

[H.R. 22, Surface Transportation Reauthorization and Reform Act of 2015 \(Conference Report\)](#)

FLOOR SITUATION

On Thursday, December 3, 2015, the House will consider the Conference Report to H.R. 22, *the Surface Transportation Reauthorization and Reform Act of 2015*, under a [rule](#). The Senate passed its version of the bill, *the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act* (H.R. 22), by a vote of [65 to 34](#) on July 30, 2015. The House passed its version of the bill by a vote of [363 to 64](#) on November 5, 2015.

SUMMARY

The Conference Report to H.R. 22 authorizes surface transportation programs through fiscal year 2020 and makes reforms to laws governing highway project funding and construction, transit, highway safety, the operations of motor carriers, transportation research, and hazardous materials transportation. The bill “improves our nation’s infrastructure, reforms federal surface transportation programs, refocuses those programs on addressing national priorities, and encourages innovation to make the surface transportation system safer and more efficient.”¹

Highlights of the Conference Report include:

Authorization level: The Conference Report authorizes funding for the core Federal-aid highway formula programs at: \$39.7 billion in fiscal year 2016, \$40.6 billion in fiscal year 2017, \$41.4 billion in fiscal year 2018; \$42.3 billion in fiscal year 2019; and \$43.4 billion in fiscal year 2020.

Extension of HTF expenditure authority: The Conference Report extends the programmatic and expenditure authority of the Highway Trust Fund (HTF) through September 30, 2020.²

Extension of highway-related taxes: The Conference Report extends the highway-related gas taxes in current law that fund the HTF through September 30, 2022.³

¹ See [Joint Explanatory Statement](#) at 1.

² Id. at 34.

³ Id. at 36.

Additional Transfers to the Highway Trust Fund: The Conference Report transfers \$51.9 billion from Treasury's General Fund to the HTF's Highway Account and \$18.1 billion to its Mass Transit Account. The bill also transfers certain motor vehicle safety penalties to the HTF.⁴

Appropriation from Leaking Underground Storage Tank Trust Fund: The Conference Report appropriates a total of \$300 million from the Leaking Underground Storage Tank (LUST) Trust Fund to the Highway Account of the HTF. The Conference Report authorizes the transfer of \$100 million each on the date of enactment, on October 1, 2016, and on October 1, 2017.⁵

Surface Transportation Block Grant Program: The Conference Report converts the Surface Transportation Program to a block grant program, the Surface Transportation Block Grant Program (STBGP), providing states significant flexibility in how these funds may be obligated.

Offsets: The Conference Report includes several tax, fee, and receipt provisions to offset the bill's cost. These provisions include:

Section 32101: This provision allows the revocation of a passport or denial of a passport application if an individual has more than \$50,000 in unpaid federal taxes, including interest and penalties. The provision adds language to permit revocation of a passport only after the IRS has followed its examination and collection procedures under current law and the taxpayer's administrative and judicial rights have been exhausted or lapsed.⁶

Section 32102: This provision requires the IRS to enter into tax collection contracts with private debt collectors in attempting to receive unpaid taxes.⁷

Section 32103: This provision creates a special compliance personnel program account within the Internal Revenue Service (IRS) to increase automated tax collections. Special compliance personnel are IRS employees who serve as revenue officers performing field collection functions or as persons operating the automated collection system.⁸

Section 32104: This provision repeals a provision in the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 that provided for an automatic 3 ½ month extension of the due date for tax filing requirements for certain employee benefit plans under the Employee Retirement Income Security Act of 1974.⁹

Section 32201: This provision would index to inflation the dollar amounts for various customs fees and thresholds.¹⁰

Section 32202: This provision caps the Federal Reserve surplus account at \$10 billion and specifies that any amounts exceeding the cap are to be remitted to the Treasury.¹¹ The account "is the aggregate of separate surplus accounts held at each of the 12 Reserve Banks,

⁴ Id. at 37.

⁵ Id. at 38.

⁶ Id. at 40.

⁷ Id. at 42.

⁸ Id. at 43.

⁹ Id. 44 and 45.

¹⁰ Id. at 46.

