CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 30, 2015

H.R. 3763
Surface Transportation Reauthorization and Reform Act of 2015

As reported by the House Committee on Transportation and Infrastructure on October 29, 2015

SUMMARY

H.R. 3763 would provide budget authority for the Department of Transportation (DOT) to operate the surface transportation programs administered by the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMCSA) for three years and programs administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA) for six years.[1] The bill also would authorize the appropriation of funds for certain other transportation programs administered by those agencies.

CBO and the staff of the Joint Committee on Taxation estimate the bill would:

- Provide $167 billion in contract authority (the authority to incur obligations in advance of appropriations acts and a mandatory form of budget authority) over the 2016-2018 period. That amount is about $13 billion more than the amounts contained in CBO's baseline for such programs.

- Provide about $2 billion in contract authority over the 2019-2021 period primarily for administrative expenses.

- Authorize obligation limitations that would permit the obligation of $164 billion of contract authority over the 2016-2018 period and authorize the appropriation of $8 billion for programs administered by DOT. CBO estimates those authorizations would result in outlays of $165 billion over the 2016-2025 period.

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1. Unlike most federal programs, surface transportation programs funded from the Highway Trust Fund have a split budgetary classification. For the surface transportation programs authorized by H.R. 3673, the budget authority is classified as mandatory but the outlays are classified as discretionary because they are controlled by limitations contained in appropriation acts. For more information on the treatment of surface transportation programs in the federal budget, see Congressional Budget Office, *The Highway Trust Fund and the Treatment of Surface Transportation Programs in the Federal Budget*, (June 2014), https://www.cbo.gov/publication/45416

- Appropriate $174 million for programs administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA) over the 2016-2021 period. That amount is equal to the amounts contained in CBO's baseline for mandatory pipeline safety programs. Consequently, relative to CBO's baseline this provision would have no cost. And

- Rescind $6 billion in unobligated contract authority from programs administered by FHWA.

CBO estimates that enacting H.R. 3763 would make changes to direct spending and revenues that would reduce deficits by $11 million over the 2016-2025 period. As a result, pay-as-you-go procedures apply. CBO estimates that H.R. 3763 would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2026.

H.R. 3763 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on railroads, states, and owners and manufacturers of rail tank cars. CBO estimates that the additional cost of the mandates on states and public railroads would fall below the annual threshold established in UMRA for intergovernmental mandates ($77 million in 2015, adjusted annually for inflation). CBO estimates that the aggregate cost of the mandates on private entities would fall below the annual threshold established in UMRA for private-sector mandates ($154 million in 2015, adjusted for inflation) in the first five years the mandates are in effect.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effects of H.R. 3763 are 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 H.R. 3763 will be enacted near the end of calendar year 2015, that the authorized amounts will be provided each year in appropriation acts, and that outlays will follow the historical rate of spending for transportation programs.

	By Fiscal Year, in Millions of Dollars											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-2020	2016-2025
CHANGES IN DIRECT SPENDING												
Contract Authority for Surface Transportation Programs [a]												
Estimated Budget Authority	454	10,192	2,437	-50,413	-50,412	-50,412	-50,412	-50,412	-50,412	-50,412	-87,743	-339,803
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Rescission of Contract Authority for Federal-Aid Highways Programs												
Budget Authority	0	0	-6,000	0	0	0	0	0	0	0	-6,000	-6,000
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Reappropriation of Funds for Transit Safety												
Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	2	2	2	0	0	0	0	0	0	0	6	6
Total Changes												
Estimated Budget Authority	454	10,192	-3,563	-50,413	-50,412	-50,412	-50,412	-50,412	-50,412	-50,412	-93,743	-345,803
Estimated Outlays	2	2	2	0	0	0	0	0	0	0	6	6
CHANGES IN REVENUES												
Estimated Revenues	0	0	0	2	2	3	3	3	3	3	4	17
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES												
Impact on Deficit	2	2	2	-2	-2	-3	-3	-3	-3	-3	2	-11
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Spending from the Highway Trust Fund												
Obligation Limitation	50,858	60,595	52,840	730	731	731	0	0	0	0	165,754	166,485
Estimated Outlays	12,062	33,152	42,788	34,104	15,804	8,896	5,438	3,023	1,378	603	137,911	157,250
Other Authorized Programs												
Authorization Level	2,387	2,431	2,481	88	90	92	0	0	0	0	7,477	7,569
Estimated Outlays	572	1,170	1,628	1,385	1,020	748	482	232	63	21	5,775	7,321
Total Changes												
Estimated Budgetary Resources	53,245	63,026	55,320	818	821	823	0	0	0	0	173,231	174,054
Estimated Outlays	12,635	34,322	44,416	35,490	16,824	9,644	5,919	3,255	1,441	624	143,686	164,571

a. See Table 2 for further details on the change in contract authority provided in H.R. 3763.

