Analysis of American Recovery and Reinvestment Act
February 17, 2009

EDUCATION AND WORKFORCE

State Fiscal Stabilization Fund -- $53.6 Billion Total

$53.6 billion in grants to governors for state fiscal relief to prevent cuts to key services, including $39.5 billion to local schools and higher education institutions distributed through existing state and federal formulas, $5 billion as incentive grants to states that make key performance measures, and $8.8 billion to states for public safety and other government services, which may include education and education modernization, repair, and renovation.

- Funds are allocated to governors as follows (61% percent on the basis of population of individuals aged 5 through 24) and (39% percent on the basis of the total population).
- "Use it or lose it" provision requires governor to subgrant or commit funds within 2 years of receipt of funds; the Secretary may reallocate funds to other states after this period.
- Funds may be used in state fiscal years 2009, 2010, and 2011.
- Funds are available upon enactment.
- A governor desiring funds must submit an application to the Secretary of Education, at such time, and in such manner, and containing such information as the Secretary may reasonably require, including:
    1. Assurances (as described below);
    2. Baseline data on those assurances,
    3. Description of how the state will use the funds, including whether a state will use the federal funds to meet maintenance of effort requirements for ESEA and IDEA, and if so, what amount of funds will be used.
- **Assurances and Requirements for Funds:**
    1. Maintenance of Effort: A state must maintain state support on K-12 education at least at the level of fiscal year 2006 in 2009, 2010, and 2011; and a state must maintain state spending on higher education at least at the level for fiscal year 2006 in 2009, 2010 and 2011 (excluding capital projects, research and development, and tuition and fees paid by students).
    2. Teacher Effectiveness: A state must take action to comply with Section 1111(b)(8)(C) of ESEA to ensure to address inequities between the distribution of teachers in high-and low-poverty schools, and to ensure that low-income and minority children are not taught at a higher rates than other children by inexperienced, unqualified, and out-of-field teachers.
    3. P-16 Data: Establish a longitudinal data system that includes the elements as described in Section 6401(e)(2)(D) of the America COMPETES Act.
    4. Standards and Assessments: Enhance academic assessments to comply with several ESEA provisions related to the inclusion of students with disabilities, limited English proficient students, and the provision of accommodations for those students to participate in assessments. And, take steps to improve state academic standards and student academic achievement standards.
    5. Corrective Action: Ensure compliance with the corrective action requirements in Section 1116(a)(7)(C)(iv) and 1116(a)(8)(B).

- State Reports: Governors receiving state stabilization fund shall submit a report to the Secretary describing use of funds, how the funds distributed funds, the number of jobs saved or created, tax increases averted, progress to reduce inequities in the distribution of highly qualified teachers, progress to implement a state longitudinal data system, progress to develop a valid and reliable assessment for limited English proficient students and students with disabilities, the avoidance of higher education tuition and fees increases, and the extent to which higher education institutions of maintained, increased, or decreased enrollment of in-state students, and a description of each modernization, renovation, and repair project funded, and the project costs.
- **Fiscal Relief:** The Act provides governors will a number of regulatory changes to relieve fiscal burden and distress.
    1. Upon prior approval from the Secretary, a state or school district may treat state stabilization funds as non-federal funds for any requirement for any other federal education program related to maintaining fiscal effort. If approved, in addition, no state or school district will lose federal funds in the following fiscal year.
    2. The Secretary may waive or modify any requirement related to maintaining fiscal effort for a state or school district.
    3. A waiver or modification is available for fiscal year 2009, 2010, and 2011.
    4. The Secretary may not approve a waiver for a state or school district that decreases the proportionate share of total revenue that is available to elementary and secondary education.

Grants to Governors for Education -- $39.5 billion

A governor must use 81.8% of the state's allocation to support elementary, secondary, and postsecondary education, and as applicable, early childhood education programs and services. Elementary and secondary education is defined by the state.

- **The governor shall first use the funds to: (1)** provide funds to K-12 education to (a) restore, in FY09, FY10, and FY11, the level of state support through the state funding formulae to the greater of FY08 or FY09; (b) and where applicable, to allow existing state formula increases to support K-12 in FY2010 and FY11 to be implemented and allow funding to phase in State equity and adequacy adjustments, if such increases were enacted prior to October 1, 2008; **and (2)** to provide public higher education institutions in FY09, FY10, and FY11 the amount of funds needed to restore state support (excluding tuition and fees paid by students) to the greater of FY08 or FY09.
    - **Shortfall:** If the funds are insufficient to restore spending levels, a governor shall allocate funds between K-12 and higher education relative to the state shortfall.
    - **Excess:** Any carrying out the above clauses, the Governor shall allocate funds to local education agencies relative to their Title I shares.
- Local education agencies must use the funds in accordance with ESEA, IDEA, Perkins, or for modernization, renovation, or repair of school facilities, including recognized green building rating systems.
    - K-12 school repair, modernization, or renovation must be consistent with state law.

    - LEAs may not use funds for payment of maintenance costs, stadiums or other athletic facilities, purchase or upgrade of vehicles, or improvement of stand-alone facilities whose primary purpose is not education of children.
- Public higher education institutions shall use funds to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of higher education facilities that are primarily used for instruction, research, or student housing, including recognized green building rating systems.
    - HEA may not use funds for payment of maintenance systems, equipment, or facilities; modernization of athletic facilities; or facilities used for sectarian instruction or religious worship; or in which a substantial portion of the functions are subsumed in religious mission.

Grants to Governors for "Other Government Services" -- $8.8 billion
A governor must use 18.2% of the state's allocation for public safety and other government services, which may include K-12 and HEA modernization, renovation, repair, including recognized green building rating systems.

- Funds may be used for any institution of higher education and a Governor may not consider the type of institution.
- K-12 school repair, modernization, or renovation must be consistent with state law.

State Incentive Fund -- $5 billion
$5 billion is reserved for a new fund for the Secretary of Education to award incentive funds to those states that apply for funds.

- The Secretary shall decide which states receive grants and how much based on the following:
    - Funds are available to states that make significant progress on the above assurances, and the following items: state strategies to help struggling students meet state academic proficiency targets, and achievement and high school graduation rates as defined by ESEA and the new Title I regulations.
    - Each state must describe how funding would be prioritized for high-need schools and how the state will evaluate if progress is made in closing the achievement gap.
    - Each state receiving an incentive fund award shall use at least 50% of award subgrants to local education agencies, relative to Title I share.

Innovation Fund -- $650 million
Funds are reserved for the Secretary to recognize local education agencies or schools that make significant gains to close the achievement gap. States are not eligible for these awards.

K-12 Education
Grants to states and local education agencies to support K-12 education will be provided through several existing federal-state programs, including:

- **Title I: $13 billion** for formula Title I grants to local education agencies. ($5 billion for Targeted grants under Section 1125 of ESEA, $5 billion for Concentrated Grants to local education agencies under Section 1125A of ESEA, and $3.0 billion for school improvement grants under Section 1003 (g). The conference report clarifies the intent of

Congress is to use funds for school years 2009-2010 and 2010-2011, that states use some funds for early education programs and activities, and that the Secretary encourage states to use 40% of school improvement grants for middle and high schools. Every LEA receiving funds must report to the SEA a school-by-school listing of per pupil expenditures from state and local services, during the 2008-2009 academic year by December 1, 2009. SEAs must report this information to the Secretary by March 1, 2010.

- **Special Education: $12.2 billion** for the Individuals with Disabilities Education Act (IDEA). Of that total, $11.7 billion is for IDEA Part B section 611 and 619 grants to states; and $500 million for Part C for Infant and Toddlers. If a state should reach its maximum allocation under Section 611(d)(3)(B)(iii), provision is made for the reallocation of funds to other states. The conference report clarifies the intent of Congress is to use funds for school years 2009-2010 and 2010-2011.
- **School Improvement Programs:** $650 million for state and local education agency technology grants. The conference report indicates the intent of Congress that these funds be available for school years 2009-2010 and 2010-2011.
- **Teacher Incentive Fund:** $200 million for the Teacher Incentive Fund for states and school districts to develop and implement innovative principal and teacher compensation models to support recruitment and retention efforts in high-need schools and subjects. A portion of funds are reserved for the Institute of Education Sciences to evaluate the impact of performance based teacher and principal compensation systems in high need schools and subjects.
- **McKinney-Vento Homeless Assistance Act:** $70 million for the education of homeless students.

Higher Education

- **Pell Grants:** $15.64 billion for Pell Grants to retire the existing Pell Grant shortfall and increase the maximum Pell Grant award through a mix of discretionary and mandatory spending to $5,350 (up from $4,860) for the 2009-2010 school year.
- **Teacher Quality Enhancement, State Grants:** $100 million for a competitive grant program for states to improve the quality of the teacher workforce, including reforms in the areas of alternative routes to teacher certification, teacher preparation, and teacher licensing.
- **College-Work Study:** $490 million for colleges to support low and moderate-income undergraduate and graduate students who work while attending school
- **Student Aid Administration:** $60 million for the U.S. Department of Education to administer the student loan and aid programs.

