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

Keith Hall, Director

July 24, 2015

Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Re: Estimated costs for the DRIVE Act

Dear Mr. Leader:

The Congressional Budget Office has reviewed the DRIVE Act (Senate Amendment number 2266 to H.R. 22, the Hire More Heroes Act, introduced on July 24, 2015). CBO and the staff of the Joint Committee on Taxation (JCT) estimate the amendment would:

- Provide $350 billion in contract authority (the authority to incur obligations in advance of appropriation acts) over the 2015-2021 period;

- Authorize obligation limitations that would permit the obligation of $337 billion of contract authority over the 2016-2021 period, which would result in discretionary outlays totaling an estimated $319 billion over the 2016-2025 period;

- Transfer $46 billion from the general fund of the Treasury and $300 million from the Leaking Underground Storage Tank Trust Fund to the Highway Trust Fund; and

- Make changes in direct spending and revenues that would reduce deficits by $45 billion over the 2015-2025 period.

New Contract Authority

The DRIVE Act would provide $350 billion in contract authority for the 2015-2021 period, including $8 billion for the remainder of fiscal year 2015. That $8 billion is already reflected in CBO's baseline, which includes an annualized amount for the year, based on the amount that was previously authorized through July 31, 2015.

As required by the Balanced Budget and Emergency Deficit Control Act of 1985, CBO's baseline incorporates the assumption that contract authority for transportation programs will continue to be provided over the entire projection period in amounts that are equal to the amounts provided in the last year of an authorization. Hence, for the 2016-2021 period, CBO's baseline includes $306 billion in contract authority. The DRIVE Act would provide about $36 billion more in contract authority for that period than is projected in the baseline.

In addition, extending the funding provided in the DRIVE Act through 2025 would add about $10 billion a year to the amounts already projected in the baseline for the years 2022 through 2025, which are about $51 billion a year. Altogether, the DRIVE Act would add $76 billion to CBO's baseline projection of contract authority over the 2015-2025 period.

Discretionary Spending

Those amounts of contract authority have 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.) CBO estimates that the DRIVE Act would authorize obligation limitations totaling $337 billion over the 2016-2021 period and that discretionary spending from implementing those obligation limitations would total $319 billion over the 2016-2025 period. The amendment also would authorize appropriations for many other transportation-related programs, but CBO has not completed an estimate of the cost of implementing those provisions.

Transfers to the Highway Trust Fund

The amendment would transfer about $46 billion from the general fund of the Treasury to the Highway Trust Fund in 2015.[1] It also would transfer $100 million a year from the Leaking Underground Storage Tank Trust Fund to the Highway Trust Fund in 2015, 2016, and 2017. Those transfers would increase the balances in the Highway Trust Fund, but would not, by themselves, increase direct spending or affect budget deficits. The transfers would, however, make it possible for the Department of Transportation (DOT) to meet the projected obligations of the fund through 2018.

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1. Pursuant to section 3302 of S. Con. Res. 11, the Concurrent Resolution on the Budget for Fiscal Year 2016, general fund transfers to the Highway Trust Fund are considered to be new budget authority and outlays for budget enforcement purposes in the House of Representatives.

Changes in Direct Spending and Revenues

The amendment would change direct spending and revenues in the following ways (see Table 1):

- Authorize the surface transportation programs administered by the Federal-Aid Highway Administration, the Federal Transit Administration, the National Highway Traffic Safety Administration, the Federal Motor Carrier Safety Administration, and certain programs administered by the Pipelines and Hazardous Materials Administration through fiscal year 2021;

- Require the Internal Revenue Service (IRS) to contract with private collection agencies to collect payments of certain tax liabilities and compensate them with a portion of the amounts collected;

- Reclassify certain fees collected by the Transportation Security Administration (TSA) in 2024 and 2025;[2]

- Adjust the rates for certain customs user fees annually over the 2016-2025 period by the percentage increase in the Consumer Price Index for the previous year;

- Direct the Department of Energy to sell 101 million barrels of oil from the Strategic Petroleum Reserve over the 2018-2025 period;

- Increase certain mortgage guarantee fees charged by Fannie Mae and Freddie Mac, starting in 2022;

