CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 29, 2007

Heartland, Habitat, Harvest, and Horticulture Act of 2007

As ordered reported by the Senate Committee on Finance on October 4, 2007

SUMMARY

The Heartland, Habitat, Harvest, and Horticulture Act of 2007 would make various changes to tax law pertaining to agricultural activity, energy production, and conservation actions. It also would establish or modify payments made to producers under certain farm programs. Among those provisions, the bill would establish a trust fund for agriculture disaster relief, provide a tax credit in lieu of certain conservation payment programs, and provide a tax credit for the recovery and restoration of endangered species. The bill also would modify the effective date for provisions enacted in 2004 regarding certain leasing transactions and clarify the economic substance doctrine.

The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) estimate that enacting the Heartland, Habitat, Harvest, and Horticulture Act of 2007 would increase revenues by $2.7 billion in 2008, by $5.2 billion over the 2008-2012 period, and by $5.4 billion over the 2008-2017 period. A portion of those changes would be off-budget. CBO estimates that the bill would increase direct spending by $867 million in 2008, by $2.0 billion over the 2008-2012 period, and by $2.0 billion over the 2008-2017 period. CBO estimates that implementing the bill would increase discretionary spending by less than $500,000 annually, assuming appropriation of the necessary amounts.

JCT and CBO have determined that the provisions of the bill contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). JCT has determined that the tax provisions of the bill contain two private-sector mandates: the modification of the effective date for the application of the sale-in, lease-out (“SILO”) provisions enacted in the American Jobs Creation Act of 2004 (AJCA) and the clarification of the economic substance doctrine and related penalties. CBO has determined that the non-tax provisions of the bill contain private-sector mandates on importers of ethanol. In aggregate, the costs of all the mandates in the bill would exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

Because section 202(b) of the bill relates to the Old-Age, Survivors, and Disability Insurance program (OASDI) under title II of the Social Security Act, it is excluded from review under UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the bill over the 2008-2017 period is shown in the following table. The budgetary impact of this legislation falls within functions 350 (agriculture), 300 (natural resources), and 650 (Social Security).

TABLE 1. Estimated Budgetary Impact

	By Fiscal Year, in Millions of Dollars											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008-2012	2008-2017
CHANGES IN REVENUES AND DIRECT SPENDING												
On-Budget Effects												
Direct Spending												
Estimated Budget Authority	924	240	288	298	311	0	0	0	0	0	2,061	2,061
Estimated Outlays	867	237	280	292	304	82	0	0	0	0	1,980	2,061
Revenues	2,694	144	-651	-508	3,888	-3,567	1,177	1,254	909	451	5,561	5,783
Off-Budget Effects												
Direct Spending												
Estimated Budget Authority	0	-1	-1	-3	-3	-4	-4	-5	-6	-6	-8	-33
Estimated Outlays	0	-1	-1	-3	-3	-4	-4	-5	-6	-6	-8	-33
Revenues	4	-91	-91	-91	-91	-9	-9	-9	-8	-8	-357	-399
Unified Budget Effects												
Direct Spending												
Estimated Budget Authority	924	239	287	295	308	-4	-4	-5	-6	-6	2,053	2,028
Estimated Outlays	867	236	279	289	301	78	-4	-5	-6	-6	1,972	2,028
Revenues	2,698	53	-742	-599	3,797	-3,576	1,168	1,245	901	443	5,204	5,384
Net Effect on Deficit[a]	-1,831	183	1,021	888	-3,496	3,654	-1,172	-1,250	-907	-449	-3,232	-3,356

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

[a] Negative numbers represent decreases to the deficit or increases to the surplus; positive numbers represent increases to the deficit or decreases to the surplus.

Sources: Joint Committee on Taxation and Congressional Budget Office.

BASIS OF ESTIMATE

For this estimate, CBO and JCT assume that the bill will be enacted early in fiscal year 2008. JCT provided the estimates of changes in revenues for all provisions, except two that affect customs duties. CBO provided the estimates of changes in direct spending and spending subject to appropriation.

Revenues

The legislation would make several changes to tax law. CBO and JCT estimate that enacting the bill would increase revenues by $2.7 billion in 2008, by $5.2 billion over the 2008-2012 period, and by $5.4 billion over the 2008-2017 period. The estimated revenue impact of the bill over the 2008-2017 period is shown in the following table.