Preschool to College (P-16) Alignment

- **Statewide Data Systems:** $250 million for competitive grants to states to develop statewide longitudinal data systems. Up to $5 million is reserved for state data coordinators and for awards to public or private organization or agencies to improve data coordination.

Rehabilitation Services and Assistance

$540 million for formula state grants for state vocational rehabilitation services to serve people with disabilities. $140 million for state grants for independent living, centers for independent living, and services for older individuals who are blind programs.

Education Infrastructure

- **K-12 School Modernization, Renovation and Repair:** See new State Fiscal Stabilization Fund above.
    - **Impact Aid:** $100 million for Impact Aid schools for school construction grants. 40% to be distributed via existing Impact Aid grant formulas and 60% for competitive grants for emergency repairs and modernization grants.
- **Higher Education Modernization, Renovation and Repair:** See new State Fiscal Stabilization Fund above.

Workforce Employment and Training

$3.95 billion for formula states to provide for employment and training programs under the Workforce Investment Act (WIA) of 1998, including:

- **Dislocated Worker Program**: $1.25 billion for training and reemployment services for dislocated workers.
- **Adult Program**: $500 million to serve eligible low income adults.
- **Youth Program**: $1.2 billion for youth activities including summer jobs for youth. The eligibility age for youth recovery funds is extended to age 24.

The Secretary of Labor will receive discretionary funding for competitive grants to states in the three following programs:

- **High Growth and Emerging Industry Sectors***:* $750 million is provided for worker training and job placement in high growth and emerging industry sectors. Of that amount, $500 million is reserved to prepare workers for efficiency and renewable energy careers.
- **Dislocated Workers Assistance National Reserve**: $200 million for national emergency grants, with an emphasis on serving areas of high unemployment or high poverty and providing the income and support services necessary for an individual to participate in job training.
- **YouthBuild**: $50 million to help at-risk youth gain education and occupational credentials while building or rehabilitating affordable housing. The funds will supplement awards to existing programs and to expand a current competition. For program years 2008 and 2009, the program can serve youth who have dropped out of high school and re-enrolled in alternative school provided that reenrollment is part of a sequential service strategy.

Unemployment Insurance (UI) Modernization

$500 million in UI administrative funding is provided to all states. $7 billion in incentive payments is available for States who enact specific reforms designed to increase UI coverage among low-wage, part-time and other jobless workers.

Temporary Assistance for States with Advances

The Act temporarily waives the accrual of interest and interest payments on state loans from the Federal Unemployment Account (FUA) used to pay state Unemployment Insurance benefits. The provision is in effect from the date of enactment to December 31, 2010.

Extension of Unemployment Compensation Benefits

The Act amends the Unemployment Compensation Extension Act of 2008 to provide for the continuation of temporary, extended unemployment benefits of 20 weeks for all eligible individuals who exhaust state benefits, and an additional 13 weeks for individuals living in states with a high rate of unemployment (3 month seasonally adjusted average UI rate of at least 6 percent).

Weekly Unemployment Insurance Benefit Increase

States may voluntarily enter into an agreement with the Secretary of Labor to provide an increase to both regular and extended unemployment benefits by $25 a week through December 31, 2009, with full reimbursement paid by the federal government.

State Employment Service and Reemployment Services Grants

State Employment Service agencies under the Wagner-Peyser Act will receive $400 million for reemployment and job matching assistance, of that $250 million is designated for Reemployment Service Grants to provide customized reemployment services to Unemployment Insurance (UI) claimants. Funds can also be used to improve the integrated information technology required to identify and serve the needs of UI claimants. The additional funds will be allocated to states based on three factors: the number of individuals in the labor force, the rates of unemployment, and the relative share of long-term unemployed individuals.

Job Corps Modernization

$250 million targeted for the construction, rehabilitation, and acquisition of Job Corps centers, including the use of multi-year leasing authority, if a lease arrangement would result in construction within 120 days of enactment. The Secretary of Labor can transfer up to 15 percent of the funding to meet center operational needs, which may include training for careers in the energy efficiency, renewable energy and environmental protection industries.

Trade Adjustment Assistance

The Act reauthorizes the Trade Adjustment Assistance (TAA) programs through December 31, 2010 and establishes an Office of Trade Adjustment Assistance at the Department of Labor, Employment and Training Administration. The following benefits would be available to job seekers, eligible for the program:

- Provides $575 million in training funds for fiscal years 2009 and 2010 and $143.7 million for October 1-December 31, 2010. Authorizes significant program expansions including:
- Eligibility to workers of the service sector and public agencies.
- Additional training options (long-term, part-time and pre-layoff training).
- Allows training funds to be used for apprenticeship programs, prerequisite training, and training at an accredited institution of higher education
- Allows for training in which to obtain or complete a degree or certification program (where degree/ certificate lead to employment).

- Requires the Secretary of Labor to make employment and case management services available to TAA eligible workers.

The following would be new programs for communities, such as:

- Sector Partnership Grant Program: $40 million in discretionary grants for each fiscal year 2009 and 2010, and $10,000,000 for October 1-December 31, 2010.
- Community College and Career Training Grant Program: $40 million in discretionary grants for each fiscal year 2009 and 2010, and $10 million for October 1, 2010 – December 31, 2010 to develop, offer, or improve education and career training for eligible TAA workers.
- Establishes an Interagency Community Assistance Working Group chaired by the Commerce Secretary/designee for the purpose of coordinating federal response to, and facilitating economic adjustment for, communities impacted by trade. The working group is to include: Departments of Agriculture, Defense, Education, Labor, Housing and Urban Development, Health and Human Services, Small Business, and Treasury.

ENERGY AND NATURAL RESOURCES

Smart Grid

Transmission Grid: the bill provides a total of $11 billion for transmission infrastructure including:

1) $4.5 billion to implement programs authorized under title XIII (Smart Grid) of the Energy Independence and Security Act of 2007 and for other investments that modernize the electricity grid. The bill also makes several modifications to ESEA title XIII including: changing the Federal Smart Grid Investment Matching Grant Program from a 20% federal reimbursement to a 50% federal grant for qualifying investments and requiring recipients of grant funds to provide such information as the Secretary determines is necessary to create a clearinghouse of smart grid data.

This section also includes: $100 million for worker training; $80 million for a study of future demands and transmission requirements; a requirement that FERC provide technical assistance to the North American Electric Reliability Corporation, the regional reliability entities, the States, and other transmission owners and operators for the formation of interconnection based transmission plans for the Eastern and Western Interconnections and ERCOT; and $10 million for the Smart grid interoperability framework authorized in ESEA 2007.

2) $3.25 billion for the Western Area Power Administration (WAPA) to increase their borrowing authority, and $3.25 billion for the Bonneville Power Administration (BPA) to increase their borrowing authority.

Renewable Electricity Transmission Study – requires the Secretary to include 4 new factors in the study due August 2009: the significant potential sources of renewable energy constrained by the lack of transmission capacity; the reasons for failure to develop the capacity; recommendations for achieving capacity; the effect federal or state legal challenges are having on citing transmission.

Renewable Energy

Innovative Technology Loan Guarantees: $6 billion for loan guarantees that fund a variety of energy projects including next generation nuclear, clean coal and renewables. The Secretary may limit the funding to only transmission, advanced biofuels and renewable energy projects that can commence construction no later than 9/30/11. The biofuels projects must be at a pilot or demonstration scale and reduce life-cycle greenhouse gas emissions. Further, no more than $500 million can be spent on biofuels projects. The Secretary may consider the viability of, incentives for and the importance of transmission projects, as well as whether it would help meet a state or region's environmental goals, when deciding whether to fund them. $10 million shall be transferred to the Advanced Technology Vehicles Manufacturing Program for administrative expenses.

Efficiency

Local Government Energy Efficiency Block Grants (EEBG): $3.2 billion to help state and local governments make investments that make them more energy efficient and reduce carbon emissions. Of the $3.2 billion, $2.8 billion shall be distributed according to formula. 12 percent of these funds are given to the State Energy Programs. The remaining $400 million shall be awarded on a competitive basis.

State Energy Programs: In addition to the state share of the EEBG, $3.1 billion will be distributed through the SEP according to current formulas. The bill would require that in order to receive stimulus funds, the Governor of a state must notify the Secretary of Energy in writing that the Governor has obtained necessary assurances that each of the following will occur:

> 1) The applicable state regulatory authority will seek to implement in appropriate proceedings with each utility, a general policy that ensures utility financial incentives are aligned with helping customers use energy more efficiently and provides the utility with timely cost recovery and a timely earnings opportunity
>
> 2) The State or applicable local government that has authority to adopt building codes will adopt residential codes that exceed the most recently published International Energy Conservation Code or achieves equivalent/greater savings; adopt a commercial building code that meets or exceeds ANSI/ASHRAE/IESNA Standard 90.1-2007 or achieves equivalent/greater savings; a plan is developed for the jurisdiction achieving compliance to do so within 8 years of the date of enactment in at least 90 percent of new or renovated residential and commercial building space.
>
> 3) The State will give priority to the extent practicable to projects that include an expansion of existing energy efficiency programs approved by the State or appropriate regulatory authority, including building and industry retrofits funded by the state or through ratepayers; the expansion of existing programs to support renewable energy projects and deployment activities and cooperation and joint activities between States to advance more efficient and effective use of this funding to support energy efficiency priorities.