- Repeal provisions requiring the Department of the Interior to pay interest on overpayments of royalties on federal oil and gas leases;

- Increase penalties related to motor vehicle safety;

2. Under current law, CBO estimates that security-related fees collected by TSA in 2024 and 2025 will total $4.4 billion and $4.5 billion, respectively. Because the agency's authority to collect fees in those years is largely contingent on annual appropriation action, most of those anticipated fees are classified as discretionary offsetting collections in CBO's baseline projections. The DRIVE Act would amend current law to direct TSA to collect a specified portion of such fees without further appropriation action—effectively reclassifying the specified amounts as offsetting receipts (a credit against direct spending). The remaining portion of TSA fees would remain subject to appropriation action. The total amount collected would not be affected by this provision.

- Require additional information about mortgages to be reported to the IRS and the payer;

- Reduce the dividend rate that the Federal Reserve pays to its larger member banks on their paid-in capital; and

- Provide that employees who have medical coverage under TRICARE or certain programs administered by the Department of Veterans Affairs would not be taken into account for purposes of determining whether the employer is large enough to be subject to employer responsibility payments under the Affordable Care Act. (CBO and JCT expect that enacting this provision would reduce the number of employers that would be required to make such employer responsibility payments, thus reducing federal revenues.)

All told, those provisions (and a few others affecting revenues) would reduce direct spending outlays by $18 billion and increase revenues by $27 billion over the 2015-2025 period, CBO and JCT estimate.

Estimated Balances in the Highway Trust Fund

The federal government's surface transportation programs are financed mostly through the Highway Trust Fund, an accounting mechanism in the federal budget that comprises two separate accounts, one for highways and highway safety programs and one for mass transit. The trust fund records inflows from revenues collected through excise taxes on the sale of motor fuels, trucks and trailers, and truck tires; taxes on the use of certain kinds of vehicles; and interest credited to the fund. The Highway Trust Fund also records cash outflows for spending on designated highway and mass transit programs, mostly in the form of grants to state and local governments.

CBO estimates that implementing provisions of the DRIVE Act that would authorize spending and transfer funds to the Highway Trust Fund would lead to a cash balance in the fund of about $5 billion at the end of 2018 ($4 billion in the highway account and $1 billion in the transit account). In order to cover the outlays that would result if the authorized obligations were made, the trust fund would need an additional $51 billion ($38 billion in the highway account and $13 billion in the transit account) by the end of 2021, the last year of the authorization for surface transportation programs contained in the bill (see Table 2). That shortfall in 2021 is less than the $87 billion shortfall that CBO estimates would occur by 2021 under a continuation of current law (see: https://www.cbo.gov/publication/43884).

The trust fund cannot incur negative balances, nor is it permitted to borrow to cover unmet obligations presented to the fund. To meet obligations as they come due, DOT estimates, the highway account must maintain a cash balance of at least $4 billion and the transit account must maintain a balance of at least $1 billion. Section 80002 of the bill would bar the Secretary of Transportation from entering into new obligations from one or both of those accounts if the Secretary foresees balances falling below those amounts in the next fiscal year. However, under the Balanced Budget and Emergency Deficit Control Act of 1985, CBO's baseline for highway and transit spending must incorporate the assumption that obligations incurred by the Highway Trust Fund will be paid in full. As a result, the projected costs of the DRIVE Act and the cumulative shortfalls in the trust fund are estimated on the basis of spending that would occur if obligations from the fund each year were equal to the obligation limitations contained in the bill over the 2016-2021 period, and adjusted for projected inflation after 2021. This practice is consistent with CBO’s baseline estimates for programs funded through the Highway Trust Fund and CBO’s estimates of the costs of provisions in appropriation bills that provide spending authority for trust fund programs.

Long-Term Budgetary Effects

Section 3107(b) of the Concurrent Resolution on the Budget for Fiscal Year 2016 requires CBO to provide estimates of changes in budget authority, outlays, and revenues over the 2016-2045 period for legislation that transfers amounts from the general fund of the Treasury to the Highway Trust Fund. CBO estimates that those changes would amount to a reduction in budget authority and outlays, an increase in revenues, and a reduction in projected budget deficits, each of which would be equivalent to much less than one-quarter of one percent of the gross domestic product in any year over that period.