TABLE 2. Estimated Revenue Impact

	By Fiscal Year, in Millions of Dollars											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008-2012	2008-2017
CHANGES IN REVENUES												
Title II: Conservation Provisions	-258	-1,236	-1,220	-1,333	-1,406	-457	-405	-349	-294	-274	-5,453	-7,234
Title III: Energy Provisions	77	212	-100	-235	-360	-360	-394	-259	-42	-21	-405	-1,482
Title IV: Agricultural Provisions	-311	-592	-727	-386	-266	-56	421	659	401	86	-2,282	-771
Title V: Revenue Raising Provisions	3,190	1,669	1,305	1,355	5,829	-2,703	1,546	1,194	836	652	13,344	14,871
Total Changes	2,698	53	-742	-599	3,797	-3,576	1,168	1,245	901	443	5,204	5,384
On-budget	2,694	144	-651	-508	3,888	-3,567	1,177	1,254	909	451	5,561	5,783
Off-budget	4	-91	-91	-91	-91	-9	-9	-9	-8	-8	-357	-399

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

Sources: Joint Committee on Taxation and Congressional Budget Office.

Title I: Supplemental Agriculture Disaster Assistance from the Agriculture Disaster Relief Trust Fund. Section 101 of the bill would establish an Agriculture Disaster Relief Trust Fund (ADRTF). It would be credited with 3.34 percent of existing federal collections of customs duties. Because those customs duties are already collected under current law, depositing them in the ADRTF would have no effect on overall federal revenues.

Title II: Conservation Provisions. Title II would establish new tax credits and other tax incentives related to conservation activities. First, it would allow farmers who receive payments under the Conservation Reserve Program (CRP) to instead receive an income tax credit of an equal amount. The tax credits would be limited to $750 million per year through 2012. Unlike the payments they would replace, those credits would not be subject to income or payroll taxation. Thus, those credits would be more valuable to farmers who have tax liability against which to use the credits. As a result, JCT and CBO estimate that the provision would reduce both revenues and outlays. JCT estimates that the provision would reduce revenues by $3.8 billion over the 2009-2012 period. (Of that amount, JCT estimates that $326 million would be off-budget receipts of Social Security taxes.) For a discussion of the effects on outlays, see the later section under "Direct Spending."

Title II also would change the tax treatment of the payments received under the CRP by farmers who receive Social Security retirement or disability benefits. The CRP payments would be treated as rental income rather than self-employment income, thus removing them from the tax base for self-employed payroll taxes. JCT estimates that the provision would reduce revenues by $87 million over the 2008-2012 period and by $206 million over the 2008-2017 period. A large portion of those effects would be to off-budget (Social Security) revenues: $72 million over the 2008-2012 period and $171 million over the 2008-2017 period.

Among other provisions, title II would provide a tax credit for taxpayers who undertake measures to aid in the recovery and restoration of endangered species. JCT estimates that the provision would reduce revenues by $13 million in 2008, $665 million over the 2008-2012 period, and $1.4 billion over the 2008-2017 period. In total, JCT estimates that the provisions of title II would reduce revenues by $258 million in 2008, $5.5 billion over the 2008-2012 period, and $7.2 billion over the 2008-2017 period.

Title III: Energy Provisions. The bill contains a number of provisions related to the production and distribution of energy. Several provisions relate to alcohol fuels. The bill would create a tax credit for production of cellulosic alcohol fuel for taxpayers who produce up to $60 million gallons per year. JCT estimates that the provision would reduce revenues by $282 million over the 2008-2012 period and $1.1 billion over the 2008-2017 period.

The bill also would reduce the excise tax credit of 51 cents per gallon for production of ethanol fuels that is currently scheduled to expire on December 31, 2010. The credit would be reduced to 46 cents per gallon when overall ethanol production reaches 7.5 billion gallons.

JCT estimates that revenue increases would begin in 2009 and total $854 million over the 2009-2011 period.

The bill would also extend through December 31, 2010, the tariff on imported ethanol that is scheduled to expire on December 31, 2009. It would also eliminate certain refunds of duties paid on imported ethanol. CBO estimates that those provisions would increase revenues by $6 million in 2008, $33 million over the 2008-2012 period, and $35 million over the 2008-2017 period.

Including the effects of other provisions, CBO and JCT estimates that title III would increase revenues by $77 million in 2008 and reduce revenues by $405 million over the 2008-2012 period and by $1.5 billion over the 2008-2017 period.

