Agenda Item 5a

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Memorandum

TO: Legislation Committee

DATE: November 6, 2015

FR: Executive Director

W. I. 1131

RE: Overview of H.R. 3763 (Shuster): Surface Transportation Reauthorization and Reform Act

On November 5, by a vote of 363 to 64, the U.S. House of Representatives approved the Surface Transportation Reauthorization and Reform Act of 2015 (the STRR Act) as an amendment to H.R. 22, the Senate-approved DRIVE Act. The STRR Act, H.R. 3763, is a six-year reauthorization proposal for the nation's transit and highway programs. This memo provides an overview of key provisions and funding levels for the Bay Area. As additional details emerge, we will update you at your November meeting.

Attachment 1 includes a side-by-side comparison of H.R. 3763 with H.R. 22, the Senate's reauthorization proposal, known as the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act prepared by the National Governor's Association. Note that this document does not reflect amendments made on the House Floor. Attachment 2 includes the House Transportation & Infrastructure Committee's conferees for the conference committee, including Congresswoman Napolitano and Congressman Denham from California.

Funding Overview

The bill authorizes $325 billion over six-years (in comparison to $341 billion in the Senate DRIVE Act) — totaling $158 billion over the first three years. In a remarkable late breaking development, the House adopted an amendment that identified an additional $40 billion in revenue from a Federal Reserve surplus account and incorporated it into the bill. The exact use of those funds is not yet determined, but options include spreading them out over six-years to enable a long-term bill or using them to boost annual funding levels for a bill of shorter duration. Based on our preliminary review, staff estimates this infusion of $40 billion would translate to an additional $532 million above the bill's current funding level for the Bay Area, including $354 million in additional transit funding and $178 million in additional highway formula funds.

However, the actual funding authorizations approved in the House bill represent just a 1 percent increase over current levels in year 1 for both transit and highway formula funding, in comparison to a 3 percent highway funding increase and a 7 percent transit funding increase in year 1 of the Senate-approved DRIVE Act. Likewise, future annual highway and transit formula funding levels grow at a higher rate in the Senate bill than the House.

Bay Area Funding

As noted, the House bill provides far less funding for transit than the Senate bill. Specifically, over the first three-years, H.R. 3763 provides the Federal Transit Administration (FTA) with $1.7 billion less than the DRIVE Act — $26.7 billion vs. $28.4 billion, translating to $83 million less transit funding for the Bay Area than that provided by the DRIVE Act.

While there are a number of key differences in how the bills treat the federal highway programs with respect to suballocation and funding set-asides, taken as a whole, the region's federal highway formula funds — Congestion Mitigation and Air Quality (CMAQ), Surface Transportation Program and Transportation Alternatives Program (TAP) — would be roughly the same at approximately $500 million over the three-year period. Notably, STP would comprise a much larger share in the House bill, while TAP would comprise a larger share in the Senate bill.

HIGHWAY PROGRAMS

Restrictive Language on Use of CMAQ Of paramount concern, both bills include restrictive language related to prioritizing Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds on projects that reduce fine particulate matter (PM2.5). While current law contains a related provision requiring PM2.5 projects receive priority for 25 percent of CMAQ funds, the House and Senate bills include language requiring such projects be prioritized to the "maximum extent possible" and that they go towards projects that reduce "directly emitted" PM2.5 — i.e. diesel engine retrofit or replacement. This could limit the region's ability use CMAQ funds for the flexible One Bay Area Grant program which is vital to the region's climate protection strategy. An amendment authored by Congressman Ryan (D-Ohio) was approved on the House floor to partially restore such flexibility. MTC staff is working closely with other MPOs, Caltrans and Senator Boxer's office to ensure the conference committee addresses this problem.

Surface Transportation Program Converted to "Block Grant" The House bill converts the highly flexible STP program to a block grant, though it is unclear what the ramifications are beyond removing some existing FHWA reporting requirements. With respect to suballocation of funds based on population, the House bill gradually increases it from 50 percent in year 1 to 55 percent in year 6 (in contrast to the Senate bill which sets suballocation at 55 percent in year 1).

Freight Funding Lower and Limited to Competitive Program Similar to the DRIVE Act, H.R. 3763 establishes a National Freight Program, though a key difference is that the House program is 100 percent competitive with no formula component. Specifically, whereas the DRIVE Act provides $1 billion in freight formula funding, plus $250 million in competitive funding in FY 2016 (growing to $2 billion formula funding and $350 million competitive funding by FY 2018), H.R. 3763 strictly provides $725 million in competitive freight funding, reaching only $750 million by FY 2018.

TRANSIT PROGRAMS

New Bus and Bus Facilities Program The House bill creates a new discretionary bus program funded at $353 million in FY 2016, $463 million in FY 2017, growing thereafter to reach $485 million by FY 2021. The program was more than doubled on the House floor after an amendment was approved that shifted funds away from a portion of FTA's transit formula program that benefits only 7 states considered "high density." While this doesn't increase the region's formula funds, Bay Area bus operators may benefit from the competitive program.