The bill also waives the twenty percent state match requirement and waives the limitation on the percentage of funding that can be used for the purchase and installation of energy efficiency equipment and materials.

Energy Efficiency and Renewable Energy Research Development, Demonstration and Deployment: $2 billion for energy efficiency and renewable energy research, development, demonstration, and deployment activities, including $800 million for biomass projects and $400 million for geothermal projects. Funds are awarded on a competitive basis to universities, companies, and national laboratories. Additionally, within available funds, the Department may use $50 million to support research to increase information and communications technology efficiency and standards.

Science and Research

$1.6 billion for DOE science programs and $400 million for the Advanced Research Projects Agency created in the American Competes Act to fund research that will reduce imports of energy from foreign countries and energy-related GHG emissions and improve energy efficiency across all economic sectors.

Home Weatherization: $5.0 billion to help low-income families reduce their energy costs by weatherizing their homes. These funds are distributed by states to local energy programs. The bill would lower the eligibility income threshold from 150% the rate of poverty to 200% the rate of poverty and increase the limit on the amount of assistance from $2,500 to $6,500.

Smart Appliances: $300 million to provide consumers with rebates to replace old appliances with energy efficient Energy Star products. The program was authorized by Section 124 of the Energy Policy Act of 2005 (EPAct 05).

Fuels and Vehicle Technology
Advanced Battery Loans and Grants: $2 billion for grants for the manufacturing of advanced batteries and components, including advanced lithium ion batteries, hybrid electrical systems, component manufacturers and software designers.

Electric Transportation: $400 million for a new grant program created in section 131 of EISA to encourage electric vehicle technologies.

Alternative Buses and Trucks: $300 million for the Clean Cities program for state and local governments to purchase alternative fuel vehicles; authorized by section 721 of EPAct 05.

Fossil Energy
$3.4 billion for Fossil Energy Research and Development Program including $1 billion for fossil energy research and development programs; $800 million for Clean Coal Power Initiative Round III Funding Opportunity Announcement; $1.5 for a competitive grant program for industrial carbon capture and energy efficiency projects; $50 million for a competitive grant on site characterization activities in geologic formations; $20 million for geologic sequestration training and research and $10 million for program direction funding. The Act does not include funds for FutureGen.

DOE facilities Environmental Cleanup
$483 million for Non-Defense Environmental Cleanup; $390 million for Uranium Enrichment Decontamination and Decommission Fund; $5.1 billion for Defense Environmental Cleanup.

National Oceanic and Atmospheric Administration (NOAA)
Satellites and Sensors: $600 million for satellite development and acquisitions. Of the amounts provided, $170,000,000 shall address gaps in climate modeling and establish climate data.

Habitat Restoration: $400 million for ready-to-go habitat and fisheries restoration, marine debris and mitigation projects.

Environmental Protection Agency (EPA)
Clean Water State Revolving Fund: $4 billion for loans to help communities upgrade wastewater treatment systems.

Drinking Water State Revolving Fund: $2 billion for loans for drinking water infrastructure.

Both SRFs – The Administrator must reallocate funds where projects are not under contract or construction within 12 months of the date of enactment. Priority funding must be given to projects on the State priority list that can be under construction within 12 months of enactment. Further, states must use not less than 50 percent of the funds for grants, negative interest loans or principal forgiveness. Not less than 20 percent of the SRFS fund must green infrastructure, water and/or energy efficiency, innovative water quality improvements, decentralized wastewater treatment, stormwater runoff mitigation and water conservation. If projects are not available, the state must certify to the Administrator that it does not have applicants with these types of projects. Additionally, the funds cannot be used to purchase land or easements. Funds may be used to buy, refinance or restructure existing debt obligations incurred on or after October 1, 2008. The bill would waive the 20 percent state match requirement.

Brownfields: $100 million for competitive grants for evaluation and cleanup of former industrial and commercial sites. Cost share requirements are waived.

Superfund Hazardous Waste Cleanup: $600 million to clean up hazardous and toxic waste sites. Maintains the 10 percent state match requirement.

Leaking Underground Storage Tanks: $200 million for enforcement and cleanup of petroleum leaks from underground storage tanks; waives the state match requirement.

Diesel Emissions Reduction: $300 million for grants and loans to state and local governments for projects that reduce diesel emissions. 70% of the funds go to competitive grants and 30% funds grants to states with approved programs. ARRA waives the State Grant and Loan Program matching incentive provisions.

U.S. Department of Agriculture (USDA)
Agricultural Research Service: $176 million for maintenance work at ARS research facilities, with priority given to critical deferred maintenance work.

USDA Building and Facilities Improvements: $24 million for priority repairs, modernization, and security improvements at the USDA headquarters complex.

Rural Water and Waste Disposal: $1.38 billion to support $3.8 billion in grants and loans to help communities fund drinking water and wastewater treatment systems. $2.8 billion is for direct loans and $968 million for grants.

Wildland Fire Management: $500 million for Wildland Fire Management which includes $250 million for hazardous fuels removal and other efforts to prevent wildfires on public lands. The remaining $250 million would go to state grants for hazardous fuels reduction, volunteer fire assistance, forest health projects, city forest enhancements, and wood to energy grants on state and private lands.

Watershed and Flood Prevention: $290 million for watershed improvement programs to design and build flood protection and water quality projects, repair aging dams, and purchase and restore conservation easements in river flood zones. The funds include $145 million for floodplain easement and restoration projects.

Watershed Rehabilitation Program: $50 million for ready-to-go dam rehabilitation projects that have reached the end of their engineering design life, and can be fully paid for using the appropriated funds.

U.S. Forest Service: $650 million for ready-to go restoration and maintenance projects, including roads, bridges, trails, watershed, forest thinning, abandoned mine reclamation, and habitat restoration projects.

Department of the Interior
U.S. Geological Survey (USGS): $140 million to repair and modernize USGS science facilities and equipment, including stream gages.

Bureau of Land Management: $180 million for construction projects, including priority road, bridge, and trail repair or decommissioning; deferred maintenance; facilities construction and hazardous fuels reduction. $125 million for the management of lands and resources.

Fish and Wildlife Service: $115 million for construction projects, including projects on National Wildlife Refuges and National Fish Hatcheries. $165 million is available for resource management.

National Park Service: $146 million for the operation of the national park system. $589 million for construction projects in the National Parks.

Bureau of Reclamation: $1 billion for capital improvement projects, including funds to provide clean, reliable drinking water to rural areas and for water reuse and recycling projects to ensure adequate water supply to western localities impacted by drought; $126 million of the funds shall be used for water reclamation and reuse projects; $50 million may be transferred for projects associated with the Central Utah Project Completion Act s and $50 million for projects associated with the California Bay-Delta Restoration Act projects; $60 million is allocated for water intake and treatment facilities; $10 million for canal inspection. The Act provides the Commissioner the flexibility to determine repayment rates so long as none exceeds 50 years.

Department of Defense
Corps of Engineers: $2 billion for construction on projects that have already received federal funds; $375 million for the Mississippi River and Tributaries; $2.075 billion for Operations and Maintenance for projects that can be completed with these funds; $25 million for the Corps regulatory program.

Department of Defense Research: $75 million for research into using renewable energy to power weapons systems and military bases.

General Services Administration

Green Buildings: $4.5 billion to convert GSA facilities into High Performance Green Buildings and $400 million for the Office of High Performance Green Buildings.

Efficient Fleets: $300 million to replace older vehicles owned by the federal government with alternative fuel automobiles

HEALTH AND HUMAN SERVICES

Enhanced Federal Medical Assistance Percentage (FMAP) (Title V, Sec 5001)
Hold harmless. The state's FMAP for federal FYs 2009, 2010 and the first federal fiscal quarter of 2011 (through December 31, 2010) would be no lower than the state's FMAP for FY 2008.

Across-the-board increase. All states would be eligible for a 6.2 percentage point FMAP increase beginning October 1, 2008 through December 31, 2010, after application of the hold harmless provision.

High unemployment states. States with significant changes in unemployment would be eligible for an additional FMAP increase determined through a formula as described below.

States would be evaluated on a quarterly basis. The reduction in the state share would be based on the state's unemployment rate in the most recent three-month period for which data are available compared to its lowest unemployment rate in any three-month period beginning on or after January 1, 2006. The unemployment adjustment tiers are:

- 5.5%: unemployment increase of at least 1.5 but less than 2.5 percentage points
- 8.5%: unemployment increase of at least 2.5 but less than 3.5 percentage points
- 11.5%: unemployment increase of 3.5 percentage points or more

The state's percentage reduction could increase over time as its unemployment rate increases, but if unemployment decreased, the state share would not decrease until the fourth quarter of federal FY2010, which begins July 1, 2010, unless the state otherwise did not meet certain requirements as described below. The state would receive 60 days notice if its share of Medicaid costs were scheduled to increase after this time.

