CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Peter R. Orszag, Director

June 19, 2008

Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

As you requested, CBO has reviewed draft legislation, the Federal Aviation Administration Extension Act of 2008 (file MAT 08287_xml), provided to CBO on June 17, 2008. That legislation would:

- Extend, through September 30, 2008, the existing taxes that are dedicated to the Airport and Airway Trust Fund (AATF);
- Authorize the expenditure of those taxes for major programs administered by the Federal Aviation Administration (FAA);
- Provide contract authority for the FAA's Airport Improvement Program (AIP); and
- Transfer $8 billion from the general fund of the Treasury to the Highway Trust Fund.

Relative to current baseline projections, CBO and the Joint Committee on Taxation (JCT) estimate that enacting this legislation would not affect revenues, direct spending, or spending subject to appropriation. The basis of that estimate is discussed below. The nontax provisions of H.R. 3540 contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Extensions of Aviation-Related Taxes and AATF Expenditure Authority

The legislation would extend, through September 30, 2008, the taxes that are dedicated to the AATF. (Currently, those taxes are scheduled to expire on June 30, 2008.) Consistent with the rules for constructing the baseline, which are specified in section 257 of the Balanced Budget and Emergency Deficit Control Act and 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 the expiring excise taxes are extended at the rates that are in place immediately before their scheduled expiration. Thus, the baseline already includes additional revenues of about $3 billion that would result from a three-month extension. As a result, relative to that baseline, JCT estimates that no change in revenue collections would result from the three-month extension in this legislation.

By extending the authority to expend amounts from the AATF, the legislation would authorize the appropriation of revenues credited to that fund between July 1, 2008, and September 30, 2008, for major FAA programs. Because the Consolidated Appropriations Act, 2008 (enacted as Public Law 161-110), already provided a full-year's worth of budget authority for those programs, we estimate that this provision would not affect spending subject to appropriation.

Contract Authority for the Airport Improvement Program (AIP)

The legislation would provide to FAA about $918 million in contract authority (a mandatory form of budget authority) for the three-month period from July 1, 2008, through September 30, 2008, to administer the Airport Improvement Program. That program provides grants to support capital investments at certain airports. As specified in the Deficit Control Act, the baseline assumes that the AIP (along with most other mandatory programs) continues to operate throughout the 10-year projection period. Therefore, the baseline assumes that funding provided for that program for the first nine months of fiscal year 2008 will continue at the same rate for the last three months of the year and in each of the following years. On that basis, CBO estimates that the amount of contract authority under this legislation would not differ from baseline levels currently projected, and therefore, relative to the baseline, this provision would not affect direct spending.

Outlays of AIP contract authority are controlled by limitations on obligations set in annual appropriation acts and are therefore considered discretionary. Because the Consolidated Appropriations Act, 2008, already authorized the agency to obligate a full year's worth of funds for AIP grants to airports, the baseline already includes outlays that would result from the additional contract authority provided by this legislation. Therefore, we estimate that this provision would not affect spending subject to appropriation.

Highway Trust Fund

Section 5 would transfer $8 billion from the general fund of the Treasury to the Highway Trust Fund (HTF) on October 1, 2008. CBO estimates that the proposed transfer would not affect direct spending.

The Department of Transportation's authority to obligate amounts credited to the HTF is largely controlled by annual limitations on obligations set in appropriation acts; therefore, most spending from the fund is considered discretionary. Increasing amounts credited to the fund would not directly affect the total amount the agency may obligate; therefore, the proposed transfer would not affect direct spending.

Under current law, both CBO and the Administration project that the HTF is likely to have inadequate resources to meet anticipated obligations in a timely manner at some point in 2009. In that event, it is possible that states would face delays in the timing of reimbursements for highway projects. Crediting additional amounts to the HTF would postpone the anticipated shortfall.

CBO also expects that the transfer would not change the amount of contract authority available to the Federal-Aid Highways program. 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 (see Public Law 109-59). An intergovernmental transfer of funds as proposed in the bill is not a governmental receipt for the purposes of the RABA calculation. Therefore, CBO estimates that there would not be an increase in contract authority as a result of this proposed transfer.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Zachary Epstein (for revenues), Megan Carroll (for FAA spending), and Sarah Puro (for highway programs). This estimate was approved by G. Thomas Woodward, Assistant Director for Tax Analysis, and Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Sincerely,

for Robert A. Sunshine

Peter R. Orszag
Director

cc: Honorable Charles E. Grassley
Ranking Member