Local Match H.R. 3763 originally included a provision to increase the local match requirement from 20 percent to 50 percent for all projects funded by FTA's competitive Capital Investment Program (a.k.a. New Starts). After significant outcry from the transit community, this was modified to restore a 20 percent local match requirement for Core Capacity and Small Starts projects, but retain a 50 percent match for fixed-guideway projects. The Bay Area's next generation of transit projects seeking New Starts funding (Transbay Transit Center/Downtown Extension and BART to Silicon Valley (Phase 2) are assuming close to 75 percent local match, so this provision should not affect them. A related provision restricting any other federal transportation funds from being used as match for fixed guideway, core capacity or small starts projects was amended by Congressman Lipinski to exclude only STP funds from being used in a Full Funding Grant Agreement for a fixed-guideway project. Likewise, this provision should not affect the Bay Area's New Starts projects.

State of Good Repair/High Intensity Motor Bus Unfortunately, an amendment by Congresswoman Comstock (VA) to ensure that express bus service operated on express lanes be treated the same as express bus service on HOV lanes for purpose of determining an area's share of transit State of Good Repair funds was not taken up on the House floor due to concerns that it would fail. The issue may be addressed during the conference committee. Staff will continue to work with regions across the U.S. seeking to correct this narrow interpretation of current law during the conference committee.

Next Steps
The remaining House and Senate conferees are expected to be named after Veterans Day. Given the fast pace by which Congress has been moving, it now seems plausible that a multi-year bill could be enacted before the November 20 deadline of the most recent MAP 21 extension. The swift handling of amendments and passage of the House bill this week demonstrated how quickly Congress can move when an item rises to the top of the agenda. Staff will continue to coordinate closely with our Washington D.C. representative and regional, state and national transportation partners to keep our Congressional delegation informed of our priorities as negotiations continue.

Steve Heminger

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National Governors Association (NGA) Staff Analysis:

Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act
Surface Transportation Reauthorization and Reform (STRR) Act

October 2015

Moving Ahead for Progress in the 21st Century, or MAP-21, the most recent federal surface transportation authorization enacted in July 2012, introduced innovations and reforms for highways and transit that are still being rolled out. MAP-21, however, expired on September 30, 2014 and has been extended until October 29, 2015.

In July, the Senate passed H.R. 22, an expanded version of the **Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act** by a vote of 65 – 34. The bill would reauthorize highway and transit programs for six years, but it provides only three years' worth of funding because of limits on general fund revenue offsets available to support projected Highway Trust Fund (HTF) shortfalls.

In October, the House Transportation and Infrastructure Committee passed the **Surface Transportation Reauthorization and Reform Act (STRR)** out of committee by voice vote. The House bill authorizes surface transportation spending for six years, at baseline funding adjusted for inflation, which totals $339 billion between FY 2016 and FY 2021. Like the DRIVE Act, STRR provides only enough revenue to keep the Highway Trust Fund solvent for the first three years of the bill. Funding authorization for the remaining three years would be contingent upon adding enough revenue to the Highway Trust Fund to maintain the minimum prudent balance level of $4 billion for the Highway Account and $1 billion for the Mass Transit Account in any given fiscal year. The House Ways and Means Committee has not released the funding portion for STRR at this time.

The following side-by-side compares current law against key provisions of interest to the states from the comprehensive DRIVE Act and STRR bill. This is not an exhaustive review. Please refer to the actual legislative texts if you need additional details. NGA will issue updates to this chart as new information becomes available.

Policy Initiative	**Current Law (P.L. 112-239):** *Moving Ahead for Progress in the 21st Century (MAP-21)*	**Senate Proposal:** *Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act*	**House Proposal:** *Surface Transportation Reauthorization and Reform Act (STRR) of 2015*
Authorizations	Extended current funding levels through September 30, 2014. The program was extended through July 31, 2015. Total funding levels from the Highway Trust Fund were adjusted for inflation and set at: • $40.9 billion in FY 2013, and • $41 billion for FY 2014.	Extends current funding levels through September 30, 2021, and would provide a total of $278 billion over that time period. Total annual funding levels: • $40.1 billion in FY 2016, • $41.1 billion in FY 2017, • $42.1 billion in FY 2018, • $43.3 billion in FY 2019, • $44.4 billion in FY 2020, and • $45.5 billion in FY 2021.	Extends current funding levels through September 30, 2021, and would provide $262 billion for federal-aid highways over that time period. Total annual funding levels: • $38.4 billion in FY 2016, • $39.1 billion in FY 2017, • $39.9 billion in FY 2018, • $40.7 billion in FY 2019, • $41.6 billion in FY 2020, and • $42.5 billion in FY 2021.