CHANGES IN DIRECT SPENDING AND REVENUES

Contract Authority for Surface Transportation Programs

Over the 2016-2018 period, H.R. 3763 would provide $167 billion in budget authority (in the form of contract authority) for surface transportation programs funded by the Highway Trust Fund. That amount is $13 billion more than CBO estimates will be available for such programs under the baseline. That $13 billion includes $9 billion in contract authority provided for 2017 under provisions of section 1414 of the bill. Under that section, contract authority provided by the bill could be adjusted depending on the amount of funds credited to the Highway Trust Fund. CBO estimates that the adjustment provision would not change the amount of contract authority specified in the bill in any other year.

Over the 2019-2021 period, H.R. 3763 would provide about $2 billion ($731 million per year) in contract authority for staff salaries and expenses to administer surface transportation programs funded by the Highway Trust Fund. Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing the baseline, CBO assumes that contract authority for salaries and expenses provided by the bill for 2021 ($731 million), the last year of the authorization, continues at the same level in each of the following years.

Because spending of the contract authority for surface transportation programs would be controlled by provisions in future appropriation acts, enacting these provisions would not increase direct spending outlays.

Rescission of Unobligated Contract Authority

Section 1415 would permanently rescind $6 billion in unobligated balances on July 1, 2018, for programs administered by the FHWA. Because the highway program historically carries large balances of unobligated contract authority, those amounts are not expected to be spent over the 2016-2025 period. As a result, the rescission would have no effect on outlays from direct spending over that time period.

CBO's estimate of contract authority provided under H.R. 3763 is shown in Table 2. The amount of contract authority provided by the bill, including the adjustment in 2017 and the rescission in 2018, would result in contract authority that is $346 billion less than projected in CBO's baseline over the 2016-2025 period.

Re-appropriation of Funds for Transit Safety Oversight

Section 3012 would permit the FTA to use funds previously appropriated to states to administer and oversee safety programs for public transportation. While contract authority provided under current law does not expire, it is only available to a grantee for a limited amount of time. By providing a new purpose for the previously appropriated funds, CBO estimates that enacting section 3012 would increase direct spending. Based on information from the FTA about the level of contract authority that has lapsed, CBO estimates that those increases would total $2 million per year over the 2016-2018 period.

TABLE 2. CONTRACT AUTHORITY PROVIDED BY H.R. 3763

	By Fiscal Year, in Millions of Dollars										
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-2025
Contract Authority Assumed In CBO's Baseline (before the enactment of H.R. 3763)	51,143	51,143	51,143	51,143	51,143	51,143	51,143	51,143	51,143	51,143	511,430
Contract Authority Under H.R. 3763											
Specified by H.R. 3763	51,597	52,513	53,580	730	731	731	- -	- -	- -	- -	159,881
Assumed in the Baseline After 2021 [a]	- -	- -	- -	- -	- -	- -	731	731	731	731	2,924
Estimated by CBO (Section 1414(b))	- -	8,822	- -	- -	- -	- -	- -	- -	- -	- -	8,822
Rescission	- -	- -	-6,000	- -	- -	- -	- -	- -	- -	- -	-6,000
Total Contract Authority Under H.R. 3763	51,597	61,335	47,580	730	731	731	731	731	731	731	165,628
Change in Contract Authority [b]	454	10,192	-3,563	-50,413	-50,412	-50,412	-50,412	-50,412	-50,412	-50,412	-345,803

a. As required by law, CBO's baseline reflects the assumption that most mandatory programs (including programs funded from the Highway Trust Fund) that expire on specific dates will continue to operate as they did immediately before their expiration.

b. This line appears under the heading Total Changes: "Contract Authority for Surface Transportation Programs" in Table 1.

Trigger Mechanism for Contract Authority During the 2019-2021 Period

Under provisions of section 1414, subsequent legislation that provides additional funds for the Highway Trust Fund would trigger the creation of additional contract authority during the 2019-2021 period for surface transportation programs administered by DOT. Because the contract authority would be contingent upon further legislation, CBO would attribute additional contract authority to subsequent legislation that provides additional amounts (including general fund transfers) for the Highway Trust Fund, not to this bill.

