THE REPUBLICAN STUDY COMMITTEE

Rep. Bill Flores, Chairman

Freedom ★ Liberty ★ Opportunity ★ Security

202.225.6105
rsc.flores.house.gov

H.R. 3038—Highway and Transportation Funding Act of 2015, Part II (Ryan, R-WI)

CONTACT: MATT DICKERSON, MATTHEW.DICKERSON@MAIL.HOUSE.GOV, 6-9718

FLOOR SCHEDULE: H.R. 3038 IS EXPECTED TO BE CONSIDERED ON JULY 15, 2015 UNDER A CLOSED RULE THAT PROVIDES ONE HOUR OF DEBATE. THE RULE FURTHER PROVIDES A STRUCTURED RULE FOR CONSIDERATION OF H.R. 2898, THE WESTERN WATER AND AMERICAN FOOD SECURITY ACT OF 2015.

TOPLINE SUMMARY: This bill would reauthorize the federal highway and local mass transit programs through December 18, 2015, transfer $8.068 billion from the Treasury's General Fund to Highway Trust Fund with fee offsets

COST: The Congressional Budget Office (CBO) estimates that the net impact on the deficit from the revenue increases, reductions in direct spending, and the General Fund transfer included in H.R. 3038 would be zero over the FY 2015 – 2025 period.

The bill would increase revenues by $4.908 billion over and the TSA Fee provision would reduce direct spending by $3.16 billion over the ten year budget window.

CONSERVATIVE CONCERNS: Some conservative concerns with H.R. 3038 may include:

Continues Overspending and Bailouts: Since 2008, Congress has transferred $65 billion from the Treasury's General Fund to the Highway Trust Fund. Some conservatives may be concerned that this legislation would continue the cycle of overspending and bailouts by continuing to spend at the current level that is purposefully billions more than the tax receipts that are supposed to fund highway programs.

Violates Principle Called for in House Republican Budgets: Some conservatives may be concerned that the Fiscal Year 2016 House Republican Budget recommends aligning "spending from the Trust Fund with incoming revenues," and that every House Republican Budget since 2011 has included this proposal.

Lack of Real Spending Cuts: Some conservatives may be concerned that the bill relies on revenue increases and backloaded accounting changes to offset new spending. To pay for the $8.068 billion bailout of the Highway Trust Fund that occurs in FY 2015, $4.466 billion of the offsets take place in the last two years of the budget window. Despite the fact they make up 66 percent of all federal spending and are the drivers of our $18.2 trillion national debt, no mandatory spending cuts or entitlement reforms were included as offsets in H.R. 3038.

Violates User Pays Principle: Some conservatives may be concerned that the use of these offsets violates the concept of user-pays, user-benefits that was essential for construction of the Interstate Highway System.

Fails to Include Any Reforms: Some conservatives may be concerned that this bill would continue current policies without reforms. The current surface transportation bill would divert billions of dollars from away from essential infrastructure such as roads and bridges to programs that instead are purely local in nature or only benefit special interests.

On July 13, 2015, RSC Chairman Flores and other RSC members wrote to House Transportation and Infrastructure Committee Chairman Bill Shuster with policy recommendations for the upcoming highway bill that would help commuters get the best value for their gas taxes, ensure funding for the core highway programs, give flexibility to states that want it, end highway bailouts, and unify the Republican Conference.

The recommendations include common-sense principles that could be reasonably be included in a House-passed highway reauthorization:

- No tax increases.
- Align spending with revenues.
- Establish a pilot program to allow states control of their transportation dollars.
- Streamline environmental permitting and approvals.
- Reform labor regulations for transportation programs.
- Reform discretionary programs.
- Keep the highway bill focused on the highway program.
- Stop diverting Highway Trust Fund dollars away from roads and bridges.

- **Expand** the Size and Scope of the Federal Government?: No, the bill continues currently authorized programs.
- **Encroach** into State or Local Authority?: Yes. As stated in the RSC Budget, "Congress should devolve the federal government's control over most highway and transit programs to the state and local governments." Federal transportation spending should be limited to core federal duties, including the interstate highway system and transportation infrastructure on federal land.
- **Delegate** Any Legislative Authority to the Executive Branch?: No
- **Contain** Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No

DETAILED SUMMARY AND ANALYSIS: The bill would extend the federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded by the Highway Trust Fund through December 18, 2015. CBO estimates that the bill would provide $12.7 billion in contract authority for the last quarter of FY 2015 and $10.9 billion for the October 1 to December 18, 2015 period, a level equal to the CBO baseline projection and at the same annualized rate as current enacted levels.

General Fund Transfer and Offsets: The House Budget requires transfers from the Treasury's General Fund to the Highway Trust Fund to be offset by spending reductions or revenue increases. Because H.R. 3038 would spend more than the Highway Trust Fund will collect in the taxes that are meant to fund highway spending, the bill includes an $8.068 billion General Fund Transfer as well as $8.1 billion in unrelated policies counted as offsets.

Budgetary Treatment of TSA Fees: The bill would reclassify the budgetary treatment of fees collected by the TSA from offsetting discretionary to offsetting mandatory in Fiscal Years 2024 and 2025. The TSA would collect no new fees under this provision.

CBO's budget rules allow certain fees collected by the government to offset spending. Depending on the way the fee is classified, the offset can be applied to either discretionary spending or mandatory spending.