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	Additionally, MAP-21 provided the following funding levels for transit: • $10.6 billion in FY 2013, and • $10.7 billion for transit in FY 2014.	Additionally, the DRIVE Act provides the following funding levels for mass transit and bus grant contract authority: • $9.2 billion in FY 2016, • $9.4 billion in FY 2017, • $9.9 billion in FY 2018, • $10.1 billion in FY 2019, • $10.4 billion in FY 2020, and • $10.6 billion in FY 2021.	Funding levels are consistent with the current baseline, plus a small increase for inflation. Additionally, STRR provides the following funding levels for mass transit and bus grant contract authority: • $8.7 billion in FY 2016, • $8.9 billion in FY 2017, • $9.1 billion in FY 2018, • $9.2 billion in FY 2019, • $9.4 billion in FY 2020, and • $10.6 billion in FY 2021.
Obligation Limitation ***(****The obligation limit is the overall authority to spend federal funds for projects annually.)*	Established an annual obligation limitation of: • $39.7 billion in FY 2013, and • $40.3 billion in FY 2014.	Establishes an annual obligation limitation of: • $42.3 billion in FY 2016, • $43.4 billion in FY 2017, • $44.5 billion in FY 2018, • $45.6 billion in FY 2019, • $46.9 billion in FY 2020, and • $48.0 billion in FY 2021.	Establishes an annual obligation limitation of: • $40.9 billion in FY 2016, • $41.6 billion in FY 2017, • $42.5 billion in FY 2018, • $43.3 billion in FY 2019, • $44.2 billion in FY 2020, and • $45.1 billion in FY 2021.
Apportionment Formula	For FY13 and FY14, the amount each state received was based on their share of apportionments for FY12 set under the previous authorization. For FY14, state apportionments were adjusted to ensure that no state received less than 95 percent return on its contribution to the Highway Account of the HTF.	Preserves current apportionment formula. Funding for the new National Freight Program would be a take-down from each state apportionment.	Preserves current apportionment formula for core highway programs. Converts the Surface Transportation Program to the Surface Transportation Block Grant Program.
Highway Trust Fund Revenue	Required transfers from the General Fund and the Leaking Underground Storage Tank Trust Fund to cover the HTF shortfall.	Provides only three years' worth of funding for the six year reauthorization because of limits on general fund revenue offsets available to support projected Highway Trust Fund shortfalls.	Provides only three years' worth of funding for the six year reauthorization because of limits on general fund revenue offsets available to support projected Highway Trust Fund shortfalls.

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	Extended the collection of highway user fees through September 30, 2016.	Establishes a solvency test that would stop further new obligations from the Highway Trust Fund if, after FY 2018, the Highway Trust Fund drops below $4 billion by the end of the upcoming fiscal year, and the Mass Transit Account drops below $1 billion. Requires transfers from the General Fund. Offsets to pay for the transfer include: savings from tax compliance ($7.6 billion), the sale of crude oil from the Strategic Petroleum Reserve ($9 billion), reducing the fixed dividend rate paid by large banks ($16.3 billion), indexing customs user fees ($4 billion), and extending deposits of TSA security fees ($3.5 billion) into the general fund and other adjustments. Extends the collection of highway user fees through September 30, 2023.	Locks spending from the Highway Trust Fund for fiscal years 2019, 2020, and 2021 unless subsequent appropriations are enacted to transfer enough money into the trust fund to maintain a minimum balance of $4 billion in the Highway account and $1 billion in the Mass Transit account. Reestablishes a revenue based trigger that would increase or decrease proposed highway and mass transit contract authority and obligations starting in FY17 based on actual HTF receipts received in past years. Rescinds $6 billion of unobligated contract authority on July 1, 2018, which would be derived from Federal-aid Highway Program categories other than the Highway Safety Improvement Program, Railway-Highway Crossings Program, Metropolitan Planning, and suballocated portions of the Surface Transportation Block Grant Program. As of the end of FY 2015, $15.2 billion on unobligated contract authority was carried by all states. Requires transfers from the General Fund. Offsets to pay for the transfer are still under consideration by the House Ways and Means Committee, but are likely to be similar to the Senate funding package.
Innovative Funding and Financing	MAP-21 maintained authorization of state infrastructure banks and GARVEE bonds, and directed the Department of Transportation to provide technical assistance and report on best practices with public-private partnerships.	Authorizes annual appropriations of $150 million for FY16 - FY21 to support the *Achievement in Transportation Performance and Innovation Awards*, a competitive grant program to support best practices that promote progress, innovations, and efficiency for surface transportation programs at state DOTs and Metropolitan Planning Organizations.	Creates the National Surface Transportation and Innovation Finance Bureau at the US DOT to provide concierge services to states and local governments pursuing innovative financing projects. The bureau would provide (i) administrative help with applications for competitive federal grants and credit assistance programs; (ii) encourage innovations such as