¹¹ Id. at 47.

and the account represents cumulative retained net earnings for the Reserve Banks—that is, cumulative net earnings not paid to the Department of the Treasury. The Reserve Banks use their capital surplus accounts to act as a cushion to absorb losses.”¹²

Section 32203: This provision changes the way annual dividends are paid on Federal Reserve stock to member banks from a flat six percent rate to a market rate based upon 10-year Treasury notes for banks with consolidated assets of \$10 billion or more. Banks with assets of less than \$10 billion would still receive a 6 percent annual dividend on such stock. “All nationally chartered commercial banks are required to, and state-chartered commercial banks have the option to, become member banks of the Federal Reserve System. Member banks are required to purchase (“pay in”) stock equal to 3 percent of their capital, and the Fed has the option to call in an additional 3 percent. Currently, the Federal Reserve pays a 6 percent dividend on [this] stock.”¹³ There are 68 member banks with assets over \$10 billion (47 national banks and 21 state member banks) as of March 31, 2015.¹⁴

Section 32204: This provision requires the Secretary of Energy to drawdown and sell from the Strategic Petroleum Reserve the quantity of barrels of crude oil that the Secretary determines to be appropriate to maximize the financial return to taxpayers for each of fiscal years 2016 and 2017. The provision also requires the drawdown and sale of 16 million barrels in 2023; 25 million barrels in 2024; and 25 million barrels in 2025. The provision requires amounts received to be deposited in the general fund of the Treasury during the fiscal year in which the sale occurs.¹⁵

Section 32205: This provision repeals section 201 of the Bipartisan Budget Act (Public Law 114-74), which amended the Federal Crop Insurance Act to require the U.S. Department of Agriculture to renegotiate the Standard Reinsurance Agreement (SRA) no later than December 1, 2016, and at least once every five years thereafter, and established an 8.9 percent cap on the overall rate of return for insurance providers under the Agreement.¹⁶ The SRA is a cooperative financial assistance agreement between the Federal Crop Insurance Corporation (FCIC) and an insurance company that establishes the terms under which FCIC provides reinsurance and subsidies on eligible crop insurance contracts sold by the insurance company.

Section 32301: This provision strikes a requirement in current law that the Office of National Resources Revenue (ONRR) pay interest on overpayments. ONRR, which is part of the Department of the Interior, believes that some lessees overpay deliberately in order to engage in “banking with ONRR” and that the ONRR interest rate is in some cases greater than that offered by other interest earning mechanisms.¹⁷

Export-Import Bank: The Conference Report reauthorizes the Bank through fiscal year 2019 and makes various changes to its charter in a manner similar to the language in the House-passed transportation bill and in H.R. 597, *the Export-Import Bank Reform and Reauthorization Act*, which passed the House by a vote of [313 to 118](#) on October 27, 2015. Click [here](#) for the previous Legislative Digest detailing the Export-Import provisions in the House-passed transportation bill and [here](#) for the previous Digest on H.R. 597.

¹² See GAO Report—“[Federal Reserve System: The Surplus Account](#),” September 2002.

¹³ See CRS Report, [Federal Reserve: Dividends Paid to Commercial Banks](#), November 20, 2015.

¹⁴ See Federal Reserve website, [Large Commercial Banks statistics](#), March 31, 2015.

¹⁵ See Joint Explanatory Statement at 48.

¹⁶ Id.

¹⁷ Id.

Amtrak: The Conference Report includes provisions to align Amtrak’s financial reporting and planning functions with its core operating business lines. The provision requires all of Amtrak’s financial, business, and asset activities to be organized in a way that support its major business lines. The provision also creates a State-Supported Route Committee to encourage a more collaborative relationship between states, Amtrak, and the U.S. Department of Transportation (USDOT) regarding routes for which states provide financial resources. The provision also encourages non-federal participation in certain elements of Amtrak’s system by creating station development opportunities for the private sector; exploring the potential for new revenue streams through right-of-way development; and facilitating the use of local products on Amtrak routes.¹⁸

For more information, click:

- [here](#) for the Joint Explanatory Statement on the Conference Report;
- [here](#) for a fact sheet on the Conference Report provided by the Committee on Transportation and Infrastructure; and,
- [here](#) for the previous Legislative Digest on the House and Senate transportation bills.

BACKGROUND

Surface Transportation Reauthorization

The nation’s surface transportation system is comprised of more than 4 million miles of public roads, 600,000 bridges, and 270,000 public transit route miles. In 2012, Americans traveled 4.3 trillion miles using highways and transit, using more than 250 million cars, trucks, and motorcycles. That year, 70 percent of all freight in the United States—over 13 billion tons valued at more than \$12 trillion—was moved by truck. Trucks are estimated to move 42 percent more freight by 2040.¹⁹

Surface transportation authorization acts “authorize spending on federal highway and public transportation programs, surface transportation safety and research, and certain rail programs.”²⁰ Such bills typically deal with many programs and activities, and provide funding for state and local governments to undertake necessary and complex large-scale construction projects, construct and maintain roads and bridges, support and improve public transportation programs, ensure transportation safety, and provide for the safe and efficient transport of hazardous materials. Federal surface transportation programs are primarily funded through taxes on motor fuels that are deposited into the HTF.