<u>Calculation</u>: If the state qualifies under one of these unemployment tiers, the state would still receive the 6.2 percentage point increase, however, it is easier to think of this as two separate increases of 3.1 percentage points (see Examples A and B below). There are three basic steps for the calculation of the unemployment adjustment:

- Step 1: An increase of 3.1 ***percentage points (half of 6.2)*** in the state's FMAP
- Step 2: A decrease in the state match by the ***percent*** corresponding to the applicable unemployment adjustment tier
- Step 3: Increase the FMAP by an additional 3.1 ***percentage points (the remaining half of 6.2)***

EXAMPLE A: The state FMAP is 50 percent and there was a change in unemployment rate for the quarter of 1.2 percentage points.

- *Step 1: Increase FMAP by 3.1 percentage points:*
  FMAP = 50+3.1= 53.1. State share is now 46.9
- *Step 2: Determine unemployment factor, which because the unemployment rate was below 1.5, is zero.*
- *Step 3: Increase FMAP by an additional 3.1 percentage points:*
  FMAP = 53.1+3.1= 56.2
- *RESULT: state share is 43.8, federal share is 56.2*

EXAMPLE B: The state FMAP is 50 percent and there was a change in unemployment rate for the quarter of 2.0 percentage points.

- *Step 1: Increase FMAP by 3.1 percentage points:*
  FMAP = 50+3.1=53.1. State share is now 46.9
- *Step 2: Determine unemployment factor:*
  2.0 percentage point increase qualifies state for 5.5% reduction.
  Multiply your state share by this percent: 46.9.055=2.58.*
  Therefore reduce the state share by 2.58 percentage points: 46.9-2.58= 44.32. Result: state share 44.32, federal share 55.68
- *Step 3: Increase FMAP by 3.1 percentage points: 55.68+3.1= 58.78*
- *RESULT: state share is 41.22, federal share is 58.78*

Commonwealths and Territories. They may choose the 6.2 percentage point increase plus a 15 percent increase in the capped amount or a 30 percent increase in the capped amount.

Application of FMAP to other programs/services. FMAP increases do not apply to payments for Title IV Parts A (Temporary Assistance for Needy Families, TANF), B (Child and Family Services), and D (Child Support and Establishment of Paternity), the State Children's Health Insurance Program (SCHIP), disproportionate share hospitals (DSH), and other enhanced payments based on FMAP.

Title IV-E: The hold harmless and 6.2 across-the-board percentage point increases in FMAP do apply to Title IV-E payments (Foster Care and Adoption Assistance). However, reductions in the state share due to the unemployment-related increase do not apply.

Requirements and Restrictions. ARRA includes several requirements/ and restrictions and prohibits the HHS Secretary from waiving these. These include:

- States may not have eligibility standards, methodologies, or procedures in place in the Medicaid state plan or a Sec. 1115 waiver program that are more restrictive than those in effect as of July 1, 2008.
  - Any state that implemented more restrictive policies since July 1, 2008, has until July 1, 2009 to restore such policies. The state would then be fully eligible for the enhanced match, retroactive to October 1, 2008.
  - Any state that implements more restrictive policies as of July 1, 2008 and restores such policies after July 1, 2009 will be eligible for the enhanced FMAP beginning with the first calendar quarter that it restored the eligibility policies.
  - Certain exceptions apply for delay in approval of a plan or waiver.
- The FMAP increases do not apply to payments for individuals enrolled in Medicaid as a result of an expansion in the state income eligibility policies implemented on or after July 1, 2008. States would still receive their regular FMAP for such individuals.
- The state must report on compliance with provider prompt payment requirements beginning with the date of enactment of the ARRA. Extends prompt pay requirements to nursing facilities and hospitals beginning June 1, 2009. Allows the Secretary to waive this requirement in certain situations.

- The state may not increase the percentage of the non-federal share it requires from local governments, above that in place as of September 30, 2008. This requirement is not applicable for the hold harmless.
- Prohibits states from depositing funding from the increased FMAP rate into any state reserve or rainy day fund. This does not apply to increases due to the hold harmless.
- Increases may not result in the state FMAP being greater than 100 percent.
- State must submit report on its use of the additional federal funds from the enhanced FMAP By September 30, 2011.

Federal Oversight of Medicaid Funds
The Act appropriates an additional $31.25 million for the HHS Office of Inspector General (OIG) for October 1, 2008 through September 30, 2011. These funds are intended to be used to ensure the proper expenditure of federal Medicaid funds. In addition there is $5 million in FY2009 to the Centers for Medicare and Medicaid Services (CMS) for implementation and oversight of the state fiscal relief provisions relating to Medicaid.

Temporary Increase for Disproportionate Share Hospitals Payments (DSH) (Title V, Sec 5002)
Temporary 2.5% increase in the state Medicaid DSH allotment for FYs 2009 and 2010. For FY 2010, the increase is based on the adjusted FY 2009 level.

Medicaid Regulations (Title V, Sec 5003)
Delays or addresses several Medicaid regulations, including:

- Extends the current moratoria (P.L. 110-252), on three Medicaid regulations through June 30, 2009: optional targeted case management services (TCM), school administration and transportation services, and provider taxes.
- Applies a new moratorium through June 30, 2009 to the final regulation regarding Medicaid outpatient hospital facility services (73 Federal Register 66817).
- Includes a "Sense of Congress" that the HHS Secretary should not issue final regulations for pending rules on: cost limits on public providers, graduate medical education (GME) payments and rehabilitative services.

Transitional Medical Assistance Extension and Reporting Requirement (Title V, Sec 5004)
Extends the Medicaid Transitional Medical Assistance (TMA) option for 18 months, through December 31, 2010. It gives states the option to extend the initial period of eligibility for TMA to 12 rather than the current six months and to waive certain enrollment requirements, beginning July 1, 2009.

Beginning July 1, 2009, states would be required to report monthly enrollment and participation rates for adult and child enrollees and the number of these who become eligible under another Medicaid category or for SCHIP.

Qualifying Individual Program Extension (Title V, Sec 5005)
Extends through December 31, 2010 the Qualifying Individual (QI) program.

- $412.5 million is allocated from January 1, 2010, through September 30, 2010.
- $150 million is allocated from October 1, 2010, through December 31, 2010.

State Option for Family Planning Services. No provision.

Medicaid Provisions Impacting American Indians (Title V, Sec. 5006)
The Act includes provisions impacting health care for American Indians, including:

- Prohibits state Medicaid programs from imposing cost-sharing requirements on Medicaid-eligible American Indians when the beneficiary is receiving services from an Indian health care provider or from a Contract Health Services (CHS) provider.
- Exempts certain tribal, religious, spiritual, or cultural property from being considered an asset of an individual Indian for purposes of determining Medicaid and SCHIP eligibility or estate recovery.
- Requires states consult on an ongoing basis with Indian Health Programs and Urban Indian Organizations.
- Applies Medicaid and SCHIP managed care rules to Indian health care providers.

COBRA Healthcare for the Unemployed (Title III, Sec. 3001)
Under current law, individuals losing employment may be eligible to continue their employer-based health care coverage under a program known as COBRA. This entitles the individual to continued access to the same health plan they were receiving, but the individual is generally responsible for 102% of the total cost of the monthly premium.

***COBRA continuation subsidy*.** The COBRA continuation subsidy is available to individuals involuntary separated from their employer on or after September 1, 2008 and before January 1, 2010. The federal subsidy is 65% of the monthly COBRA premium for the individual – and their spouse and dependents – for a period of nine months. The Act places an income threshold on eligibility for the subsidy of $145,000 for individuals and $290,000 for couples. The subsidy is phased-out for individuals with income between $125,000 and $145,000 and couples with income between $250,000 and $290,000.

The subsidy is payable directly to the health plan or other eligible entity as an offset in payroll taxes. It does not count toward the individual’s gross income with respect to taxation or eligibility for other government programs. Individuals are no longer eligible for the subsidy once they are eligible for another group health plan.

Eligible COBRA plans. COBRA continuation coverage is that required to be offered by the employer or under a state program that provides continuation coverage comparable to that the individual received from their former employer (“mini-COBRAs”). It also includes continuation coverage requirements that apply to health plans maintained by the federal government or a state government.

The individual may chose a COBRA continuation plan that is *different* than the one he/she was enrolled in at the time of separation as long as the plan is:

- Approved by the employer;
- Available to active employees of the employer;
- The premium for the different coverage is not higher; and

- The different coverage is not: service specific, for example dental or vision only coverage, a flexible spending arrangement, and on-site medical care coverage only.

State Medicaid option for the unemployed. No provision.

Health Information Technology (HIT) (Title XIII)
In brief, ARRA lays the foundation to adopt national HIT standards, provide incentives for adoption and use of HIT, and addresses privacy and security issues. The proposal includes approximately $2 billion to invest in health information technology infrastructure and $17 billion in incentives for Medicare and Medicaid providers.