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		Creates a program to encourage establishing a state user fee for electric vehicles. The bill would authorize increased federal funding for projects if states contribute at least five percent of the cost from revenue on vehicles with a fuel not subject to federal taxes. Authorizes DOT to provide grants to states, groups of states, or other appropriate entities to undergo research on user-based alternative revenue mechanisms for the Highway Trust Fund and create a Surface Transportation Revenue Alternatives Advisory Council. The Council will define the functionality of as least two user-based funding alternatives, identify relevant issues, conduct public outreach, evaluate research, and provide recommendations to the Secretary of Transportation. Authorizes states to bundle multiple bridge projects as if they were a single project, creating public-private partnership opportunities for bridge reconstruction. Allows states to increase the federal share of a project by up to five percent if the state covers at least five percent of the project cost with qualified revenues from fees on the registration of vehicles that operate solely on a fuel (i.e. electric vehicles) that is not subject to the federal gas tax. Requires the DOT to submit a report to Congress by 2023 describing the most efficient and equitable means of taxing motor vehicles that are not subject to the federal fuel tax.	public-private partnerships; and (iii) assist applicants with project streamlining and permitting. The bureau would complement the DOT's modal agencies and not replace their work. Allows states to use up to 10 percent of their annual National Highway Performance program and state transportation block grant program apportionments in FY16 – FY21 to capitalize state infrastructure banks. Establishes a new Council on Credit and Finance within DOT to replace the current ad hoc credit counsel. Members of the council would include: the Under Secretary for Policy; the Chief Financial Officer; the General Counsel; the Assistant Secretary for Policy; the administrators of the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration, and up to three DOT officials to be named by the Secretary.

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TIFIA	Increased annual available funding for TIFIA to $750 million in FY13 and $1 billion in FY14. Created a 10 percent set-aside for rural projects and a rolling application process. Changed the evaluation criteria for projects, with creditworthiness becoming the dominant factor in project selection. Increased the maximum share of project costs that TIFIA may provide from 33 percent to 49 percent.	Cuts TIFIA funding from the authorized amount of $1 billion annually to $300 million per year. Expands TIFIA eligibility to include transit-oriented projects. Creates a Rural Projects Fund and designates a fund to capitalize State Infrastructure Banks. Redefines TIFIA master credit agreements to require that projects receive an investment grade rating before the Secretary of Transportation could sign the agreement. Authorizes DOT to establish a regional infrastructure accelerator demonstration program to assist in speeding up TIFIA eligible projects. The text is not clear regarding what entities can apply to the regional infrastructure accelerator program. Provides the Secretary of Transportation the authority to designate regional infrastructure accelerators that will: (1) serve a defined geographic area; and (2) act as a resource in the geographic area to qualified entities. Authorizes appropriations of $12 million to carry out the regional infrastructure accelerator demonstration program, with $11.75 million provided for initial grants to regional infrastructure accelerators.	Cuts TIFIA funding from the authorized amount of $1 billion annually to $200 million per year. Redefines TIFIA master credit agreements to require that projects receive an investment grade rating before the Secretary of Transportation could sign the agreement. Redefines “rural infrastructure project” to mean any project outside of a Census Bureau defined urbanized area. Creates a new, lower $10 million threshold project size for projects sponsored by a local government or local facility. Moves the redistribution of unused TIFIA funds back to April 1, 2016 and sets specific dollar amounts for the TIFIA set-aside for administrative expenses instead of a percentage of the total program.
Tolling	Permitted tolling on new Interstates and new lanes on existing Interstates.	Allows unlimited tolling of new Interstate lane construction. Strikes existing limitations on HOV conversion to HOT lanes.	Allows more tolling of HOV facilities by public authorities. Strikes existing limitations on HOV conversion to HOT lanes.

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	Preserved the Interstate System Reconstruction and Rehabilitation Pilot Program. Eliminated the requirement that public authorities execute a toll agreement with FHWA before tolling a facility.	Amends the Interstate toll pilot program by easing application requirements and permitting Interstate Maintenance funds to be used on a tolled facility. Forces states to solicit contract within one year after being selected and execute contracts within two years after being selected. Sets up a pilot program to implement a toll credit marketplace where up to 10 states can buy and sell toll credits.	Requires the three states approved for the Interstate toll pilot program mandated in TEA-21 to use their approval within three years or lose such approval.
Transit	Combined existing and new transit programs into a new State of Good Repair Grant Program for rail fixed guideways and bus rapid transit projects. Converted the existing Bus and Bus Facilities competitive grant program into a formula program. Made core capacity projects eligible for New Starts funding.	Creates a pilot program establishing three cooperative procurement programs, between multiple states and providers, in order to streamline the purchase of public transportation vehicles. Restores $387 million to the Bus and Bus Facilities program to bring the total program level back up to $815 million by FY 2021 and establishes a new minimum state allocation of $2 million. Reinstates a bus discretionary grant program totaling $190 million annually and includes a 10 percent rural set-aside. Provides an additional $862 million for Urbanized Area Formula grants and includes a grant requirement that recipients must maintain their equipment and facilities in a state of good repair. Allows the Secretary to utilize Urbanized Area Formula grants to provide targeted operating assistance to large urbanized areas that have a three-month unemployment rate greater than seven percent. The amount that can be used for operating expenses is capped at 25 percent of the area's total	Maintains the Bus and Bus Facilities program and increases spending slightly, bringing the total program level up to $486 million by FY 2021. Reinstates a bus discretionary grant program totaling $90 million in FY 2016 and rising to $200 million annually for subsequent fiscal years. Each state will receive $1.2 million annually, with the remainder of the funds distributed through formula. States can transfer formula funds to other eligible recipients. Creates a competitive grant for bus state of good repair. Maintains Urbanized Area Formula grants at current funding levels, totaling $27.7 billion over six years. Lowers the maximum cost share of federal assistance for a new start project from not exceeding 80 percent to not exceeding 50 percent. However the bill maintains the federal share for core capacity or small starts project at a maximum 80 percent.