Title IV: Agricultural Provisions. The bill would reduce revenues from a variety of tax incentives related to agriculture, including provisions modifying the installment sale rules for certain farm property, establishing a new category of tax credit bonds, providing a tax credit for certain energy efficient motors, and reducing the recovery period for certain farm machinery. In total, the revenue reductions for title IV are greater over the first five years than over the 10-year period, mainly as a result of the provision that reduces the recovery period for machinery. JCT estimates that the provision would reduce revenues each year through 2013 but then raise revenues thereafter through 2017, for no net effect on revenues over the 2008-2017 period. JCT estimates that all of the provisions in title IV would reduce revenues by $2.3 billion over the 2008-2012 period and by $771 million over the 2008-2017 period.

Title V: Revenue-Raising Provisions. Section 511 would clarify the economic substance doctrine that disallows tax reductions resulting from certain transactions that do not have economic substance or that lack a business purpose other than reducing taxes. JCT estimates that making those changes would increase revenues by $397 million in 2008, by $3.7 billion over the 2008-2012 period, and by $10.0 billion over the 2008-2017 period.

Section 505 would accelerate the effective date for provisions of AJCA that provided for loss deferral rules for certain tax-exempt property involved in so-called sale-in, lease-out ("SILO") transactions. JCT estimates that the provision would increase revenues by $2.7 billion in 2008, by $4.6 billion over the 2008-2012 period, and by $3.2 billion over the 2008-2017 period.

Section 502 would modify the optional method of computing net earnings from self-employment. If taxpayers earn self-employment income below certain thresholds, the income is not subject to payroll taxes for Social Security and Medicare, and the taxpayer does not earn credits for future Social Security benefits. The optional method allows taxpayers to choose to treat certain other income as self-employment income, thus increasing their payroll taxes and claims on future Social Security benefits. The proposal would increase the ability of taxpayers to use the optional method. JCT estimates that the provision would increase revenue by $5 million in 2008, by $47 million over the 2008-2012 period, and by $110 million over the 2008-2017 period. (About 90 percent of those effects are off-budget revenues.) The effect on Social Security outlays is discussed under the heading "Direct Spending."

Taking account of all provisions, JCT estimates that title V would increase revenues by $3.2 billion in 2008, by $13.3 billion over the 2008-2012 period, and by $14.9 billion over the 2008-2017 period.

Direct Spending

CBO estimates that the bill would increase outlays by $867 million in 2008, by $2.0 billion over the 2008-2012 period, and by $2.0 billion over the 2008-2017 period. The estimated direct spending impact of the bill is shown in the following table.

Conservation Reserve Program Tax Credit. The bill would provide a tax credit for eligible farmland enrolled in the Conservation Reserve Program. Under the CRP program, USDA makes annual rental payments to producers who enter 10-to-15-year contracts to remove fragile lands from production. The bill would offer contract holders an annual choice between a credit against income taxes of the contract holder or a cash rental payment, but not both. The income tax credit would be equal to the rental value of the land enrolled in the CRP, as determined by the Secretary of Agriculture. The credit would not be included in the taxpayer's gross income and would not be subject to Self-Employment Contributions Act (SECA) taxes. The total amount of tax credit that could be allocated by the program would be limited to $750 million for each fiscal year 2009 through 2012.

Because the tax credit would allow CRP contract holders to reduce their income taxes by more than they would receive in after-tax cash rental payments, CBO estimates that the total allocated amount would be used each year. Hence, CBO estimates that cash CRP rental payments would be reduced by $750 million for each fiscal year 2009 through 2012 for a total reduction of $3 billion over the 2009-2012 period. After 2012, when authority for the tax credits would expire, there would be no further reduction in CRP payments. The estimated reduction in revenues over the 2009-2012 period ($3.8 billion) exceeds the estimated reduction in direct spending because the new tax credits would not be subject to income or payroll taxation, unlike the CRP payments they would replace.