Office of the National Coordinator for Health Information Technology (ONC). The ARRA codifies the ONC for Health Information Technology within the Department of Health and Human Services and defines the duties of the National Coordinator, which would include developing standards, coordinating HIT policy across policies and programs within HHS and across other executive branch agencies, and updating specific aspects of the Federal HIT Strategic Plan (developed as of June 3, 2008). The bill requires that this plan address utilization of electronic health records by 2014. It also would create HIT Policy and Standards committees, though state representation is not specifically required.

National standards. By December 30, 2010, it requires the Secretary to adopt an initial set of standards, implementation specifications, and certification criteria. It makes adoption of certain standards and certifications by private entities voluntary.

State grants to promote HIT (Title XIII, Sec. 13301). The proposal would establish a program whereby states or a state-designated entity could receive grants for planning or implementation to assist with and expand adoption of HIT. For grants awarded prior to FY 2011, the Secretary may determine if a state match is appropriate. Beginning in fiscal year 2011, there is a state match requirement that is equal to or greater than a defined percent of the federal contribution for grants awarded in FY 2011 as follows:
- FY 2011, not less than $1 for every $10 of federal grant funding;
- FY 2012, not less than $1 for every $7 of federal grant funding; and
- FY 2013 and thereafter, not less than $1 for each $3 of federal grant funding.

The proposal directs assistance for implementation of health information technology, with the goal that funding could be used for the following
- HIT architecture that will support the nationwide electronic exchange;
- Integration of HIT into training of health professionals and others in the healthcare industry;
- Training on and dissemination of information on best practices to integrate HIT into a provider's delivery of care. Such efforts must be coordinated between HHS and state agencies administering Medicaid and the State Children's Health Insurance Program (SCHIP);
- Regional or sub-national efforts towards health information exchange;
- Infrastructure and tools to promote telemedicine; and
- Promotion of the interoperability of clinical data repositories or registries.

Grants to states to create loan programs. The proposal would create a competitive grant program to allow eligible states or Indian tribes to establish a certified electronic health record (EHR) technology loan fund.

Grants to states/tribes could be awarded no earlier than January 1, 2010. States would be required to match federal contributions of at least $1 for every $5 in federal grant funding. Public funds and private sector contributions are permissible sources for the non-federal match.

The loan fund would allow states/tribes to distribute a loan to a provider or other eligible entity if the provider/entity agrees to certain requirements, for example providers must agree to report on quality measures. Private sector contributions to the loan fund are permissible. Loan funds could only be used for specified EHR-related technology purposes.

Medicaid HIT-related funding* (*Title IV, Sec. 4201). States may reimburse eligible Medicaid providers for the cost of qualified electronic health record (EHR) purchases, implementation and certain operation costs. The federal financial participation (FFP) rate for such payments is:

- 100 percent for Medicaid providers' purchase of certified EHR, including training and maintenance.
- 90 percent for certain administrative expenses.

The reimbursement payment for non-hospital based Medicaid providers with 30 percent Medicaid caseload is:

- 85 percent of the net allowable costs incurred for the purchase, implementation, and use of certified EHR technology.
- A separate reimbursement is applied for children's and acute care hospitals.
- Other hospitals are to be reimbursed according to the Medicare incentive policy.

The higher FFP is contingent upon states meeting several requirements, including:

- Determine providers are demonstrating "meaningful use" of the EHR technology, as determined by the state and HHS Secretary;
- Reimburse providers directly, without a deduction or rebate; and
- Track the use of EHRs, conduct oversight, encourage adoption of certified EHRs and exchange of health care information.

Limits are placed on provider "incentive" payments – which may be more appropriately characterized as a reimbursement payment, including:

- $25,000: maximum net allowable costs for purchase and initial implementation.
- $10,000: maximum net allowable costs for subsequent year EHR related expenses.
- $63,750: aggregate maximum net allowable costs.
- Reimbursement is limited to five years and cannot be provided after 2021.
- Providers would be responsible for any technology related expense not referenced.

The Act seeks to minimize duplication and harmonize requirements for providers participating in both Medicaid and Medicare.

Privacy provisions (Title XIII, Sec. 13400). The proposal includes provisions to strengthen privacy and security laws impacting identifiable health information. It does not appear to preempt state law. Provisions address breach notifications processes. It does not include a private right of action. It would provide some enforcement authority on behalf of individuals to states' Attorneys General and would establish a method to distribute civil monetary penalty or monetary settlements collected.

Prevention and Wellness Fund
$1 billion is designated for the Department of Health and Human Services to administer a "Prevention and Wellness Fund." HHS must provide Congress with operating plans prior to obligating any monies from the Fund in fiscal years 2009 and 2010. These funds are to be distributed according to the public health priorities of the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention (CDC). Specific funding allocations include:

- $300 million for the CDC 317 immunization program;
- $650 million for evidence-based clinical and community-based prevention and wellness strategies, authorized under the Public Health Services Act and determined by the Secretary, that deliver measurable health outcomes that address chronic disease rates; and
- $50 million to states to implement healthcare-associated infection prevention strategies.

Healthcare Effectiveness Research
$1.1 billion is provided to speed development and dissemination of research assessing the comparative effectiveness of health care treatments and strategies. The bill establishes the Federal Coordinating Council for Comparative Effectiveness Research which is tasked with coordinating comparative effectiveness and related health services research conducted or supported by federal departments and agencies in order to reduce duplication and leverage resources.

Community Health Centers (CHCs)
$1.5 billion is directed to federally qualify health centers (FQHCs) for construction, modernization, health information technology improvements. An additional $500 million is appropriated for FQHC grant funding for services and operations.

Training Primary Care Providers
The ARRA makes additional investments in health care workforce development programs, including:

- $300 million for the Nation Health Service Corps recruitment and field activities.
- $200 million for primary care medicine, dentistry, public health and preventive medicine program, scholarship and loan repayment programs under PHSA Titles VII and VIII, and cross-state licensing for health specialists.

Aging Services Programs
An additional $100 million is provided for certain "Aging Services Programs" included in the Older Americans Act.

Indian Health Service Facilities

Approximately $727 million is to modernize hospitals and health clinics and make healthcare technology upgrades in underserved rural areas.

Supplemental Nutrition Assistance Program (SNAP)
$20 billion for the Supplemental Nutrition Assistance Program (SNAP), including a 13.6 percent benefit increase in nutrition assistance for all states, Puerto Rico and American Samoa for fiscal year 2009, based on the June 2008 thrifty food plan value. Additionally, $145 million will be made available in fiscal year 2009 and $150 million in fiscal year 2010 to cover administrative costs associated with the benefit increase, of which $4.5 million is allocated to the Food and Nutrition Service to cover expenses related to management and oversight of the program, and monitoring the integrity and evaluating the effect of the payments made.

Any errors in the implementation of this increased benefit will not be subject to a 120-day limit, and may be calculated for management purposes only, not applicable to the payment error rate. Further, a restriction under the Food and Nutrition Act that disqualifies jobless workers participating in work registration and employment and training requirements from receiving nutrition assistance is lifted, through to September 30, 2010.

Funds will be allocated as grants to states, and will remain available until expended. 75% of the available funds will go to states based on their share of households participating in SNAP for the most recent 12-month period for which data are available, and the remaining 25% of funds will be allocated to states based on their increase in households participating in SNAP for the same 12 month period.

Special Supplemental Nutrition for Women, Infants, and Children (WIC)
Provides $500 million for the supplemental nutrition program serving Women, Infants, and Children (WIC), of which $400 million shall be placed in reserve and allocated at the discretion of the Secretary to support participation, should cost or participation exceed budget estimates.

Temporary Assistance for Needy Families
TANF Emergency Contingency Fund. Provides $5 billion for block grants to help states deal with the surge in families needing help during the recession and to prevent them from cutting work programs and services for abused and neglected children. The bill creates an emergency contingency fund from which States can request quarterly grants for three purposes:

1) Caseload increases
2) Increased expenditures related to non-recurrent short term benefits
3) Increased expenditures for subsidized employment.

In each case, eligibility for payments from the fund will be triggered if the state's numbers (caseload data or expenditures respectively) for a given quarter exceed those for the corresponding quarter in the emergency fund base year. Emergency fund base year is defined as the year (either 2007 or 2008) where the state's enrollment or expenditure data were the lowest. In each case, the actual quarterly grant would be for 80% of the total increase in program spending relative to the base year. The total amount disbursed from the emergency fund, in combination with existing contingency dollars, cannot exceed 50% of a state's block grant for that year.

Hold-harmless for Caseload Increases for the Caseload Reduction Credit. Provides states an optional measuring period for calculating the caseload reduction credit for Fiscal Year 2009, 2010 and 2011. In each instance, a state has the option to measure caseload reduction from Fiscal Year 2005 to either Fiscal Year 2007 or Fiscal Year 2008 when determining the caseload reduction credit that applies toward meeting TANF work participation rate standards between Fiscal Year 2009 and Fiscal Year 2010.

Extension of TANF Supplemental Grants. Extends supplemental grants at the $319 million annual level through FY2010. Supplemental grants provide assistance to states with high population growth and/or increased poverty, 17 states currently receive these grants, which expire in June 2009. In FY2010, each of the 17 qualifying states will receive the same supplemental grant amount as it will for FY 2009.