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		apportionment in the first year and 20 percent in succeeding years. Includes intermodal facilities that support intercity transportation as eligible for consideration in statewide transportation plans and transportation improvement programs. Changes the definition of a "small start" project from projects between $75 - $250 million to projects between $100 - $300 million. Establishes an expanded pilot program for projects that streamline the process for project delivery. Eligible projects include: new fixed guideway projects, core capacity projects, and small start projects seeking federal funding.	Establishes a public transportation innovation program, providing assistance for projects and activities that advance innovative public transportation research and development. Grants are provided to cover 80 percent of the project costs. Lowers the federal share for bicycle facilities to 80 percent. Allows the use of value capture to account for local matching funds for capital projects.
National Freight Program	Establishes a national freight policy, requiring the designation of a primary freight network of up to 30,000 miles. Encouraged states to develop state freight plans.	Establishes a formula-based national freight program, based off of the current apportionment formula. The program would be paid for by new money out of the Highway Trust Fund. The National Freight Program is authorized at: • $1.0 billion in FY16, • $1.45 billion in FY17, • $2.0 billion in FY18, • $2.3 billion in FY19, • $2.4 billion in FY20, and • $2.5 billion in FY21. Allows states to increase the number of miles designated as part of the primary highway freight network and permits states to designate critical rural and urban freight corridors.	Establishes a new competitive grant program for nationally significant multi-modal freight projects, but **does not** establish a formula-based national freight program. The grant program is authorized at: • $725 million in FY16, • $735 million in FY17, and • $750 million in FY18 through FY21. States, local governments, port authorities, metropolitan planning organizations, and other entities can apply to DOT for funding for projects with a total cost of the lesser of $100 million or a certain percentage of the state's total annual federal highway apportionment. Twenty percent of the total annual available grant funds will be set aside for projects located in rural areas.

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		The Secretary of Transportation, in consultation with state departments of transportation, would develop a National Freight Strategic Plan. Requires the Secretary to update the National Freight Strategic Plan every 5 years. Requires the Secretary of Transportation to submit a report to Congress within two years of enactment which contains a study of freight projects identified in state freight plans, and an evaluation of multimodal freight projects included in the state freight plans. Makes state freight advisory committees and state freight plans mandatory. Requires that a state's freight plan identifies state needs, while detailing how to improve the state's ability to meet national freight goals. • Includes a sense of Congress stating freight planning activities should be multimodal. • Develops state incentives for multimodal planning efforts, including reducing the state cost share and expediting the review of agreements for multimodal freight specific projects. Cancels state freight apportionments after two years if states have not established a freight advisory committee and developed a freight plan. Permits states with 3 percent or more of the total national freight network to use apportionments for projects on the primary system, critical urban corridors, or critical rural corridors. States with less	The Secretary of Transportation, in consultation with state departments of transportation, would develop a National Freight Strategic Plan. Requires the Secretary to update the National Freight Strategic Plan every 5 years. Requires the Secretary of Transportation to establish a National Highway Freight Network consisting of the Interstate system, non-Interstate highway segments on the primary freight network, and additional non-Interstate highway segments designated by the states. Encourages states to establish a freight advisory committee. Requires each state develop a state freight plan that provides a comprehensive plan for immediate and long-term planning investments of the state with respect to freight. Within 1 year of enactment each state, in consultation with the state freight advisory committee, can increase the number of miles included in the National Highway Freight Network by not more than 10 percent of the miles designated in that state if those miles close gaps in the network, establish connections to critical freight facilities, or are critical emerging corridors. Provides states the authority to designate critical commerce corridors to the National Highway Freight Network. Every 5 years the Secretary of Transportation, in consultation with the states, will reexamine the

