2016. The CBO cost estimates reflect those differences.

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