TABLE 3. Estimated Changes In Direct Spending

	By Fiscal Year, in Millions of Dollars											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008-2012	2008-2017
CHANGES IN DIRECT SPENDING–ON BUDGET												
Conservation Reserve Program Tax Credit												
Estimated Budget Authority	0	-750	-750	-750	-750	0	0	0	0	0	-3,000	-3,000
Estimated Outlays	0	-750	-750	-750	-750	0	0	0	0	0	-3,000	-3,000
Agriculture Disaster Relief Trust Funds:												
Crop Disaster Assistance												
Estimated Budget Authority	447	477	493	491	489	0	0	0	0	0	2,397	2,397
Estimated Outlays	447	477	493	491	489	0	0	0	0	0	2,397	2,397
Crop Insurance Costs												
Estimated Budget Authority	413	441	455	452	452	0	0	0	0	0	2,213	2,213
Estimated Outlays	401	441	455	453	452	11	0	0	0	0	2,202	2,213
Emergency Assistance for Livestock,, Honey Bees, and Farm-Raised Catfish												
Estimated Budget Authority	35	35	35	35	35	0	0	0	0	0	175	175
Estimated Outlays	4	35	35	35	35	31	0	0	0	0	144	175
Pest and Disease Disaster Management												
Estimated Budget Authority	10	15	30	45	60	0	0	0	0	0	160	160
Estimated Outlays	5	13	23	38	53	28	0	0	0	0	132	160
Tree Assistance Program												
Estimated Budget Authority	12	14	15	15	15	0	0	0	0	0	71	71
Estimated Outlays	6	13	15	15	15	7	0	0	0	0	64	71
Livestock Indemnity Payments												
Estimated Budget Authority	8	9	11	11	11	0	0	0	0	0	50	50
Estimated Outlays	5	9	10	11	11	4	0	0	0	0	46	50
Total Direct Spending–On Budget												
Estimated Budget Authority	924	240	288	298	311	0	0	0	0	0	2,061	2,061
Estimated Outlays	867	237	280	292	304	82	0	0	0	0	1,980	2,061

Continued

TABLE 3. Estimated Changes In Direct Spending

	By Fiscal Year, in Millions of Dollars											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008-2012	2008-2017
CHANGES IN DIRECT SPENDING–OFF BUDGET												
Social Security Benefits												
Estimated Budget Authority	0	-1	-1	-3	-3	-4	-4	-5	-6	-6	-8	-33
Estimated Outlays	0	-1	-1	-3	-3	-4	-4	-5	-6	-6	-8	-33
CHANGES IN DIRECT SPENDING–TOTALS												
Total Direct Spending												
Estimated Budget Authority	924	239	287	295	308	-4	-4	-5	-6	-6	2,053	2,028
Estimated Outlays	867	236	279	289	301	78	-4	-5	-6	-6	1,972	2,028

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

Source: Congressional Budget Office.

Supplemental Agricultural Disaster Assistance. The bill would amend the Federal Crop Insurance Act to create a permanent Agriculture Disaster Relief Trust Fund that would provide payments to farmers and ranchers who suffer losses in areas that are declared disaster areas by the U.S. Department of Agriculture (USDA). The trust fund would be financed from an earmark of 3.34 percent of the amounts received in the general fund of the Treasury that are attributable to the duties collected on articles entered, or withdrawn, from warehouses for consumption under the Harmonized Tariff Schedule. Because those customs duties are already collected under current law, depositing them in the ADRTF would have no effect on overall federal revenues.

Amounts in the ADRTF would be used to make an estimated total of $5.1 billion in payments to eligible producers for five new disaster assistance programs for losses that would occur from the date of enactment through September 30, 2012:

- **Crop Disaster Assistance Program.** This program would protect against whole-farm crop losses due to adverse weather by paying 52 percent of the difference between the disaster program's guarantee and actual farm revenue. The guarantee is calculated as 115 percent of the producer’s crop insurance coverage level up to a maximum of 90 percent of expected revenue. The total assistance to any individual producer would be limited to $100,000 per year. CBO estimates payments under this program would be $447 million in 2008 and would total $2.4 billion over the 2008-2017 period.

- **Crop Insurance and Noninsured Assistance Program Costs.** Eligible producers would have to be enrolled in crop insurance programs for insurable crops and in the Noninsured Assistance Program (NAP) for uninsurable crops. Additionally, if the carrying capacity of public managed rangeland is reduced as a result of a qualifying disaster in the preceding year, the supplemental assistance program guarantee would not be less than 75 percent of the preceding year's guaranteed level. The costs to the crop insurance program for premium subsidies and other expenses and for NAP payments are estimated to be $2.2 billion over the 10-year period.

- **Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program.** This program would protect against losses caused by adverse weather and other environmental conditions not covered under the Secretary of Agriculture's authority to make disaster declarations, such as feed or water shortages, disease, or other factors. The bill would provide $35 million for each of fiscal years 2008-2012 for a total of $175 million over the 2008-2017 period.

- **Pest and Disease Management and Disaster Prevention Program**. This program would fund activities for early pest detection and surveillance to protect against the spread of plant pests and diseases. The bill specifies annual amounts at an increasing level from $10 million in 2008 up to $60 million in 2012, for a total of $160 million over the 10-year period.

