CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 13, 2007

American Infrastructure Investment and Improvement Act of 2007

As ordered reported by the Senate Committee on Finance on September 21, 2007

SUMMARY

The American Infrastructure Investment and Improvement Act of 2007 would extend, through fiscal year 2011, the existing taxes that are dedicated to the Airport and Airway Trust Fund. The bill also would increase certain aviation excise taxes and increase amounts credited to the Highway Trust Fund through a combination of transfers from the general fund and other changes. In addition, the bill would accelerate the effective date for changes to the tax treatment of corporate inversion transactions enacted in 2004, and would restructure certain New York Liberty Zone tax incentives.

The Joint Committee on Taxation (JCT) estimates that enacting the bill would increase revenues by $5.2 billion over the 2008-2012 period and by about $11.0 billion over the 2008-2017 period, relative to the current baseline projection for taxes dedicated to the Airport and Airway and Highway Trust Funds. In addition, the Congressional Budget Office (CBO) and JCT estimate that enacting the legislation would increase direct spending by $2.6 billion over the 2008-2012 period and $5.5 billion over the 2008-2017 period. Finally, CBO estimates that implementing the legislation would increase discretionary spending by $43 billion over the 2008-2012 period, assuming appropriation of the estimated amounts.

Pursuant to section 203 of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, CBO and JCT estimate that changes in direct spending and revenues from enacting the bill would not cause an increase in the on-budget deficit greater than $5 billion in any of the 10-year periods between 2018 and 2057.

CBO and JCT have determined that the provisions of the American Infrastructure Investment and Improvement Act of 2007 contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the nontax provisions would impose no cost on state, local, or tribal governments.

JCT has determined that the bill contains four private-sector mandates as defined in UMRA. Based on information provided by JCT, CBO expects that those mandates would impose costs totaling several billion dollars over the next five years, exceeding the threshold established in UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation) in each of the first five years the mandates are in effect.

ESTIMATED COSTS TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the American Infrastructure Investment and Improvement Act of 2007 is shown in Table 1. The costs of this legislation fall within budget functions 400 (transportation) and 600 (income security).

BASIS OF ESTIMATE

For this estimate, JCT and CBO assume that the bill will be enacted before the end of calendar year 2007 and that appropriation actions consistent with the bill will be taken in each fiscal year. JCT and CBO estimate that the legislation would increase revenues, direct spending, and spending subject to appropriation. Provisions estimated to have significant budgetary effects are described in the following sections.

Revenues

JCT estimates that enacting the bill would increase revenues by $5.2 billion over the 2008-2012 period and by $11.0 billion over the 2008-2017 period. Key components of that estimate are presented in Table 2 and discussed below.

TABLE 1. ESTIMATED BUDGETARY IMPACT OF THE AMERICAN INFRASTRUCTURE INVESTMENT AND IMPROVEMENT ACT OF 2007

	By Fiscal Year, in Millions of Dollars				
	2008	2009	2010	2011	2012
CHANGES IN REVENUES [a]					
Estimated Revenues	1,393	987	952	935	984
CHANGES IN DIRECT SPENDING [a]					
Estimated Budget Authority	3,074	2,919	766	630	601
Estimated Outlays	401	332	731	601	572
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
FAA Programs [b]					
Estimated Authorization Level	531	13,111	13,719	14,369	0
Estimated Outlays	328	8,226	11,572	13,352	5,106
Highway Program [c]					
Estimated Authorization Level	0	0	0	0	0
Estimated Outlays	676	1,732	1,491	598	277
Total Proposed Changes					
Estimated Authorization Level	531	13,111	13,719	14,369	0
Estimated Outlays	1,004	9,958	13,063	13,950	5,383

Sources: Congressional Budget Office and Joint Committee on Taxation.