Under current law, approximately 92 percent of funds are apportioned to the states by formulas established in law, and implementation is left primarily to state departments of transportation (state DOTs). States are required to provide matching funds for each project. The federal share is now 80 percent for non-Interstate system road projects and 90 percent for Interstate system projects. Generally, federal money can be spent only on designated federal-aid highways, which make up

¹⁸ Id. at 14.

¹⁹ See Committee on Transportation and Infrastructure document—“[Surface Transportation Reauthorization and Reform Act of 2015](#),” at 3.

²⁰ See CRS Report—“[Surface Transportation Program Reauthorization Issues for Congress](#),” September 11, 2015 at 1.

about a quarter of U.S. public roads.²¹ The states “have nearly complete control over decision-making in regard to these funds, within limits of federal planning, eligibility, and oversight rules.”²²

The Federal-Aid Highway Program (FAHP) is an umbrella term used to describe separate highway programs administered by the Federal Highway Administration. These programs “are almost entirely focused on highway construction and generally do not support operations. Each state is required to have a Statewide Transportation Improvement Program, which sets priorities for the state's use of FAHP funds. State DOTs largely determine which projects are funded, let the contracts, and oversee project development and construction.”²³

Federal assistance for public transportation is provided to local transit agencies primarily through the public transportation program, which is administered by the Federal Transit Administration (FTA). The FTA administers six major programs: “(1) Urbanized Area Formula, accounting for 42 percent of the funding authorized; (2) State of Good Repair, 20 percent; (3) New Starts, 18 percent; (4) Rural Area Formula, 6 percent; (5) Bus and Bus Facilities Formula, 4 percent; and (6) Enhanced Mobility of Seniors and Individuals with Disabilities, 2 percent.”²⁴

Click [here](#) for a Congressional Research Service (CRS) report that discusses surface transportation reauthorization issues related to highways, public transportation, financing, rail, highway and motor carrier safety.

Highway Trust Fund

Under current law, the federal government levies an excise tax of 18.4 cents per gallon on gasoline and 24.4 cents per gallon on diesel fuel.²⁵ Federal motor fuels excise tax collections are credited to the HTF, with the exception of 0.1 cent per-gallon of the fuel taxes deposited in the (LUST Trust Fund).²⁶ The HTF, the primary federal fund for surface transportation, is divided into two accounts: the highway account, and the mass transit account.²⁷

Fuel taxes have historically provided approximately 90 percent of the receipts to the HTF.²⁸ In recent years, tax collections have not kept pace with spending on federally-funded transportation projects due to the effect of inflation on both project costs and the real value of non-indexed tax rates; reductions in vehicle miles traveled; and improved corporate average fuel economy (CAFE) standards.²⁹ These developments have imperiled the sustainability of the Fund.

In 2012, President Obama signed into law H.R. 4348 ([Public Law 112-141](#)), the Moving Ahead for Progress in the 21st Century Act, or MAP-21. MAP-21 authorized federal surface transportation programs through September 30, 2014 and tax collection authority through September 30, 2016. To

²¹ Id. at 7.

²² See CRS IN FOCUS—“[Surface Transportation Funding and Infrastructure Challenges](#),” August 11, 2015 at 1.

²³ See [CRS Report](#) at 7.

²⁴ Id. at 8.

²⁵ See CRS Report—“[The Federal Excise Tax on Motor Fuels and the Highway Trust Fund: Current Law and Legislative History](#),” June 12, 2015 at 1.

²⁶ Id.

²⁷ Id.

²⁸ U.S. Government Accountability Office, Highway Trust Fund: Options for Improving Sustainability and Mechanisms to Manage Solvency, GAO-09-845T, June 25, 2009, p. 4, at <http://www.gao.gov/new.items/d09845t.pdf> ; and CRS Report R42877, Funding and Financing Highways and Public Transportation, by Robert S. Kirk and William J. Mallett.

²⁹ See [CRS Report](#) at 2.

offset the cost of reauthorization, the bill transferred \$18.8 billion for fiscal years 2013 and 2014 from Treasury's General Fund to the HTF, and \$2.4 billion from the LUST Trust Fund to the HTF.

In the 113th Congress, the House passed legislation (H.R. 5021) that extended the programmatic authority and expenditure authority of the HTF through May 31, 2015. Additionally, H.R. 5021 transferred \$7.8 billion from Treasury's General Fund to the Highway Account of the HTF and \$2 billion to its Mass Transit Account. H.R. 5021 also transferred \$1 billion in gas-tax-funded monies in the LUST Trust Fund to the HTF. The House approved H.R. 5021 by a vote of [367 to 55](#) on July 15, 2014. The bill was enacted into law on August 8, 2014. ([Public Law 113-159](#)).