Flexibility in TANF Carryover Funds. Removes the current restriction on states and tribes for using reserved, unused TANF funds ("carry-over" funds) for cash welfare only, and instead permits states to use TANF reserves for any TANF benefit or service.

Child Support Enforcement
Provides $1 billion in federal incentive funds for states to collect child support payments owed to families. This allocation represents a temporary two-year fix of the federal child support incentive match previously repealed in the Deficit Reduction Act of 2005.

Child Care Development Block Grant
$2 billion to provide child care services for an additional 300,000 children in low-income families while their parents go to work, of which $1 billion will be made available October 1, 2009. These funds must be used to supplement, not supplant state general revenue funds for child care assistance for low-income families.

Community Services Block Grant
Provides $1 billion for Community Service Block Grants to local communities to support employment, food, housing, and healthcare efforts serving those hardest hit by the recession, of which $500 million shall become available on October 1, 2009. Community action agencies have seen dramatic increases in requests for their assistance due to rising unemployment, housing foreclosures, and high food and fuel prices.

**Funds for the Low Income Home Energy Assistance Program (LIHEAP) and Social Services Block Grant (SSBG) were not included in the final American Recovery and Reinvestment Act agreement.

Justice Programs, State and Local Law Enforcement Activities
The Act provides a total of nearly $4 billion in grants to support state and local law enforcement, including:

- **Byrne Justice Assistance Grants**: $2 billion in formula grants to help prevent, fight, and prosecute crime.
- **Community Oriented Policing Services (COPS) grants** – $1 billion in grants to support the hiring of additional law enforcement officers. The Act waives the 25 percent local match requirement and the $75,000 salary cap per officer.
- **Byrne competitive grants:** $225 million in competitive grants to support crime prevention, improve the administration of justice, provide services to victims of crime, and other activities.
- **Violence Against Women grants**: $225 million, of which $175 million is for formula grants and $50 million is to be used for transitional housing assistance.
- **Victims Compensation**: $100 million for grants to support state compensation and assistance programs for victims and survivors of crime.
- **Rural Law Enforcement grants**: $125 million in grants to combat drug-related crime in rural areas.
- **Southwest border/Project Gunrunner**: $40 million in competitive grants to provide assistance and equipment to local law enforcement along the Southern border or in High-Intensity Drug Trafficking Areas to combat narcotic activity. $10 million of these funds are to be transferred to the Bureau of Alcohol, Tobacco, Firearms, and Explosives for Project Gunrunner.
- **Tribal Law Enforcement Assistance**: $225 million to be distributed to American Indian and Alaska Native tribes.
- **Internet Crimes Against Children**: $50 million in grants to enhance investigative responses to predators using the Internet or other technology to sexually exploit children.

Homeland Security Grants
The Act provides $510 million in homeland security grants and waives requirements for states and localities to provide matching funds.

- **Transportation Security grants**: $150 million in risk-based grants for public transportation, railroad security, and Amtrak security.
- **Port Security grants**: $150 million for port security grants.
- **Firefighter Assistance grants**: $210 million to be used for upgrading or modifying fire stations. The Act caps a single grant award at $15 million.

Military Construction, Army National Guard
$50 million for planning, design, and construction projects.

Military Construction, Air National Guard
$50 million for planning, design, and construction projects.

Veterans Affairs
$150 million in grants for construction of state extended care facilities for veterans.

INFRASTRUCTURE AND ECONOMIC DEVELOPMENT

- The Act outlines several transparency, oversight, and accountability requirements that would apply to all spending.
- In most instances, the distribution of federal money occurs through existing formulas.
- Maintenance of Effort. For transportation, the Act requires governors to certify within 30 days of enactment that the state will maintain its planned investment in those types of projects for which the state receives funding under the bill, followed by regular updates through September 30, 2010. If a state is unable to maintain its investment, then the state is ineligible to receive a portion of any redistributed unobligated funds.

Key Investments:

Transportation Infrastructure

Office of the Secretary
Supplemental Discretionary Grants.
The Act provides <u>$1.5 billion</u> for competitive grants to states, local governments, and transit agencies for projects across all surface transportation modes that will have a significant national, metropolitan, or regional impact. The Secretary shall publish grant competition criteria within 90 days of enactment of the Act, and must ensure an equitable geographic distribution of funds and an appropriate balance between metropolitan and non-metropolitan areas. Not more than 20 percent of the funds available may fund projects in a single state. Federal share is 100 percent, with priority given to projects for completion within three years of enactment of the Act.

Federal Aviation Administration –
The Act provides a total of <u>$1.3 billion</u>: *$1.1 billion* in discretionary grants-in-aid to airports, and *$200 million* in supplemental funding for FAA facilities and equipment. The Secretary shall award 50 percent of the grants-in-aid within 120 days of enactment of the Act, with the remaining portion awarded within one year of enactment.

Federal Highway Administration
The Act provides <u>$27.5 billion</u> for highway and bridge infrastructure investment.

- *Funding set-asides* ($900 million): $550 million for Indian reservation and federal lands investments; $60 million for priority Federal-aid primary routes; $150 million for distribution among U.S. territories ($105 million to Puerto Rico); $20 million for highway surface transportation and technology training; $20 million for disadvantaged business enterprises bonding assistance; $40 million for FHWA administrative expenses; and $60 million for competitive discretionary grants to the states for projects with completion within two years of enactment of the Act.

- *Transportation enhancement*. States must set-aside three percent of their apportionment for transportation enhancement projects.

- *Distribution Formula*: Remaining funds distributed to states using a ratio formula specified in the Consolidated Appropriations Act of 2008, based on a state's share of apportioned programs for 2008 versus the total apportioned program amounts for all states. Apportionment of funds must occur within 21 days of enactment. Funding priority to projects that: (i) can be completed within three years, and (ii) are located within "economically-distressed areas" (42 USC §3161).

    - State Share - Use/Lose. First 50 percent of funds remaining after sub-allocation must be obligated within 120 days of apportionment, with the remaining 50 percent obligated within one year of apportionment. Bill provides for re-distribution of unobligated funds to other eligible states, subject to a state's request for an extension period.

    - Sub-allocation. Thirty (30%) percent of a state's apportionment must be sub-allocated within the state according to the Surface Transportation Program formula. Sub-allocated funds are exempt from the re-distribution requirement for states of the first 50% of a state's apportionment.

- *Federal Share*: Up to 100% of the total cost.

Capital Grants to Amtrak

The Act provides $1.3 billion for Amtrak, with *$850 million* for discretionary capital grants and *$450 million* for capital security grants. Not more than 60 percent of the discretionary grants may go towards Northeast Corridor projects. No expenditure of these funds may subsidize the operating losses of Amtrak, and priority will go to projects that repair, rehabilitate, or upgrade railroad assets.

Federal Railroad Administration

High-Speed Rail Corridors and Intercity Passenger Rail Service

The Act provides $8 billion in discretionary grants to the states for high-speed rail corridor, intercity passenger rail service, and congestion mitigation projects. Interim guidance on grant terms, conditions, and procedures due from Secretary within 120 days of enactment. Federal share is up to 100 percent of the total cost.

Federal Transit Administration

Transit Capital Assistance

The Act provides $6.9 billion total in grants, including *$5.5 billion* using the Urbanized Area Formula Grants program, *$690 million* using the Other Than Urbanized Areas program (with a 2.5% set-aside for Indian reservations), and *$690 million* using the Growing States and High Density formula. The federal share for eligible projects will be up to 100 percent. The deadline for grantees to obligate funds is 180 days after apportionment for a minimum of 50 percent of their funds.

- *State Share - Use/Lose*. First 50 percent of funds must be obligated within 180 days of apportionment, with the remaining 50 percent obligated within one year of apportionment. Bill provides for re-distribution of unobligated funds to other eligible states and urbanized areas, subject to a state or urbanized area's request for an extension period and notice by the Secretary to congressional appropriations committees justifying any extension.

Fixed Guideway Infrastructure Investment
The Act provides $750 million for fixed guideway infrastructure investment distributed by formula. The deadline for grantees to obligate funds is 180 days after apportionment for a minimum of 50% of their funds. The federal share for eligible projects will be up to 100 percent. The "use/lose" terms for Transit Capital Assistance also applies here.

Capital Investment Grants
The Act provides $750 million in discretionary grants to eligible New Starts and Small Starts projects that are already in construction or in final design stages and could award contracts within 150 days.

Housing and Community Development
Public Housing Capital Fund
The Act provides $4 billion: *$3 billion* allocated to public housing authorities (PHAs) by formula for capital projects, and *$1 billion* to PHAs through competitive grants for priority investment projects. PHAs shall give priority to capital projects that can award contracts based on bids within 120 days from when funds are made available to the PHAs. All funds must be expended within three years. HUD may waive most statutory or regulatory provisions necessary to move the funds quickly except those for fair housing, non-discrimination, labor standards, and the environment.