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

Intergovernmental and Private-Sector Mandates

CBO has determined that the nontax provisions of the bill would impose several intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Mandates that would affect both public and private entities would require:

- Rail carriers, including public commuter rail carriers and Amtrak, to post signage along tracks, install recording devices in some cars, and take other actions to increase rail safety;

- Some state and local governments and Amtrak to create plans and submit reports about the capital assets of intercity passenger rail systems; and

- Sponsors of large construction projects to submit notices to federal agencies in some cases. To the extent that federal agencies would collect fees, the duty to pay those fees also would be a mandate.

The bill also would impose mandates on public entities by preempting certain state laws and regulations. The most costly intergovernmental mandates are those that impose rail safety requirements. Depending on how DOT implemented related regulations, the costs of those requirements could exceed the annual threshold established in UMRA for intergovernmental mandates ($77 million in 2015, adjusted annually for inflation).

The bill also would impose new safety and reporting requirements on private entities, including manufacturers of motor vehicles and tires, transporters of hazardous materials, and rental car companies, and it would increase customs user fees. CBO estimates that those fees would total more than $1 billion over the 2016-2020 period. Consequently, CBO estimates that the aggregate cost of the private-sector mandates would greatly exceed the annual threshold established in UMRA ($154 million in 2015, adjusted annually for inflation).

I hope this information is useful to you. If you need additional information on this amendment, the CBO staff contact is Sarah Puro.

Sincerely,

for Robert A. Sunshine

Keith Hall
Director

Enclosures

cc: Honorable Harry Reid
Democratic Leader

Honorable Jim Inhofe
Chairman
Committee on Environment and Public Works

Honorable Barbara Boxer
Ranking Member

Honorable Orrin G. Hatch
Chairman
Committee on Finance

Honorable Ron Wyden
Ranking Member

Honorable Richard Shelby
Chairman
Committee on Banking, Housing, and Urban Affairs

Honorable Sherrod Brown
Ranking Member

Honorable Mike Enzi
Chairman
Committee on the Budget

Honorable Bernie Sanders
Ranking Member

TABLE 1. SUMMARY OF ESTIMATED BUDGETARY EFFECTS OF THE DRIVE ACT (SENATE AMENDMENT NUMBER 2266 TO H.R. 22, THE HIRE MORE HEROES ACT, AS INTRODUCED ON JULY 24, 2015)

	By Fiscal Year, in Millions of Dollars												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-2020	2015-2025
CHANGES IN DIRECT SPENDING													
Provide Additional Transportation Contract Authority[a]													
Budget Authority	0	2,001	3,501	5,270	7,142	8,545	9,983	9,983	9,983	9,983	9,983	26,458	76,371
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0	0
Contract with Private Entities for Tax Collection													
Estimated Budget Authority	*	36	225	235	246	257	269	282	296	310	325	999	2,481
Estimated Outlays	*	36	225	235	246	257	269	282	296	310	325	999	2,481
Reclassify Transportation Security Administration Fees													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	-1,750	-1,750	0	-3,500
Estimated Outlays	0	0	0	0	0	0	0	0	0	-1,750	-1,750	0	-3,500
Increase Customs User Fees													
Estimated Budget Authority	0	-14	-139	-233	-338	-459	-585	-733	-897	-1,079	-1,220	-1,183	-5,697
Estimated Outlays	0	-14	-139	-233	-338	-459	-585	-733	-897	-1,079	-1,220	-1,183	-5,697
Sell Strategic Petroleum Reserve Oil													
Estimated Budget Authority	0	0	0	-300	-400	-650	-650	-850	-1,450	-2,350	-2,400	-1,350	-9,050
Estimated Outlays	0	0	0	-300	-400	-650	-650	-850	-1,450	-2,350	-2,400	-1,350	-9,050
Increase Mortgage Guarantee Fees													
Estimated Budget Authority	0	0	0	0	0	0	0	-400	-400	-500	-600	0	-1,900
Estimated Outlays	0	0	0	0	0	0	0	-400	-400	-500	-600	0	-1,900
End Interest Payments on Overpayment of Royalties													
Estimated Budget Authority	0	0	-5	-15	-25	-30	-40	-40	-45	-55	-65	-75	-320
Estimated Outlays	0	0	-5	-15	-25	-30	-40	-40	-45	-55	-65	-75	-320
Total Changes													
Estimated Budget Authority	*	2,023	3,582	4,957	6,625	7,663	8,977	8,242	7,487	4,559	4,273	24,849	58,385
Estimated Outlays	*	22	81	-313	-517	-882	-1,006	-1,741	-2,496	-5,424	-5,710	-1,609	-17,986
CHANGES IN REVENUES													
Increase Motor Vehicle Safety Penalties	0	1	10	20	25	25	25	25	30	30	30	81	221
Modify Mortgage Reporting Requirements	0	22	147	152	164	172	191	207	227	251	273	657	1,806
Contract with Private Entities for Tax Collection	*	72	450	470	492	514	538	564	592	620	650	1,998	4,962
Reduce Federal Reserve Dividend Payments	81	1,020	1,126	1,289	1,399	1,561	1,723	1,888	2,104	2,321	2,595	6,475	17,106