Sport Fish Restoration and Boating Trust Fund

Title X would change the current formula used to distribute funds from the Sport Fish Restoration and Boating Trust Fund (SFRBTF) to various programs. The legislation would adjust the allocation of amounts that could be spent from the SFRBTF among programs related to sport fish restoration, boating safety, and coastal wetlands restoration under the Federal Aid Sport Fish Restoration Act, but would not affect the total amount available to be spent from the fund. CBO estimates that changing the allocation would have a minor effect on the total rate of spending but that any change in direct spending would be insignificant.

CHANGES IN REVENUES

The Transportation Infrastructure Finance and Innovation Program (TIFIA) within DOT makes loans and loan guarantees. Under current law, CBO estimates that about $360 million in budget authority will be used each year for the program. Section 1101 of the bill would reduce budget authority specifically designated for TIFIA to $200 million but would then let states, after approval by DOT, transfer certain highway funds distributed by formula to pay subsidy and administrative costs of a loan to an eligible entity. Because states would have to use funds that they could have otherwise used for other transportation projects, CBO projects that there would be slightly less budget authority used under the provisions of H.R. 3763 than under CBO's baseline.

Because TIFIA is designed to leverage new investments financed (at least in part) by additional tax-exempt debt, JCT estimates that decreasing the funds authorized for TIFIA would decrease the issuance of tax-exempt bonds and would increase federal revenues by $17 million over the next 10 years.

CHANGES IN SPENDING SUBJECT TO APPROPRIATION

Assuming appropriation of the specified and estimated obligation limitations and the amounts specifically authorized to be appropriated for other programs, CBO estimates that implementing H.R. 3763 would cost $144 billion over the 2016-2020 period. (CBO has not completed an estimate of other spending in the bill that is subject to appropriation but not authorized at a specified level.) That amount includes spending from the Highway Trust Fund as well as spending on other transportation programs operated by DOT.

Spending from the Highway Trust Fund

For many years, the contract authority provided in transportation legislation has been controlled by limitations on obligations contained in annual appropriations acts. CBO expects that practice would continue under the provisions of H.R. 3763. The bill would authorize obligation limitations of $166 billion for surface transportation programs over the 2016-2020 period. CBO estimates that obligating amounts equal to the limitations contained in H.R. 3763 would result in outlays of $138 billion over the 2016-2020 period, assuming appropriation action consistent with the bill.

Other Authorized Programs

H.R. 3763 would authorize specific appropriations for several programs administered by FTA, FHWA, NHTSA, and PHMSA. Under the bill, programs administered by the FTA and NHTSA would be authorized for the 2016-2018 period and programs administered by the FHWA and PHMSA would be authorized for the 2016-2021 period. Amounts authorized include:

- $6.6 billion for programs administered by FTA, including $6.2 billion for the Capital Investment Grant program to fund new transit with dedicated rights of way and $318 million to administer the FTA's programs;

- $30 million per year for Tribal High Priority Projects;

- $399 million for NHTSA; and

- $345 million for PHMSA.

Assuming the appropriation of the specified amounts, CBO estimates that enacting these provisions would cost almost $5.8 billion over the 2016-2020 period.

STATUS OF THE HIGHWAY TRUST FUND UNDER H.R. 3763

In CBO's March 2015 *Status of the Highway Trust Fund* report, CBO projected cumulative shortfalls of $52 billion in the highway account and $17 billion in the transit account at the end of 2020.[2] Those are the amounts that revenues credited to the fund are projected to fall short of outlays, given the authorized or projected spending authority. Under H.R. 3763 those estimated shortfalls would be slightly greater.

The obligation limitations authorized in H.R. 3763 for 2016 and 2018 for programs administered by the FHWA and the FTA are identical to the amounts contained in CBO's March 2015 report on the status of the Highway Trust Fund. Obligation limitations for highway safety programs are slightly lower than those in CBO's baseline. Because of the provisions in section 1414 that would increase both contract authority and obligation limitations based on funds credited to the Highway Trust Fund, CBO estimates that the authorized obligation limitation for 2017 would be about $9 billion more than the amounts contained in CBO's March 2015 estimates.