HOME Investment Partnership
The Act provides $2.25 billion in additional HOME funds allocated to states according to the FY08 distribution formula for capital investments to help fill financing gaps in low-income housing tax credit projects. Recipients must spend all funds within three years after enactment of the Act. HUD may waive most statutory or regulatory provisions necessary to move the funds quickly except those for fair housing, non-discrimination, labor standards, and the environment.

Homelessness Prevention Fund
The Act provides $1.5 billion in formula funds to grantees for short-term rental assistance, housing relocation and stabilization efforts. All funds must be expended within 3 years of award.

Neighborhood Stabilization Program
The Act provides $2 billion in additional funds for this program authorized by the Housing and Economic Recovery Act of 2008, awarded competitively to states, local governments, non-profit entities or consortia to purchase and rehabilitate foreclosed vacant properties and help create affordable housing and stabilize neighborhoods. Grantees must expend 50 percent of funds within two years of receipt, and 100 percent within three years.

Community Development Block Grant (CDBG)
The Act provides <u>$1 billion</u> in additional CDBG funds for community and economic development projects allocated to states and local governments according to the FY08 distribution formula. Recipients shall give priority to capital projects that can award contracts based on bids within 120 days from when funds become available to them. HUD may waive most statutory or regulatory provisions necessary to move the funds quickly except those for fair housing, non-discrimination, labor standards, and the environment.

<u>Wireless and Broadband Grants</u>
USDA – Rural Utilities Service
The Act provides <u>$2.5 billion</u> in funds for loans, grants, and loan guarantees for open access broadband infrastructure projects that serve rural areas primarily. Priority in awarding these funds shall go to activities that can begin promptly following enactment. Projects funded with money from this account are ineligible for funding under the Broadband Deployment Grant Program.

Department of Commerce —Broadband Deployment Grant Program
The Act provides <u>$4.7 billion</u>: *$4.35 billion* available until September 30, 2010 for competitive grants to increase broadband deployment in "unserved and underserved areas," of which $200 million is designated to expand public computer center capacity and $250 million is to encourage sustainable broadband adoption. These grants have an 80-20 match subject to a waiver of the grantee share. The bill also provides *$350 million* to the NTIA to fund a grant program authorized last year (P.L. 110-385) to support efforts in states to improve and inventory broadband communications and services, and to develop a nationwide broadband inventory map.

<u>TAX</u>

Tax Relief for Individuals

"Making Work Pay Credit"
For 2009 and 2010, the bill would provide a refundable tax credit of up to $400 for working individuals and $800 for working families. This tax credit would be calculated at a rate of 6.2% of earned income, and would phase out for taxpayers with adjusted gross income in excess of $75,000 ($150,000 for married couples filing jointly). Taxpayers can receive this benefit through a reduction in the amount of income tax that is withheld from their paychecks, or through claiming the credit on their tax returns.

Economic Recovery Payment to Recipients of Social Security, SSI, Railroad Retirement and Veterans Disability Compensation Benefits. The bill would provide a one-time payment of $250 to retirees, disabled individuals and SSI recipients receiving benefits from the Social Security Administration, Railroad Retirement beneficiaries, and disabled veterans receiving benefits from the U.S. Department of Veterans Affairs. The one-time payment is a reduction to any allowable Making Work Pay credit.

Refundable Credit for Certain Federal and State Pensioners. The bill would provide a one-time refundable tax credit of $250 in 2009 to certain government retirees who are not eligible for Social Security benefits. This one-time credit is a reduction to any allowable Making Work Pay credit.

Expand Earned Income Tax Credit (EITC)
The bill would increase the earned income tax credit to forty-five percent (45%) of the family's first $12,570 of earned income for families with three or more children and would increase the beginning point of the phase-out range for all married couples filing a joint return (regardless of the number of children) by $1,880.

Increase in child tax credit
The bill would increase the eligibility for the refundable child tax credit in 2009 and 2010. For 2008, the child tax credit is refundable to the extent of 15 percent of the taxpayer's earned income in excess of $8,500. The bill would reduce this floor for 2009 and 2010 to $3000.

Sales Tax Deduction for Vehicle Purchases. The bill provides all taxpayers with a deduction for State and local sales and excise taxes paid on the purchase of new cars, light truck, recreational vehicles, and motorcycles through 2009. This deduction is subject to a phase-out for taxpayers with adjusted gross income in excess of $125,000 ($250,000 in the case of a joint return).

Temporary suspension of taxation of unemployment benefits. Under current law, all federal unemployment benefits are subject to taxation. The average unemployment benefit is approximately $300 per month. The proposal temporarily suspends federal income tax on the first $2,400 of unemployment benefits per recipient. Any unemployment benefits over $2,400 will be subject to federal income tax. This proposal is in effect for taxable year 2009.

Extension of AMT relief for 2009. The bill would provide more than 26 million families with tax relief in 2009 by extending AMT relief for nonrefundable personal credits and increasing the AMT exemption amount by $70,950 for joint filers and $46,700 for individuals. *This proposal is estimated to cost $69.759 billion over 10 years.*

Education
American Opportunity Tax Credit
The bill would provide financial assistance for individuals seeking a college education. For 2009 and 2010, the bill would provide taxpayers with a new "American Opportunity" tax credit of up to $2,500 of the cost of tuition and related expenses paid during the taxable year. Under this new tax credit, taxpayers will receive a tax credit based on one hundred percent (100%) of the first $2,000 of tuition and related expenses (including books) paid during the taxable year and twenty-five percent (25%) of the next $2,000 of tuition and related expenses paid during the taxable year. Forty percent (40%) of the credit would be refundable. This tax credit will be subject to a phase-out for taxpayers with adjusted gross income in excess of $80,000 ($160,000 for married couples filing jointly).

Computers as Qualified Education Expenses in 529 Education Plans. Section 529 Education Plans are tax-advantaged savings plans that cover all qualified education expenses, including: tuition, room & board, mandatory fees and books. The bill provides that computers and computer technology qualify as qualified education expenses.

Housing

First-time Homebuyers Credit.

The Act extends the existing credit to qualifying first-time home purchases made before December 1, 2009, increases the maximum credit amount to $8,000 ($4,000 for a married individual filing separately), and repeals repayment requirement under Housing and Economic Recovery Act of 2008. If the taxpayer disposes of the home or the home otherwise ceases to be the principal residence of the taxpayer within 36 months from the date of purchase, the present law rules for recapture of the credit will apply.

Coordination of Low-Income Housing Credit and Grants.

The Act permits states to elect to substitute a portion of low-income housing credit allocation for 2009 for grants. The low-income housing grant election amount for a State is, an amount elected by the State subject to certain limits.

Treasury Department Low-Income Housing Grants in Lieu of Tax Credits. The bill would allow taxpayers to receive a grant from the Treasury Department in lieu of tax credits. Under this provision, States housing agencies would receive a grant equal to up to eighty-five percent (85%) of forty percent (40%) of the state's low-income housing tax credit allocation in lieu of the low-income housing tax credits they would have received. The subawards are subject to the same requirements (including rent, income, and use restrictions on such buildings) as the low-income housing tax credit allocations. The grant program would apply to each state's 2009 low-income housing tax credit allocation.

Business

Bonus depreciation

Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States. The bill would extend this temporary benefit for capital expenditures incurred in 2009.

5-year carryback of net operating losses

Under current law, net operating losses may be carried back to the two years before the year that the loss arises (the "carryback period") and carried forward to each of the succeeding twenty years after the year that the loss arises (the "carryforward period"). For 2008 and 2009, the bill would extend the maximum carryback period for net operating losses from two years to five years. This benefit is only available to companies with gross receipts of $15 million or less.

Extension of increased small business expensing

Small business taxpayers may elect to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small business taxpayers are allowed to write-off up to $125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed $500,000 (indexed for inflation). Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to $250,000 and increased the phase-out threshold for 2008 to $800,000. The bill would extend these temporary increases for capital expenditures incurred in 2009.

Expand work opportunity tax credit for disconnected youth and unemployed, recently-discharged veterans
Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first $6,000 of wages paid to employees of one of nine targeted groups. The bill would create two new targeted groups of prospective employees: (1) unemployed veterans; and (2) disconnected youth. An individual would qualify as an unemployed veteran if they were discharged or released from active duty from the Armed Forces during 2008, 2009 or 2010 and received unemployment compensation for more than four weeks during the year before being hired. An individual qualifies as a disconnected youth if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months.

Prospectively repeal Treasury Section 382 ruling
Last year, the Treasury Department issued Notice 2008-83, which liberalized rules in the tax code that are intended to prevent taxpayers that acquire companies from claiming losses that were incurred by the acquired company prior to the taxpayer's ownership of the company. The bill would repeal this Notice prospectively.

State and Local Governments
De Minimus Safe Harbor Exception
Since 1986, financial institutions could deduct only the carrying costs of bank-qualified bonds. The ARRA allows banks to deduct 80 percent of the carrying costs of purchasing all types of newly issued bonds in 2009 and 2010 to the extent investment in the bonds does not exceed two percent (2%) of the bank's total assets.