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		than 3 percent of the total national freight networks can use its apportionment on any component of the national network. Allows states to use up to 10 percent of their National Freight funds within the boundaries of public and private freight rail, water facilities, and intermodal facilities. Would replace the TIGER competitive grant program with a new one to fund infrastructure projects authorized at $500 million annually.	National Highway Freight Network for any additional updates. Requires the Secretary of Transportation to establish the National Multimodal Freight Network consisting of the National Highway Freight Network, class I freight railroads, public U.S. ports, inland and intracoastal waterways, the Great Lakes, the St. Lawrence Seaway, and the top 50 U.S. airports. The network would be updated every five years.
Rail	MAP-21 did not include a separate rail provision.	Authorizes a consolidated grant program that would make positive train control (PTC) implementation an eligible use; frees up loan money to help operators become PTC complaint. Requires freight and passenger railroads fully install necessary PTC equipment on trains, in facilities, and along track no later than 2018. Reauthorizes Amtrak for four years at an annual average of $1.65 billion for operating and capital grants, and $570 million for federal-state partnership grants.	Extends the deadline for railroads to implement positive train control (PTC) to December 31, 2018, with the opportunity for an additional two-year grace period. The Surface Transportation Reauthorization and Reform Act does not include a separate rail provision. The House of Representatives passed H.R. 749, the Passenger Rail Reform and Investment Act, in March 2015 by a vote of 316 – 101.
Accelerating Project Delivery	Established deadlines for decision making in the environmental review process (ERP) and penalties for federal agencies that miss the deadlines. Expanded the usage of categorical exclusions from the National Environmental Protection Act (NEPA) process.	Includes the Federal Permitting Improvement Act, which improves the permitting process for major capital projects through better coordination and deadline setting for permitting decisions; enhanced transparency; and reduced litigation delays. The language is limited to economically significant capital projects, defined as more than $200 million, or projects that would benefit from increased agency coordination. Eligible capital projects include renewable or conventional energy production, electricity transmission, surface	Creates a pilot program to authorize five states to conduct environmental reviews and approve projects under state laws and regulations instead of federal laws and regulations. To participate, a state's laws and regulations must be determined by the DOT to be substantially equivalent to the comparable federal laws and regulations. Requires DOT to develop a coordinated and concurrent environmental review and permitting process within one year of enactment.

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	Makes permanent the Surface Transportation Project Delivery Pilot Program. Allows all states to assume federal responsibilities under NEPA for one or more transportation projects.	transportation, aviation, ports and waterways, water resources, broadband, pipelines, and manufacturing. Requires the DOT to develop programmatic requirements for the review of federal categorical exclusions. Requires that the DOT to provide a written response to environmental review applications within 45 days of receipt. Allows DOT modes with technical expertise to cooperate in categorical exclusion reviews for multimodal projects. Directs DOT to "modernize, simplify, and improve implementation of NEPA" within 180 days of enactment. Establishes an Infrastructure Permitting Improvement Center to coordinate and support priority infrastructure permitting reforms, support innovative pilot programs, provide technical assistance, and track permitting metrics and outcomes for projects. • Develops a coordinated and concurrent environmental review and permitting process for transportation projects requiring an environmental impact statement.	Allows DOT modes with technical expertise to cooperate in categorical exclusion reviews for multimodal projects. Requires DOT to produce a public website showing the status of projects requiring an environmental review. Directs DOT to delegate authority to states for project design, plans, and inspections to the maximum extent practicable. Requires annual inflation adjustments for the $5 million and $30 million categorical exclusion thresholds, both prospectively and retroactively back to July 1, 2012. Directs DOT to carry out capacity building programs with states and clarifies that states granted this authority can exercise it on behalf of local governments. Allows public entities receiving DOT funding to provide funds to the federal agencies that support activities that directly contribute to expediting and improving the permitting and review processes.
Transportation Planning	Established criteria for the evaluation of new performance-based planning processes. States were required to develop appropriate performance	Requires states to develop state freight plans that consider congestion and delays caused by freight movements, as well as freight investment plans.	Requires that MPOs determine their own representatives and that transit agency provider representatives can also represent municipalities.