Note: FAA = Federal Aviation Administration.

a. Estimated changes in revenue and direct spending through 2017 are displayed in Table 2.

b. The estimated authorization level for 2008 totals $12.3 billion. This table excludes $11.8 billion that CBO estimates, on an annualized basis, has already been provided to the FAA for fiscal year 2008 under Public Law 110-92.

c. Changes to contract authority for federal highway programs are mandatory changes in spending. Outlays, which are controlled by obligation limitations specified in annual appropriation acts, are considered discretionary changes in spending.

TABLE 2. ESTIMATED CHANGES IN DIRECT SPENDING AND REVENUES

	By Fiscal Year, in Millions of Dollars											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008-2012	2008-2017
CHANGES IN REVENUES												
Airport and Airways Taxes	261	389	357	357	376	394	415	444	471	499	1,739	3,962
Highway Taxes	1,001	483	522	467	449	453	475	489	503	513	2,921	5,353
Other Infrastructure Modifications	131	115	73	111	159	199	215	228	237	247	587	1,711
Estimated Revenues	1,393	987	952	935	984	1,046	1,105	1,161	1,211	1,259	5,247	11,026
CHANGES IN DIRECT SPENDING												
Air Traffic Control Modernization Account												
Budget Authority	400	400	400	400	400	400	400	400	400	400	2,000	4,000
Estimated Outlays	232	332	392	400	400	400	400	400	400	400	1,756	3,756
Funding for New York's Transportation Infrastructure												
Estimated Budget Authority	169	0	338	200	169	169	169	169	169	169	876	1,721
Estimated Outlays	169	0	338	200	169	169	169	169	169	169	876	1,721
Funding for Federal Highway Programs[a]												
Estimated Budget Authority	2,505	2,519	28	30	32	33	33	33	34	35	5,114	5,282
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Pension Benefit Guaranty Corporation												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	0	1	1	3	5	5	6	6	6	5	33
Total Changes												
Estimated Budget Authority	3,074	2,919	766	630	601	602	602	602	603	604	7,990	11,003
Estimated Outlays	401	332	731	601	572	574	574	575	575	575	2,637	5,510

MEMORANDUM: Taxes extended by the bill and assumed in the CBO baseline.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008-2012	2008-2017
Airport and Airways Taxes	11,480	12,115	12,772	13,429	14,106	14,813	15,543	16,302	17,092	17,916	63,902	145,568
Oil Spill Tax	0	0	0	0	0	0	0	246	334	340	0	920

Sources: Joint Committee on Taxation and Congressional Budget Office.

Note: Numbers may not sum to totals because of rounding.

a. Changes to contract authority for federal highway programs are changes in mandatory spending. Outlays for those programs, which are controlled by obligation limitations specified in annual appropriation acts, are considered changes in discretionary spending.

Airport and Airway Trust Fund Provisions and Related Taxes. The existing excise taxes that are dedicated to the Airport and Airway Trust Fund are scheduled to expire on November 16, 2007. The taxes consist of levies on transportation of persons and property by air and use of aviation fuels. They generated revenues of over $11 billion in fiscal year 2007. The bill would:

- Extend existing taxes at the current rate through fiscal year 2011;
- Increase the tax rate on noncommercial aviation-grade kerosene effective January 1, 2008, through fiscal year 2011;
- Raise the international departure and arrival tax to $16.65 effective January 1, 2008, and index it for inflation;
- Change the tax structure for use of an aircraft that is part of a fractional ownership aircraft program; and
- Repeal the exemption from excise taxes imposed on transportation of persons or cargo by air for small aircraft operating on nonestablished lines, except those used for sightseeing.

JCT estimates that the airport and airways provisions would increase revenues by $261 million in 2008, $1.7 billion over the 2008-2012 period, and $4 billion over the 2008-2017 period, relative to the amounts assumed in CBO's baseline projections.