The Ryan-Murray Bipartisan Budget Act made two changes to the fees TSA collects. First, Ryan-Murray raised the fees paid by passengers. Second, it reclassified a portion of the fees from discretionary to mandatory and credited to the Treasury's General Fund over the FY 2014-2023 period.

After 2023, the budgetary treatment was to reset back to its prior classification where all TSA fees (above $250 million) would be treated as discretionary, authorized annually by appropriations bills, and used to offset spending in the appropriations bills.

Instead, H.R. 3038 would credit $1.56 billion of fees to the General Fund as mandatory collections in FY 2024 and $1.6 billion of fees to the General Fund as mandatory collections in FY 2025.

Mortgage Interest Reporting: The bill would require mortgage lenders to report to the IRS additional information about mortgages, including mortgage origination date, the amount of the outstanding principal, and the address of the property. Current law requires reporting of certain information about mortgages, including the name, address, and tax identification number of borrowers. The goal of this policy is to encourage tax compliance with regard to the mortgage interest deduction.

Statute of Limitations for Certain Tax Cases: The bill would allow the IRS to reassess taxpayers who substantially understate their income by misrepresenting the basis or original cost of property within six years. Under current law, the IRS generally has a six year statute of limitations in cases where a taxpayer substantially understates their income, but the Supreme Court has ruled that this does not apply in cases dealing with misrepresentation of basis.

Reporting of Value of Property by Estates: The bill would require the executor of an estate subject to the Death Tax to report to the IRS the value of property transferred to those inheriting the property upon the death of the original owner. The goal of this provision is to prevent those who inherit property from overstating the value of the property when they inherited the item when it is eventually sold, giving them a smaller tax burden.

Dates of Certain Tax Returns: The bill would modify the due dates for certain tax returns so that partnerships would be required to file by March 15 (or two and a half months after the close of its tax year), S corporations would be required to file by March 31 (or three months after the close of its tax year) and C corporations would be required to file by April 15 (or three and a half months after the close of its tax year).

Extension of Transfer of Excess Pension Assets to Retiree Health Accounts: The bill would extend the provision of current law that allows employers to transfer excess defined benefit plan assets to retiree medical accounts and retiree group-term life insurance, while denying a tax deduction for such transfers.

Tax Rates for Natural Gas Fuels: The bill would lower the federal excise tax rate on liquefied natural gas to 14.1 cents per gallon and liquefied petroleum gas to 13.2 cents per gallon. This provision would reduce revenues by $90 million.

Previous Authorizations: The transportation programs were most recently reauthorized for two months by H.R. 2353, the Highway and Transportation Funding Act of 2015, which passed the House by a 387 – 35 vote on May 19, 2015.

In July, 2014, the Highway and Transportation Funding Act of 2014, extended the authorization through May, 2015. In 2012, the transportation programs were reauthorized through September 30, 2014, by the Moving Ahead for Progress in the 21st Century Act (MAP-21). This law authorized more than $100 billion in obligations from the Highway Trust Fund in FY 2013 and FY 2014 despite the fact that the trust fund was only expected to bring in $76 billion in revenues and interest.

The Highway Trust Fund: The Highway Trust Fund is meant to be self-sustaining on a "user-pays, user-benefits" concept. The trust fund is primarily funded by an 18.3 cents-per-gallon gasoline tax and a 24.3-cents-per-gallon tax on diesel fuel. The trust fund is also financed with other taxes on truck and truck trailer sales, heavy tires, and a heavy vehicle use tax. However, beginning in 2008, Congress has spent more from the trust fund than the taxes bring in. Since then, $65 billion has been transferred from the General Fund to the Highway Trust Fund. CRS has additional background on Highway Trust Fund.

According to the CBO, revenues to the Highway Trust fund are projected to be $39 billion in FY 2015, while expenditures are projected to be $52 billion.

The Highway Trust Fund is supplied with funds from tax receipts by the Treasury twice per month. Under normal circumstances, a state is paid very quickly by the federal government once it submits a request for reimbursement to the Department of Transportation. According to CRS, "the Federal Highway Administration (FHWA) deems it prudent to maintain a $4 billion minimum in the highway account to prevent having to delay payments to states due to insufficient funds. The equivalent prudent balance in the mass transit account is at least $1 billion."

The Department of Transportation (DOT) has established a Highway Trust Fund Ticker to show the funding status of the Highway and Transit accounts within the Trust Fund. To continue funding highway and transit programs at current levels past the July 31 extension, another general fund bailout would likely be required. In the event of a shortfall, the DOT would delay reimbursements to states.

OUTSIDE GROUPS: The Competitive Enterprise Institute recently published a paper "Reimagining Surface Transportation Reauthorization: Pro-Market Recommendations for Policy Makers."

COMMITTEE ACTION: H.R. 3038 was introduced on July 13, 2015, and referred to the House Transportation and Infrastructure; House Ways and Means; House Natural Resources; House Science, Space, and Technology; House Energy and Commerce; House Homeland Security; and the House Education and the Workforce committees. No committee took any further actions.

ADMINISTRATION POSITION: According to the statement of administration policy, "the Administration supports passage of H.R. 3038 to give the House and Senate the necessary time to complete work on a long-term bill this year that increases investment to meet the Nation's infrastructure needs."

CONSTITUTIONAL AUTHORITY: "Congress has the power to enact this legislation pursuant to the following: Clauses 1, 3, and 18 of Section 8 of Article I of the United States Constitution."

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

###