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H.R. 3236—Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (Shuster, R-PA)

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FLOOR SCHEDULE: H.R. 3236 IS EXPECTED TO BE CONSIDERED ON JULY 29, 2015 UNDER A CLOSED RULE THAT PROVIDES ONE HOUR OF DEBATE. THE RULE ALSO PROVIDES FOR CONSIDERATION OF H.R. 1994, THE VA ACCOUNTABILITY ACT OF 2015.

TOPLINE SUMMARY: This bill would reauthorize the federal highway and local mass transit programs through October 29, 2015, and transfer $8.068 billion from the Treasury's General Fund to Highway Trust Fund with offsets. Other than the shorter extension, the highways portion of the bill is substantively similar to H.R. 3038, the 5-month extension passed by the House on July 15, 2015.

This bill would also allow the Department of Veterans Affairs (VA) to authorize a temporary transfer of funds up to $3,348,500,000 from the Veterans Choice account to be used to cover a budgetary shortfall in non-VA care programs. The bill further includes language from the Hire More Heroes Act and the Helping Veterans Save for Health Care Act.

CONSERVATIVE CONCERNS: Some conservatives may be concerned that the VA-related portion of H.R. 3236 may include the use of Veterans Choice funds—which were deemed emergency spending in The Veterans Access, Choice, and Accountability Act of 2014—to be used to cover a shortfall in the non-VA care program which receives annual appropriations. In addition, by transferring these funds, the Choice Fund would likely deplete its funds at an earlier date, which would require backfilling this transfer. The VA has shown gross mismanagement of funds and only recently advised Congress of to the funding shortfall.

Some conservative concerns with the transportation related portion of H.R. 3236 may include:

COST: The Congressional Budget Office (CBO) estimates that the net impact from the revenue changes, reductions in direct spending, and the General Fund transfer included in H.R. 3236 would increase the deficit by $1.2 billion over the FY 2015 – 2025 period.

CBO estimates that the bill would increase revenues by $3.708 billion and would reduce direct spending by $3.16 billion over the ten-year budget window. These changes on their own would reduce the deficit by $6.868 billion. The bill also includes an $8.068 billion General Fund to the Highway Trust Fund.

Under the FY 2016 Budget Conference Agreement, any transfer from the General Fund to the Highway Trust Fund must be offset.

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 Principles 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. Some conservatives may also be concerned that CBO estimates that the bill does not fully offset the transfer from the General Fund to the Highway Trust Fund as called for in in the budget.

Lack of Real Spending Cuts: Some conservatives may be concerned that the bill relies on revenue increases and back-loaded 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 failed policies without reform. 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:

Veterans Affairs

The bill would require the secretary to develop a plan to consolidate all non-VA provider programs into a single, new program known as the Veterans Choice Program. This program would furnish hospital care and medical services to veterans who seek care at non-VA facilities. This plan would be due to Congress no later than November 1, 2015, and would include all estimated costs and recommendations for legislative proposals.

This bill would also allow the VA to authorize a temporary transfer of funds up to $3,348,500,000 from the Veterans Choice account to be used to cover a budgetary shortfall in non-VA care programs. Non-VA medical care is care provided to eligible Veterans outside of the VA when VA facilities are not feasibly available. Of these funds, no more than $500 million may be used for pharmaceutical expenses relating to the treatment of Hepatitis C. The VA would be required to submit a report to Congress every 14 days detailing the amount of funds used.

The secretary would be prohibited from using any available funds from expanding the dialysis pilot program or creating more dialysis capability provided by the VA. According to the GAO, the VA "still has not set a timetable for completing the pilot or documented how it will determine the success of the pilot locations."

The bill also includes language found in the House-passed bill Hire More Heroes, which would amend the Internal Revenue Code to allow employers to exclude employees who get their health care under TRICARE or from the Veterans Administration from the calculations used to determine whether an employer is an applicable large employer and therefore subject to the employer mandate under the Affordable Care Act (ACA). In addition, it also includes language from H.R. 2514, Helping Veterans Save for Health Care Act of 2015, which would allow individuals eligible for veteran's benefits to be eligible for a Health Savings Account (HSA).

Finally, except for the section of the bill related to eligibility for HSAs, everything under Title IV of the bill (relating to veterans) would be designated as an emergency requirement.

Highway Extension

The bill would extend the federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded by the Highway Trust Fund through October 29, 2015.

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. 3236 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 the 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 until July 31, 2015, 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.

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.

COMMITTEE ACTION: H.R. 3236 was introduced on July 28, 2015, and referred to the House Transportation and Infrastructure; House Ways and Means; House Energy and Commerce; House Science, Space, and Technology; House Natural Resources; House Veterans' Affairs; House Education and the Workforce; House Budget; and House Homeland Security committees. No committee took any further actions on the legislation.

The House Veterans Affairs Committee held a hearing on July 22, 2015, to Receive the Secretary's Testimony regarding the Pending VA Health Care Budget Shortfall and System Shutdown. The Committee also held a hearing on June 25, 2015, regarding the State of VA's Fiscal Year 2015 Budget.

ADMINISTRATION POSITION: A statement of administration policy is not available at this time.

CONSTITUTIONAL AUTHORITY: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, specifically Clause 1 (related to laying and collecting Taxes, and providing for the common defense and general Welfare of the United States), Clause 3 (related to regulation of Commerce with foreign Nations, and among the several States, and with Indian Tribes), and Clause 7 (related to establishment of Post Offices and Post Roads)."

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