As a result of those changes, CBO estimates that the cumulative shortfalls at the end of 2020 in the highway account and transit account under H.R. 3736 would be $58 billion and $19 billion, respectively. The bill would not affect revenues credited to the fund. Consistent with the scoring conventions for all appropriated programs, those estimates reflect the assumption that the pace of spending under H.R. 3763 would not be affected by the shortfall in the Highway Trust Fund.

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2. See Congressional Budget Office, *Highway Trust Fund Accounts—Baseline Projections, March 2015 Baseline.* www.cbo.gov/publication/43884.

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 and revenues 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. 3763, as ordered reported by the House Committee on Transportation and Infrastructure on October 22, 2015

	By Fiscal Year, in Millions of Dollars											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-2020	2016-2025
NET INCREASE OR DECREASE (-) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	2	2	2	-2	-2	-3	-3	-3	-3	-3	2	-11
Memorandum:												
Changes in Outlays	2	2	2	0	0	0	0	0	0	0	6	6
Changes in Revenues	0	0	0	-2	-2	-3	-3	-3	-3	-3	-4	-17

INCREASE IN LONG TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2026.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3763 would impose intergovernmental and private-sector mandates, as defined in UMRA, on railroads and owners and manufacturers of rail tank cars. Because of the limited number of railroads that would need to comply with reporting requirements related to positive train control technologies and the relatively small cost of those requirements, and because most states are currently conducting freight planning, CBO estimates that the cost of the mandate on public railroads would fall below the annual threshold established in UMRA for intergovernmental mandates ($77 million in 2015, adjusted annually for inflation). The bill would impose additional private-sector mandates on owners and manufacturers of tank cars and railroads. Based on information about industry practice and the range of compliance costs, CBO estimates that the aggregate cost of the mandates on private entities would fall below the annual threshold established in UMRA for private-sector mandates ($154 million in 2015, adjusted for inflation) in the first five years the mandates are in effect.

Mandates That Apply to Public and Private Entities

The bill would require some railroads, including intercity and commuter passenger railroads, to submit revised plans for implementing positive train control technology and annual progress reports. It also would require those railroads to notify tenant rail lines before testing such positive train control technology. Based on information about current industry practices, CBO estimates that the cost of revising plans, preparing progress reports, and providing notifications would be small. These same requirements are also included in H.R. 3819 as passed by the House of Representatives on October 27, 2015, and by the Senate on October 28, 2015.

Mandates That Apply to States Only

The bill would require states to develop freight plans. Under current law, states include some freight planning as part of the state transportation plans required for federal assistance. In addition, current law encourages states to do additional freight planning. Because the provision in this bill is a stand-alone requirement for states not connected to federal assistance, it would impose a mandate as defined in UMRA. That said, most states already include freight planning in their overall transportation plans, so CBO estimates that the additional costs to meet requirements of the bill would total several million dollars annually. States could use federal assistance to create those plans.

Mandates That Apply to Private Entities Only

The bill would impose private-sector mandates on owners and manufacturers of tank cars by requiring rail tank cars constructed or modified to meet a specific DOT standard to have an insulating blanket for thermal protection. CBO estimates that this mandate would impose few, if any, additional costs because the industry currently equips new and modified tank cars with insulating blankets. The bill also would require all tank cars transporting certain flammable liquids to meet a specific DOT standard for construction. Currently, only tank cars transported in trains designated as high-hazard flammable trains must comply with that DOT standard. Based on information about the types of cars that would be affected by the mandate and the associated deadlines for compliance, CBO expects that the industry would probably start to incur more substantial costs after the first five years the mandate is in effect. (UMRA directs CBO to determine whether the total cost of all the mandates in the bill would be greater than the annual threshold during any of the first five fiscal years after the mandates would take effect.)

The bill also would require railroads to maintain a comprehensive response plan for oil spills and to provide information about trains carrying flammable materials to state emergency response commissions. Railroads are currently required to prepare at least a basic oil spill response plan. Based on information from industry sources, CBO expects that fewer than one hundred railroads would need to develop a comprehensive plan and that the cost per railroad could reach $1 million, depending on the size of the railroad. Railroads also currently provide information to state emergency response commissions about trains carrying more than one million gallons of certain crude oil. Therefore, CBO estimates that the cost to report any additional information to state emergency response commissions would be small.

Other Impact

Many provisions in the bill would authorize assistance for transportation projects would benefit state, local, and tribal governments. Any costs to those entities would be incurred voluntarily as conditions of participating in voluntary federal programs.

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