In the 114th Congress, the House passed [H.R. 2353](#), *the Highway and Transportation Funding Act of 2015*, by a vote of [387 to 35](#) on May 19, 2015. The bill, which extended the programmatic and expenditure authority of the HTF through July 31, 2015, was signed into law on May 29, 2015. ([Public Law 114-21](#)). The bill did not transfer any money from Treasury's General Fund because the HTF had sufficient resources to fund its obligations through that period.

On July 15, 2015, the House passed [H.R. 3038](#), *the Highway and Transportation Funding Act of 2015, Part II*, by a vote of [312 to 119](#). The bill would extend the programmatic and expenditure authority of the HTF through December 18, 2015, and transfer approximately \$6.1 billion from Treasury's General Fund to the HTF's Highway Account and \$2 billion to its Mass Transit Account. To date, the Senate has not acted on H.R. 3038.

On July 29, 2015, the House passed [H.R. 3236](#), *the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*, by a vote of [385 to 34](#). The bill, which became law on July 31, 2015, extended the programmatic and expenditure authority of the HTF through October 29, 2015. The law transferred approximately \$6.1 billion from Treasury's General Fund to the HTF's Highway Account and \$2 billion to its Mass Transit Account.

On October 27, 2015, the House passed [H.R. 3819](#), *the Surface Transportation Extension Act of 2015*, by voice vote. The bill extended the programmatic and expenditure authority of the HTF through November 20, 2015. On November 16, 2015, the House passed [H.R. 3996](#), *the Surface Transportation Extension Act of 2015, Part II*, by voice vote. The bill extended the programmatic and expenditure authority of the HTF through December 4, 2015.

On November 5, 2015, the House agreed to the Senate amendments to H.R. 22, with an amendment, by a vote of [363 to 64](#).

Since 2008, Congress has prevented projected HTF shortfalls by transferring approximately \$71 billion from Treasury's General Fund to the HTF to prevent lapses in funding that would impact reimbursements to states.³⁰ According to CBO, during fiscal year 2016, "revenues credited to the highway and transit accounts of the Highway Trust Fund will be insufficient to meet the fund's obligations."³¹ CBO projects that, under current law, "the highway account will have a shortfall of \$1 billion in 2016; by 2025, the cumulative shortfall will grow to \$108 billion."³² CBO also estimates that "the transit account will have a shortfall of less than \$1 billion in 2016, growing to a cumulative shortfall of \$40 billion by 2025."³³

³⁰ See CRS Report—["The Federal Excise Tax on Motor Fuels and the Highway Trust Fund: Current Law and Legislative History,"](#) August 12, 2015 at 5.

³¹ See CBO—["Estimates of the Status of the Highway Trust Fund Based on CBO's August 2015 Baseline,"](#) October 21, 2015.

³² Id.

³³ Id.

Export-Import Bank

The Export-Import Bank of the United States (Bank) is a corporation owned by the United States Government that is designed to assist in the financing of U.S. exports of goods and services to support U.S. employment. The Bank is intended to provide financing to certain entities when the private sector is unwilling or unable to undertake such financing; or to meet foreign competition by countering government-backed financing offered by other countries to their companies.³⁴ The Bank's charter expired on July 1, 2015. Since that time, the Bank has issued no new loan, guarantee, or insurance commitments, but has continued administering and servicing existing obligations.³⁵

The Bank's charter stipulates that its financing must have a "reasonable assurance of repayment" and should supplement, and not compete with, private capital, among other requirements. In fiscal year 2014, the Bank reported authorizing approximately \$20.5 billion for 3,746 transactions of finance and insurance, to support an estimated \$27.5 billion in U.S. exports and approximately 164,000 U.S. jobs. Its overall outstanding portfolio was \$112 billion—below the \$140 billion statutory cap for that year.³⁶

On October 27, 2015, the House passed [H.R. 597](#), *the Export-Import Bank Reform and Reauthorization Act of 2015*, by a vote of [313 to 118](#). The bill reauthorized the Bank through fiscal year 2019 and made various changes to its charter.

COST

A Congressional Budget Office (CBO) cost estimate is currently unavailable.

STAFF CONTACT

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee.

³⁴ See CRS Report—[“Export-Import Bank: Overview and Reauthorization Issues.”](#) March 25, 2015.

³⁵ See CRS Report—[“Export-Import Bank Reauthorization: Frequently Asked Questions.”](#) July 15, 2015.

³⁶ See CRS Report—[“Export-Import Bank: Overview and Reauthorization Issues.”](#) March 25, 2015.