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	targets and report progress toward achieving those targets.	Requires states, MPOs, and non-metropolitan agencies include intercity bus facilities to be included on transportation plans.	Requires states, MPOs, and non-metropolitan agencies include intercity bus facilities to be included on transportation plans.
Performance Management	Created national goals for the Federal highway program, with separate goals for each of the following categories: (i) safety; (ii) infrastructure condition; (iii) system reliability; (iv) freight movement and economic vitality; (v) environmental sustainability and; (vi) reduced project delivery delays.	Requires the Department of Transportation to establish a new program within one year of enactment to measure and report on progress from MAP-21 project delivery and performance measure improvement provisions. Establishes a port performance statistics program and requires U.S. ports subject to federal regulation or which receive federal assistance submit monthly reports to the Bureau of Transportation Statistics on their capacity and throughput.	Requires the Government Accountability Office to review the progress made under SAFETEA-LU, MAP-21, and STRR to accelerate project delivery within two years of enactment of STRR.
National Highway Performance Program (NHPP)	Required states to develop a risk- and performance-based asset management plan for the National Highway System. Created penalties on states for the failure to implement a performance-based asset management plan. Established the minimum standard for NHS bridge conditions.	Funded at $143.5 billion over six years.	Funded at $140.2 billion over six years. Allows off-system bridges on federal-aid highways to be eligible for federal-aid highway funding under the NHPP.
Surface Transportation Program (STP)	Continued previous STP eligibilities and changed the current sub-state distribution allocation to a 50-50 federal/state split. Required that a portion of a state's STP funds must be set aside for off-system bridges. Incorporated the following programs into the STP: transportation enhancements, recreational trails, ferry	Funded at $64.5 billion over six years. Increases the set-aside for off-system bridges to either 15 percent of total surface transportation program funds or 110 percent of the FY14 off-system bridge set-aside, whichever is greater. *(The required increased spending from the state for off-system bridges means that the increase in the allocation from 50 percent to 55 percent for local agencies will actually only maintain the status quo.)*	Funded at $65.3 billion over six years. Converts the Surface Transportation Program to the Surface Transportation Block Grant Program. Supplemental funds are provided for the block grant program, boosting funding from 2016 to 2021 between $71 and $240 million per year. Changes the sub-allocation to local and regional agencies from 50 percent to 51 percent in FY16,

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	boats, truck parking facilities, and the Appalachian Development Highway System projects.	Changes the sub-allocation to local and regional agencies from 50 percent to 55 percent. Permits that emergency evacuation planning eligible for STP funding.	with an increase of an additional 1 percent each year until it reaches 55 percent in 2020 and 2021. *(In real dollar terms the state share under STP is expected to remain nearly unchanged.)* There is no change to the off-system bridge set-aside under the STP program. Permits states to use block grant funds to establish public-private partnership oversight offices.
Highway Safety Improvement Program (HSIP) and Motor Vehicle Safety	Required states to develop a Strategic Highway Safety Plan. A state that fails to have an approved plan is not eligible to receive additional obligation limitation and must devote a portion of funds to the safety program.	Funded at $12 billion over six years. Amends the HSIP program to add vehicle to infrastructure communication equipment, pedestrian hybrid beacons, and improvements that separate pedestrians and motor vehicles to the eligibility list. Amends eligibility for distracted driving incentive grants to require that states include this topic in the state's driver's license exam, and prohibit states from enacting exceptions that allow drivers to text while stopped in traffic. • Would establish a pilot program for up to six states to develop notification programs to inform consumers of motor vehicle recalls.	Funded at $13.9 billion over six years. Amends the HSIP program to add vehicle to infrastructure communication equipment, pedestrian hybrid beacons, and improvements that separate pedestrians and motor vehicles to the eligibility list. Amends the high-risk rural road safety program to require all states with rural road fatalities that are above the median fatality rate for rural roads to amend their strategic safety plans in order to address the issue. Establishes a process that permits states to cease data collection on gravel roads.
Congestion Mitigation and Air Quality Improvement Program (CMAQ)	Funding remains available to reduce congestion and improve air quality for areas that do not meet the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter.	Funded at $14.6 billion over six years. Directs that funding will be utilized on the most cost-effective projects that are proven to reduce directly-emitted particulate matter to the maximum extent possible.	Funded at $14.5 billion over six years. Permits states that do not have, and never have had, a Clean Air Act nonattainment area to use the funds for any CMAQ or surface transportation block grant program eligible projects in the state.

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		Adds a nonattainment and maintenance exception for states with a population of 80 or fewer persons per square mile under certain conditions.	Permits states that do have a nonattainment area which receives more CMAQ funding than it did in FY 2009 to use the excess money for any CMAQ or surface transportation block grant program eligible projects in the state. Directs states and metropolitan planning organizations to give priority to projects that reduce direct PM 2.5 emissions (except in low density states).
Transportation Alternatives (TA)	Established a new program to replace the transportation enhancements program. Authorized states to transfer up to 50 percent of "transportation alternatives" funding to other state programs. Provides funding for programs and projects defined as transportation alternatives, including on- and off-road pedestrian and bicycle facilities, improvements to non-driver access to public transportation, environmental mitigation, recreational trails, and safe routes to schools.	Sets the annual Transportation Alternatives set-aside at a flat $850 million per year instead of 2 percent of Federal Highway Administration contract authority. Clarifies that MPOs can further allocate Transportation Alternative funding on a competitive basis.	Maintains the Transportation Alternatives program (TAP) under state control, funded at $819 million annually as a set-aside. State allocations of the TAP funds are based off of the overall formula ratios. Requires that $84.2 million each year of the $819 million in TAP funds are spent on the recreational trails program. Rolls the TAP into the Surface Transportation program (STP), making the $819 million annually money taking off the top of the block grant program. Allows 50 percent of TAP funds in urbanized areas to be used on any eligible STP project.
Projects of National and Regional Significance	Authorized $500 million in FY 2013 to fund critical high-cost surface transportation capital projects through a competitive grant program.	Establishes the Assistance for Major Project Program authorized at: • $250 million in FY16, • $300 million in FY17, • $350 million in FY18, • $400 million in FY19, • $400 million in FY20, and • $400 million in FY21.	Establishes the Nationally Significant Freight and Highway Projects program, a new competitive grant program for multi-modal freight projects. The grant program is authorized at: • $725 million in FY16, • $735 million in FY17, and • $750 million in FY18 through FY21.