Under the baseline projection rules in section 257 of the Balanced Budget and Emergency Deficit Control Act, which are followed for Congressional scorekeeping purposes, estimates of the revenue effects of legislation assume that expiring excise taxes dedicated to a trust fund are extended indefinitely. Those effects are measured relative to a baseline that assumes such expiring excise taxes are extended indefinitely at the same rates that would be in place immediately before their scheduled expiration. As a result, the estimated increase in revenue from the bill results from the increase in the excise tax rates, which are assumed to remain in effect throughout the 2008-2017 period.

Increased Funding for the Highway Trust Fund. Title II would make several changes to the taxation of fuels and corporate income. Changes to the taxation of motor fuels would result in additions to revenues credited to the Highway Trust Fund.

The bill would:

- Tax finished gasoline at an earlier step in the distribution process—at the refinery gate;

- Exclude the volume of denaturants used in alcohol fuel production from the alcohol fuel tax credit;

- Extend the existing excise tax on oil through December 31, 2017, and increase the rate from 5 cents to 10 cents per barrel;

- Increase the taxes on certain inverted corporate entities; and

- Deny a deduction for punitive damages that are paid or incurred by a taxpayer as a result of a judgment or the settlement of a claim. Furthermore, if the taxpayer receives an insurance settlement for punitive damages, the amount would be included in the gross income of the taxpayer.

JCT estimates that enacting the provisions in this title would increase revenues by $1 billion in 2008, $2.9 billion over the 2008-2012 period, and $5.4 billion over the 2008-2017 period, relative to the amounts assumed in CBO's baseline projections.

Additional Infrastructure Modifications and Revenue Provisions. Among other provisions, the bill would restructure certain New York Liberty Zone tax incentives, which were enacted following the September 11, 2001, terrorist attacks. The bill would repeal the provisions that allow accelerated depreciation for certain property in the Liberty Zone. JCT estimates that repealing those provisions would increase revenue by $16 million in 2008, by $58 million over the 2008-2012 period, and by $48 million over the 2008-2017 period. In addition, the bill would permit certain government retirement plans to adopt accounts that would allow the taxpayer to contribute after-tax monies to the plan and receive the earnings in future years with no tax liability. The bill also would increase penalties for failing to comply with the requirements for filing information returns. JCT estimates that all of the other infrastructure provisions (including the Liberty Zone tax incentives) would increase revenues by $131 million in 2008, $587 million over the 2008-2012 period, and $1.7 billion over the 2008-2017 period.

Direct Spending

JCT and CBO estimate that enacting the legislation would increase direct spending by $401 million in 2008, $2.6 billion over the 2008-2012 period, and $5.5 billion over the next 10 years. Those estimates, which are presented in Table 2, reflect costs of provisions that would provide funding for the FAA to modernize the air traffic control system, authorize funding for New York's transportation infrastructure, increase funding for federal highway programs, and decrease receipts to the Pension Benefit Guarantee Corporation (PBGC).

Modernizing the Air Traffic Control System. The legislation would establish the Air Traffic Control System Modernization Account, to which the bill would direct the Secretary of the Treasury to transfer, from amounts in the Airport and Airway Trust Fund, $400 million annually. The FAA could spend amounts in the proposed account, without further appropriation action, for capital investments and other activities related to modernizing the nation's air traffic control system. Based on information from the FAA and historical spending patterns for such activities, CBO estimates that this provision would increase direct spending by $232 million in 2008, $1.8 billion over the 2008-2012 period, and $3.8 billion over the 2008-2017 period.

Funding for New York's Transportation Infrastructure. The bill would provide the city and the state of New York with tax credits for a certain amount of their expenditures made for transportation infrastructure related to the Liberty Zone. The credits could be used against the income taxes that the jurisdictions withhold from the paychecks of their employees and remit to the Internal Revenue Service. Because the jurisdictions do not themselves pay federal income taxes, the credits would essentially be grants and thus considered direct spending. JCT estimates that instituting the credits would increase direct spending by $169 million in 2008, $876 million over the 2008-2012 period, and by $1.7 billion over the 2008-2017 period.