Continued

TABLE 1. Continued.

	By Fiscal Year, in Millions of Dollars												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-2020	2015-2025
					CHANGES IN REVENUES (Continued)								
Reduce Penalty Payments by Employers[b]	0	-63	-66	-70	-74	-78	-83	-88	-93	-99	-104	-350	-816
Other Revenues	20	181	-1,210	233	304	314	307	339	374	378	2,379	-158	3,619
Total Changes	101	1,233	457	2,094	2,310	2,508	2,701	2,935	3,234	3,501	5,823	8,703	26,898
					DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES								
Effect on Deficit	**-101**	**-1,211**	**-376**	**-2,407**	**-2,827**	**-3,390**	**-3,707**	**-4,676**	**-5,730**	**-8,925**	**-11,533**	**-10,312**	**-44,884**
					CHANGES IN SPENDING SUBJECT TO APPROPRIATION[c]								
Spending from the Highway Trust Fund													
Estimated Obligation Limitation[d]	0	52,105	53,605	55,373	57,245	58,649	60,087	0	0	0	0	276,978	337,065
Estimated Outlays	0	13,071	32,951	42,032	46,644	50,728	53,567	41,627	20,101	11,159	7,572	185,426	319,452

Sources: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Notes: Amounts may not sum to totals because of rounding; * = less than $500,000.

a. The DRIVE Act would provide about $350 billion in contract authority for surface transportation programs over the 2015-2021 period, including $8 billion for the period from August 1, 2015, to September 30, 2015. The Highway and Transportation Funding Act of 2015 (Public Law 114-21) provided about $43 billion in contract authority for programs funded by the DRIVE Act through July 31, 2015. Thus, under the DRIVE Act, total contract authority for 2015 would be about $51 billion. That amount is equal to the amount of contract authority in CBO's baseline, which included an annualized amount for that year.

Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing the baseline, CBO extends the contract authority provided by the bill for 2021 ($61 billion), the last year of the authorization, at the same amount in each of the following years. Under that assumption, CBO estimates the DRIVE Act would add about $10 billion a year to the $51 billion a year in contract authority projected in CBO's baseline for the years 2022 through 2025. That change would result in contract authority totaling about $586 billion over the 2016-2025 period in CBO's baseline.

b. This estimate is about $40 million lower than CBO and JCT'S previous estimate for similar language in H.R. 22, the Hire More Heroes Act of 2015, published on January 6, 2015. That difference reflects updates to CBO's baseline that were made in March 2015.

c. The DRIVE Act also would authorize appropriations for many other transportation-related programs; however, CBO has not completed an estimate of the cost of implementing those provisions.

d. Although section 80002 of the bill would bar the Secretary of Transportation from entering into new obligations if the Secretary foresees balances in the highway account of the Highway Trust Fund falling below $4 billion or balances in the transit account falling below $1 billion in the next fiscal year, CBO has estimated the cost of the DRIVE Act by assuming that funds are obligated in amounts equal to the obligation limitations specifically authorized by the bill. This practice is consistent with how CBO generally estimates the costs of provisions in appropriation bills that provide spending authority regardless of the means of financing that may be used to liquidate that authority.