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		The new program provides funds to critical high-cost projects that are difficult to complete with existing funds, but would generate significant benefits. Spending on the program would be considered above the baseline. Total project costs exceeding $350 million (or, in smaller or rural states, costing in excess of 25 percent of that state's annual total federal highway funding). Rural states are defined under the program as having less than 80 persons per square mile. States would be required to submit applications to the Federal Highway Administration (FHWA), and the FHWA Administrator would have the authority to select projects.	Establishes a 20 percent annual set-aside for rural projects. Not more than $500 million of the total FY 2016 – 2021 funding can be used for intermodal or rail freight projects on the National Multimodal Freight Network. Total minimum project costs equal or exceed the lesser of $100 million, or 30 percent of a state's total annual federal highway apportionment for a project located in a single state; or for multi-state projects, 50 percent of the annual federal highway apportionment of the largest participating state. States would submit applications to the Secretary of Transportation. The Secretary of Transportation must then submit grant notifications to Congress and the grant cannot be made until after Congress has 60 days to enact a joint resolution disapproving the project.
Federal Lands and Tribal Transportation Programs	Created a unified program for Federal lands transportation facilities, Federal lands access transportation facilities, and tribal transportation facilities.	Establishes a new discretionary program, authorized at $150 million annually, to construct or rehabilitate nationally significant federal lands and tribal transportation projects. Amends the Tribal Transportation Program by lowering the administrative set-aside from 6 percent to 5 percent in order to increase the bridge set-aside from 2 percent to 3 percent. Permits transit capital spending for the Federal Lands Transportation program.	Amends the Tribal Transportation Program by lowering the administrative set-aside from 6 percent to 5 percent. Permits transit capital spending for the Federal Lands Transportation program. Creates a new Tribal Transportation Self-Governance Program allowing eligible tribes to enter into their own annual highway funding agreements with DOT. Extends the Tribal High Priority Projects program through FY21.

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Research, Technology Deployment, Training, and Education	Continued to provide states the authority to use apportioned funds for training and other educational activities. Continues the State Planning and Research (SP&R) program.	Maintains the Federal Highway Administration's research programs under the Highway Trust Fund. Creates an Intelligent Transportation Systems Deployment competitive grant program, authorized at $30 million annually. Authorizes the Federal Highway Administration to continue the Every Day Counts Initiative to work with states and local agencies to identify and deploy innovative practices and products that shorten the project delivery process, improve environmental sustainability, enhance safety, and reduce congestion. Establishes a six-year pilot program for states to form up to three multistate compacts governing commercial driver's license eligibility for applicants between the ages of 18 and 21 to operate in interstate commerce. No more than four states per compact can participate in each interstate compact. Interstate compacts may not go into effect until it has been approved by the participating state governors, after consultation with the Secretary of Transportation and the Administrator of the Federal Motor Carrier Safety Administration.	Maintains the Federal Highway Administration's research programs under the Highway Trust Fund. Creates the Advanced Transportation Technologies program, funded at $75 million annually through the overall research program dollars. Grants will be provided to develop model deployment sites for large scale installation and operation of advanced transportation technologies to improve safety, efficiency, system performance, and infrastructure return on investment. Provides $5 million for a study on actions needed to upgrade and repair the Interstate Highway System to meet growing and shifting demands over the next 50 years. Establishes a new program to provide grants to states to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund and authorizes $115 million over six years for the program. The number of states of groups of states that can participate in the program is not defined.

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Members of the House-Senate Conference Committee on the DRIVE Act (H.R. 22)

Conferees on the part of the House

From the Committee on Transportation and Infrastructure, for the entire House amendment and Senate amendment and modifications committed to conference:

Majority (16)	Minority (12)
Shuster	DeFazio
Duncan (TN)	Norton
Graves (MO)	Nadler
Miller (MI)	Brown (FL)
Crawford	Johnson, E.B.
Barletta	Cummings
Farenthold	Larsen
Gibbs	Capuano
Denham	Napolitano
Ribble	Lipinski
Perry	Cohen
Woodall	Sires
Katko	
Babin	
Hardy	
Graves (LA)	

More House conferees will be named by the Speaker from the Committees on Ways and Means, Energy and Commerce, Financial Services, Science, Space and Technology, Oversight and Government Reform, and other panels for items under their jurisdiction after the Veterans Day recess.

The Senate cannot name its conferees until the Senate formally agrees to a conference, which will also be after the Veterans Day recess.