- **Tree Assistance Program.** This program would protect against mortality and damage to trees above normal losses due to adverse weather. Payments would be 75 percent of the cost of replanting trees lost to natural disasters, and 50 percent of the cost of pruning and other costs of salvaging existing trees damaged by a natural disaster. Based on recent payments for such assistance, CBO estimates this provision would cost $6 million in 2008 and $71 million over the 10-year period.

- **Livestock Indemnity Program.** This program would protect against deaths of livestock in excess of normal mortality due to adverse weather. Indemnity payments would be 75 percent of the value of the livestock immediately prior to the livestock's death. Based on recent history, CBO estimates payments for livestock losses would be $5 million in 2008 and $50 million over the 2008-2017 period.

Tariff revenues earmarked for the trust fund are estimated to total $5.1 billion over the 2008-2017 period. The trust fund would have authority to borrow from the Treasury to cover any payments to producers in excess of balances in the fund. CBO estimates this situation would arise in 2008, when estimated payments for losses would be $872 million, but total tariff revenues in the fund would be $693 million. Any amounts borrowed would be repaid to the Treasury using surplus balances in subsequent years. CBO estimates that over the 2008-2012 period, there would be sufficient tariff revenues deposited in the trust fund to cover estimated disaster relief payments to producers under the Supplemental Agriculture Disaster Assistance program.

Social Security Benefits. Three provisions of the bill would affect spending on Social Security benefits. In total, enacting those provisions would lower spending on benefits by $8 million over the 2009-2012 period and $33 million over the 2009-2017 period.

Two provisions in title II would reduce Social Security benefits. First, section 201 would allow farmers to claim tax credits in lieu of CRP payments. The tax credits would not be counted as self-employment income and, thus, would not be subject to the SECA tax, unlike the CRP payments that the tax credits would replace. Second, section 202 would treat CRP payments as rental income rather than self-employment income for farmers who receive Social Security retirement or disability benefits. Social Security benefits are calculated by a formula that is based on lifetime earnings. Both changes would lower the amount of income counted in the benefit formula and hence lower Social Security benefits. Title II would lower spending on Social Security benefits by $8 million over the 2009-2012 period and by $39 million over the 2009-2017 period, CBO estimates.

Section 502 of the bill would modify the optional method of computing net earnings from self-employment. It would allow taxpayers to choose to report higher self-employment income, thus increasing the amount of income that would be counted in the benefit formula and increase those taxpayer's Social Security benefits. The provision would raise spending on Social Security benefits by an insignificant amount over the 2009-2012 period and by $6 million over the 2009-2017 period, CBO estimates.

Discretionary Spending

The legislation also would require a five-year study by the Government Accountability Office on the effectiveness of the bill's tax credit for endangered species recovery and restoration. Based on the costs of similar efforts, CBO estimates that the related costs would be less than $500,000 annually over the 2008-2012 period, subject to appropriation of the necessary amounts.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

Intergovernmental Impact

JCT has reviewed the tax provisions of the bill and has determined those provisions contain no intergovernmental mandates as defined in UMRA. CBO has reviewed the non-tax provisions of the bill (sections 101, 204 (b), 317, and 318) and determined that they also contain no intergovernmental mandates as defined in UMRA. Funds authorized in the bill would benefit states that participate in programs to detect and manage pests and diseases. Any costs to states to match federal assistance authorized by the bill would be incurred voluntarily.

Private-Sector Mandates

JCT and CBO have determined that the bill contains private-sector mandates as defined in the Unfunded Mandates Reform Act. In aggregate, the costs of all the mandates in the bill would exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

Tax Provisions. JCT has determined that the tax provisions of the bill contain two private-sector mandates: (1) A change in the effective date for the application of the sale-in, lease-out ("SILO") provision enacted in AJCA; and (2) clarification of the economic substance doctrine and related penalties. Based on information provided by JCT, CBO has determined that the costs of those mandates could total several billion dollars over the next five years.

Non-Tax Provisions. CBO has determined the non-tax provisions of the bill would impose private-sector mandates, as defined in UMRA, on importers of ethanol. The bill would amend the Harmonized Tariff Schedule to extend the temporary duty on ethanol through December 31, 2010, and eliminate refunds of that duty for certain imported ethanol. CBO estimates the cost of those mandates would be small.

Excluded Provisions

UMRA excludes from the application of that act any legislative provisions that relate to the Old-Age, Survivors, and Disability Insurance program (OASDI) under title II of the Social Security Act. CBO has determined that section 202(b), which would exclude payments from the conservation reserve program for purposes of determining eligibility for OASDI benefits, falls under that exclusion and has not reviewed it for intergovernmental or private-sector mandates.

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