Increased Funding for Highway Programs. Title II would increase receipts to the Highway Trust Fund by about $5 billion in 2008, including transfers from the general fund of the Treasury. As a result, CBO estimates that the legislation would increase contract authority (a mandatory form of budget authority). A provision in current law, known as Revenue-Aligned Budget Authority (RABA), adjusts the total amount of contract authority available to the Federal-Aid Highways program based on the differences between actual receipts to the highway account of the Highway Trust Fund and projected receipts as set in law for highway programs (Public Law 109-59).

Under the RABA provision, any adjustment to contract authority is spread evenly over a period of two years. Because the bill would increase receipts to the Highway Trust Fund by about $5 billion in 2008 and about $30 million per year over the 2009-2017 period, CBO estimates that the bill would increase contract authority by about $2.5 billion in both 2008 and 2009 and by about $30 million a year in subsequent years.

Under current law, most spending from contract authority provided for the Federal-Aid Highways program is considered discretionary because it is controlled by annual limitations on obligations set in appropriation acts. Therefore, estimates of outlays that would result from increases to contract authority under the bill are included in the estimates of spending subject to appropriation, below.

Pension Benefit Guaranty Corporation. PBGC's variable-rate premiums are based on the funded status of a pension plan as measured by PBGC; the better funded a plan, the lower its required variable-rate premiums. This bill would require certain airlines to make a higher contribution, resulting in better funding of their plans and thus reducing their premium payments to PBGC. Those payments are recorded as offsetting receipts. Based on information from the affected airlines and PBGC, CBO estimates that enacting this section would reduce such offsetting receipts (and thus increase outlays) by $5 million over the 2008-2012 period and $33 million over the 2008-2017 period.

Spending Subject to Appropriation

CBO estimates that implementing the legislation would increase discretionary spending by $1 billion in 2008 and $43.3 billion over the 2008-2012 period, assuming appropriation actions consistent with the bill. The FAA would spend most of those amounts to implement its major programs; remaining amounts would support the Federal-Aid Highways program.

FAA Spending. By extending the authority to expend amounts from the Airport and Airway Trust Fund, the bill would authorize appropriations totaling $531 million in 2008 and $41.7 billion over the 2008-2011 period for major FAA programs, CBO estimates. Those amounts exclude $11.8 billion in discretionary resources that, on an annualized basis, CBO estimates have already been provided to the FAA for fiscal year 2008 under Public Law 110-92. They also exclude amounts that, as described above, would be transferred to the FAA and spent, without further appropriation, for activities related to modernizing the nation's air traffic control system.

In total, assuming appropriation actions consistent with the legisation, CBO estimates that implementing the bill would increase discretionary spending by $328 million in 2008 and by $38.6 billion over the 2008-2012 period, with remaining spending of $3.1 billion occurring in later years. That estimate is based on historical spending patterns for FAA programs.

Increased Outlays for Highway Programs. Under current law, most spending from contract authority provided for the Federal-Aid Highways program is considered discretionary because it is controlled by annual limitations on obligations set in appropriation acts. Therefore, estimates of outlays that would result from additional contract authority are included in the estimate of spending subject to appropriation. CBO estimates that the increase in contract authority would result in additional discretionary spending of about $4.8 billion over the 2008-2012 period.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

CBO and JCT have determined that the provisions of the American Infrastructure Investment and Improvement Act of 2007 contain no intergovernmental mandates as defined in UMRA. CBO estimates that the nontax provisions would impose no cost on state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

JCT has determined that the bill contains four private-sector mandates as defined in UMRA. Those provisions would:

- Increase the tax on noncommercial aviation-grade kerosene;
- Increase the international arrival and departure tax and index it for inflation;
- Increase the excise tax rate per barrel of oil for the Oil Spill Liability Trust Fund; and
- Impose tax on finished gasoline upon removal from the refinery.

Based on information provided by JCT, CBO expects that those mandates would impose costs totaling several hundred million dollars annually over the next five years. Those costs exceed the threshold established in UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

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