TABLE 2. SUMMARY OF CASH FLOWS FOR ACCOUNTS IN THE HIGHWAY TRUST FUND UNDER THE DRIVE ACT (SENATE AMENDMENT NUMBER 2266 TO H.R. 22, THE HIRE MORE HEROES ACT, AS INTRODUCED ON JULY 24, 2015)

	By Fiscal Year, in Billions of Dollars										
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Highway Account											
Start-of-Year Balance	11	36	26	16	4	a	a	a	a	a	a
Revenues and Interest	34	35	35	35	35	35	35	35	35	35	34
Intragovernmental Transfers	35	*	*	0	0	0	0	0	0	0	0
Outlays[b]	44	45	46	47	48	49	50	51	52	53	54
End-of-Year Balance[c]	36	26	16	4	a	a	a	a	a	a	a
Transit Account											
Start-of-Year Balance	3	12	8	5	1	a	a	a	a	a	a
Revenues and Interest	5	5	5	5	5	5	5	5	5	5	4
Intragovernmental Transfers	11	0	0	0	0	0	0	0	0	0	0
Outlays[b]	8	8	9	9	9	10	10	10	11	10	11
End-of-Year Balance[c]	12	8	5	1	a	a	a	a	a	a	a
Memorandum:											
Cumulative Shortfall[d]											
Highway Account Shortfall	n.a.	n.a.	n.a.	n.a.	-9	-23	-38	-54	-71	-89	-108
Transit Account Shortfall	n.a.	n.a.	n.a.	n.a.	-3	-8	-13	-19	-25	-31	-38

Source: Congressional Budget Office.

Notes: Details may not add to totals because of rounding.

n.a. = not applicable

* = less than $500 million

Contract authority is a mandatory form of budget authority typically provided in authorization acts.

Obligation limitations are the limitations on the obligation of contract authority typically provided in appropriations acts.

a. Beginning in fiscal year 2019, CBO projects, revenues credited to the highway and transit accounts of the Highway Trust Fund would be insufficient to meet the fund's obligations. Under current law, the trust fund cannot incur negative balances, nor is it permitted to borrow to cover unmet obligations presented to the fund. Under the Balanced Budget and Emergency Deficit Control Act of 1985, however, CBO's baseline for highway and transit spending must incorporate the assumption that obligations incurred by the Highway Trust Fund will be paid in full. As a result, the cumulative shortfalls shown here are estimated on the basis of spending that would occur if obligations from the fund each year were equal to the obligation limitations contained in the bill for 2016 through 2021 and were adjusted for projected inflation thereafter. To meet obligations as they come due, the Department of Transportation estimates, the highway account must maintain a cash balance of at least $4 billion and the transit account must maintain a balance of at least $1 billion.

b. Outlays include amounts transferred between the highway and transit accounts. CBO estimates that those amounts would total about $1 billion annually.

c. Although section 80002 of the bill would bar the Secretary of Transportation from entering into new obligations if the Secretary foresees balances in the highway account of the Highway Trust Fund falling below $4 billion or balances in the transit account falling below $1 billion in the next fiscal year, CBO has estimated the cost of the DRIVE Act by assuming that funds are obligated in amounts equal to the obligation limitations specifically authorized by the bill. This practice is consistent with how CBO generally estimates the costs of provisions in appropriation bills that provide spending authority regardless of the means of financing that may be used to liquidate that authority.

d. CBO projects that under provisions of the DRIVE Act, both the highway account and the transit account would be exhausted after 2018. Under current law, the Highway Trust Fund cannot incur negative balances. However, following the rules of the Deficit Control Act of 1985, CBO's baseline for surface transportation spending reflects the assumption that obligations presented to the Highway Trust Fund will be paid in full. The memorandum to this table shows the cumulative shortfall of fund balances, assuming spending levels that would be authorized by H.R. 22 as amended.