"Qualified Small Issuer" Exception
Bill would encourage financial institutions to invest in tax-exempt bonds issued in 2009 and 2010 by raising the annual issuance threshold for qualified small issuers to $30 million from $10 million. Financial institutions may purchase bonds from these small issuers, which include states, local governments, and qualifying not-for-profit organizations, and still deduct interest costs on their investment. The small issuer exception would also apply to an issue if all of the ultimate borrowers in such issue would separately qualify for the exception.

Temporary Modification of AMT Limit
The ARRA eliminates the application of the AMT on all bonds issued in 2009 and 2010, including refunding of bonds that were initially issued after 2003.

Withholding Tax on Government Contractors
Delay until 2012 law requiring withholding at a three percent rate on certain payments to persons providing property or services made by Federal, State, and local governments.

Taxable Bond Option ("Build America" bonds)
State and local issuers may elect to issue either taxable tax-credit in lieu of tax-exempt bonds for governmental purposes for bonds issued in 2009 and 2010. The taxable bond option allows issuers to receive a 35 percent reimbursement of interest paid from the federal government, or provide a 35 percent tax credit to investors. All of the tax laws applicable to tax-exempt bonds apply to the taxable tax-credit governmental bonds.

Qualified School Construction Bonds
The ARRA creates a new category of tax credit bonds for the construction, rehabilitation, or repair of public school facilities or for the acquisition of land for construction of public school facilities. The Act authorizes $11 billion annually for 2009 and 2010, with 40 percent of the allocation dedicated to large school districts

Qualified Zone Academy bonds (QZABs)
The Act would allow an additional $1.4 billion of QZAB issuing authority to State and local governments in 2009 and 2010, to finance renovations, equipment purchases, developing course material, and training teachers and personnel at a qualified zone academy.

Recovery Zone Bonds
The bill would authorize a new category of tax-exempt private activity bonds for use in designated areas with significant unemployment, poverty and home foreclosure rates: $10 billion in taxable recovery zone economic development bonds, where the state or local government would receive a 45 percent reimbursement of interest paid, with no option to apply the credit to investors; and, $15 billion in recovery zone facility private activity bonds allocated based on a proportion of a jurisdiction's unemployment rate versus the national rate. States would receive a minimum allocation of one percent. Bonds must be issued by January 1, 2011.

Tribal Economic Development Bonds
The Act allows tribal governments to issue $2 billion in tax-exempt bonds for projects on tribal lands, excluding gaming projects. Tribal economic development bonds issued by an Indian tribal government are treated as if such bond were issued by a State except that section 146 (relating to State volume limitations) does not apply. A tribal economic development bond is any bond issued by an Indian tribal government (1) the interest on which would be tax-exempt if issued by a State or local government, and (2) that is designated by the Indian tribal government as a tribal economic development bond.

Modify Speed Requirement for High-Speed Rail Exempt Facility Bonds. Under current law, States are allowed to issue private activity bonds for high-speed rail facilities. Under current law, a high-speed rail facility is a facility for the transportation of passengers between metropolitan areas using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops. The bill would allow these bonds to be used to develop rail facilities that are used by trains that are capable of attaining speeds in excess of 150 miles per hour.

De Minimis Safe Harbor Exception for Tax-Exempt Interest Expense for Financial Institutions. Under current law, financial institutions are not allowed to take a deduction for the portion of their interest expense that is allocable to such institution's investments in tax-exempt municipal bonds. In determining the portion of interest expense that is allocable to investments in tax-exempt municipal bonds, the bill would exclude investments in tax-exempt municipal bonds issued during 2009 and 2010 to the extent that these investments constitute less than two percent (2%) of the average adjusted bases of all the assets of the financial institution.

Modification of Small Issuer Exception to Tax-Exempt Interest Expense Allocation Rules for Financial Institutions. As described above, financial institutions are not allowed to take a deduction for the portion of their interest expense that is allocable to such institution's investments in tax-exempt municipal bonds. For purposes of this interest disallowance rule, bonds that are issued by a "qualified small issuers" are not taken into account as investments in tax-exempt municipal bonds. The bill would increase this dollar threshold to $30,000,000 when determining whether a tax-exempt obligation issued in 2009 and 2010 qualifies for this small issuer exception. The small issuer exception would also apply to an issue if all of the ultimate borrowers in such issue would separately qualify for the exception.

Energy Tax Provisions

Advanced Energy Investment Credit. The proposal establishes a new 30% investment tax credit for facilities engaged in the manufacture of advanced energy property. Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy, through a competitive bidding process.

New Markets Tax Credit. Under current law, there are $3.5 billion of New Markets Tax Credits (NMTC) available for each of 2008 and 2009. The provision increases the available credits for 2008 to $5 billion and the available credits for 2009 to $5 billion.

Tax Credits for Energy-Efficient Improvements to Existing Homes. The bill would extend the tax credits for improvements to energy-efficient existing homes through 2010. For 2009 and 2010, the bill would increase the amount of the tax credit to thirty percent (30%) of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements during the taxable year. The bill would also eliminate the property-by-property dollar caps on this tax credit and provide an aggregate $1,500 cap on all property qualifying for the credit.

Plug-in Electric Drive Vehicle Credit. The bill modifies and increases a tax credit passed into law at the end of last Congress for each qualified plug-in electric drive vehicle placed in service during the taxable year. The credit is allowed against the alternative minimum tax (AMT). The bill also restores and updates the electric vehicle credit for plug-in electric vehicles that would not otherwise qualify for the larger plug-in electric drive vehicle credit and provides a tax credit for plug-in electric drive conversion kits.

Production Tax Credit
Extend the placed-in-service date for wind facilities for three years (through December 31, 2012). The bill would also extend the placed-in-service date for three years (through December 31, 2013) for certain other qualifying facilities: closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; waste-to-energy; and marine renewable facilities.

Temporary election to claim the investment tax credit in lieu of the production tax credit
Under current law, facilities that produce electricity from solar facilities are eligible to take a thirty percent investment tax credit in the year that the facility is placed in service. Facilities that produce electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities are eligible for a production tax credit. The production tax credit is payable over a ten-year period. The bill would allow facilities that are placed-in-service in 2009 and 2010 to elect to claim the investment tax credit in lieu of the production tax credit.

Repeal subsidized energy financing limitation on the investment tax credit
The bill would repeal this subsidized energy financing limitation on the investment tax credit to allow those that were financed with industrial development bonds or other federal, state or local financing program.

Removal of dollar limitations on certain energy credits
The bill would repeal the individual dollar caps for qualified small energy property, qualified solar water heating property, qualified geothermal heat pumps making them eligible for an uncapped thirty percent credit.

Clean Renewable Energy Bonds ("CREBs")
The bill authorizes an additional $1.6 billion of new clean renewable energy bonds to finance facilities that generate electricity from the following resources: wind; closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; marine renewable; and trash combustion facilities. 1/3 will be available for qualifying projects of State/local/tribal governments

Qualified Energy Conservation Bonds
The bill authorizes an addition $2.4 billion of qualified energy conservation bonds to finance State, municipal and tribal government programs and initiatives designed to reduce greenhouse gas emissions.

Tax credits for energy-efficient improvements to existing homes.
The bill would extend the tax credits for improvements to energy-efficient existing homes through 2010. Under current law, individuals are allowed a tax credit equal to ten percent (10%) of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during the taxable year.

Tax credits for alternative fuel pumps.
The bill will increase the alternative refueling property credit for businesses that install alternative fuel pumps. For 2009 and 2010, the bill would increase the 30% alternative refueling property credit for businesses (capped at $30,000) to 50% (capped at $50,000). Hydrogen refueling pumps would remain at a 30% credit percentage, but will be increased to $200,000. In addition, the bill would increase the 30% alternative refueling property credit for individuals (capped at $1,000) to 50% (capped at $2,000).

Addition of Permanent Sequestration Requirement to CO2 Capture Tax Credit. Last year, Congress provided a $10 credit per ton for the first 75 million metric tons of carbon dioxide captured and transported from an industrial source for use in enhanced oil recovery, and $20 credit per ton for carbon dioxide captured and transported from an industrial source for permanent storage in a geologic formation. Facilities were required to capture at least 500,000 metric tons of carbon dioxide per year to qualify. The bill would require that any taxpayer claiming the $10 credit per ton for carbon dioxide captured and transported for use in enhanced oil recovery must also ensure that such carbon dioxide is permanently stored in a geologic formation.

Parity for Transit Benefits. This provision would equalize the tax-free benefit employers can provide for transit and parking. The proposal sets both the parking and transit benefits at $230 a month for 2009, indexes them equally for 2010, and clarifies that certain transit benefits apply to federal employees.

Treasury Department Energy Grants in Lieu of Tax Credits. The bill would allow taxpayers to receive a grant from the Treasury Department in lieu of tax credits. This grant will operate like the current-law investment tax credit. The Treasury Department will issue a grant in an amount equal to thirty percent (30%) of the cost of the renewable energy facility within sixty days of the facility being placed in service or, if later, within sixty days of receiving an application for such grant.