February 16, 2009 – Revised – 2/19/09

Congress completed action and passed HR 1, the American Recovery and Reinvestment Act, on Friday, just in time to leave for a week-long recess. President Obama is expected to sign the bill and may do so as early as today. The final House vote was 246 to 183 - not one Republican voted for the final bill. In the Senate, the vote was 60 to 38 – exactly the number of votes needed to pass the bill. The same three moderate Republicans who voted for earlier versions of the bill voted in support – Senators Snowe and Collins of Maine and Specter of Pennsylvania. All other Republicans voted against the bill.

Attached to this email is the full text of non-tax provisions of the final bill (Conference Report) from the Congressional Record as well as a separate document of just Title XII, the transportation provisions.

The total recovery package is $789 billion with approximately $48.1 billion of that in new spending for transportation programs. In most cases transportation programs received the lower of the House and Senate funding levels with the exception of high speed rail, which received a huge last minute boost during the conference deliberations.

Highways

- $27.5 billion total for formula grants.
- $840 million off the top for various set-asides.
- Remaining $26.66 billion apportioned to the states using a combination of the House and Senate proposals – half of the funds will be apportioned using the Surface Transportation Program (STP) formula and the other half using the FY'08 obligation limitation. FHWA is working on computer runs that will detail how much each state will receive. The state by state information hopefully will be available by mid-week.
- 3% of the funds ($799.8 million) is set-aside for the Transportation Enhancements program.
- Of the remaining $25.86 billion, 70% ($18.10 billion) will go to the states and 30% ($7.76 billion) will go to the local MPOs. The 30% is much lower than earlier versions that sub-allocated 40 to 45% to local governments.
- Any of the highway funds can be used for a broader than usual range of projects including transit, freight and passenger rail, environmental mitigation, port infrastructure and other uses, if a state so chooses.
- States must obligate 50% of their funds within 120 days of apportionment (this is a compromise between the 90 days in the House bill and the 180 days in the Senate bill). Uncommitted funds are then redistributed to other states. All funds must be obligated within one year of the date of enactment. Sub-allocated funds are exempt from the 120 day deadline.
- Funds are 100% Federal share and all federal requirements apply.

Transit

- $8.4 billion total funding (versus $12 billion in the House bill and $8.4 billion in the Senate).
- Includes $6.8 billion for the capital formula program, $750 million for the Rail Mod program, $750 million for the New Starts/Small Starts program and $100M for discretionary capital grants to reduce energy consumption or green house gas emissions.

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- It is generally believed that the additional New Starts funding will produce about $1.5 billion in additional Contingent Commitment Authority (CCA) that FTA can use to sign additional Full Funding Grant Agreements (FFGAs).
- The first 50% of the capital formula and Rail Mod funds must be "obligated" within 180 days. Any funds not used will be redistributed to other recipients. All remaining funds must be obligated within one year of the date of enactment. Funds remain available until 9/30/2010.
- The New Starts funds will be allocated at the discretion of the US DOT Secretary with priority given to those projects already under construction (have an FFGA) and those who can obligate the funds within 150 days. No "use it or lose it" requirement. Funding remains available through 9/30/2010. Current match ratio is retained.
- $150 million for transit and railroad security grants.
- A good side by side analysis of the transit-related provisions of the bill has been produced by APTA.

National Transportation System Program

- This is a new multi-modal program created by the Senate. It was retained in the final bill, but funded only at $1.5 billion versus the Senate level of $5.5 billion. A wide variety of transportation programs are eligible for funding – highways, bridges, transit (including New Starts and Small Starts), port infrastrucuture, passenger and freight rail, etc.
- Grants may range from $20 million to $300 million (down from $500 million in the Senate bill), although the Secretary can waive the minimum for projects in smaller cities or regions. Priority is given to projects that can be completed within three years.
- The Secretary must issue grant criteria within 90 days of enactment, applications must be submitted within 180 days of criteria publication and grants must be awarded within one year of enactment. Funds are available through 9/30/2011.
- 100% Federal share with no more than 20% of the total going to any one state.
- Up to $200 million can be used for TIFIA financing.

Airports

- $1.3 billion in total funding - $1.1 billion for the Airport Improvement Program (AIP) and $200 million for the Facilities & Equipment program.
- Funds to be distributed by discretion of US DOT Secretary. Half the AIP funds must be awarded within 120 days and the remaining amounts within one year.
- 100% Federal share.
- An additional extension of the FAA reauthorization which expires on March 30, 2009 was not included in the recovery bill.

Passenger Rail

- Amtrak - $850 million for Amtrak capital improvements and $450 million for capital security grants for a total of $1.3 billion. The capital improvement funding is similar to the amounts in the House and Senate bills, the $450 million for security grants is new. The Northeast Corridor (NEC) is eligible for up to 60% of the funds.
- High Speed Rail - This program received a huge bump up during the conference deliberations. A total of $8 billion is provided for intercity passenger rail and the high speed rail corridor program (versus nothing in the House bill for high speed rail and $2 billion in the Senate bill), with priority

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to go to high speed rail projects. The Secretary must submit a funding plan to Congress within 60 days and issue grant criteria within 120 days of enactment. Funds must be obligated by 9/30/2012 and are 100% Federal share. Projects are not required to be on a state's rail plan.

Maritime Transportation

- $60 million in grants under the FHWA's Ferry Boat Discretionary Program for construction of ferry boats and terminals.
- $100 million for grants to small shipyards.

Reports and Requirements

- Governors must certify within 30 days of enactment that the state will maintain its efforts on transportation projects – in other words not simply substitute federal funds for existing state funds. The maintenance of effort calculation is as of day of enactment rather than the earlier proposed date of 10/1/08. States must submit a statement identifying funding plans through FY'2010. States failing to maintain their state efforts will be prohibited from participating in the FY'2011 redistribution of federal highway funds.
- State and local governments must submit 90-day, 180-day 1-year, 2-year and 3-year reports showing information such as the number of contracts awarded and completed and jobs created and sustained.

Transportation Tax Provisions

- Build America Bonds – For 2009 and 2010 would provide state and local governments with the option of issuing tax credit bonds instead of tax exempt governmental obligation bonds for various infrastructure projects.
- Commuter Tax Benefit – Increases the monthly pre-tax commuter transit benefit to the same level as current parking benefit of $230 (up from $120). Sunsets 1/2011.
- High Speed Rail Bonds – Lowers the minimum speed to 150 mph to be eligible for tax-exempt bonds.

Additional materials and documents are located at www.pbstimulus.com

Energy

- $16.8 billion for to DOE for energy efficiency and renewable energy.
- $4.5 billion for electricity delivery and energy reliability; $80 million of this is for an assessment of future demands and transmission requirements.
- $3.4 billion for fossil energy research and development.

Corps of Engineers

- $4.6 billion total for the Army Corps of Engineers:
- $2 billion for Construction
- $2.075 billion for Operations and Maintenance
- $375 million for Mississippi River and tributaries

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- $100 million for the cleanup of formerly utilized sites
- $25 million for Investigations

Environmental Clean-up/Clean Water

- Water: $6 billion total for EPA's Clean Water and Drinking Water State Revolving Funds - $4 billion for wastewater and drinking water treatment plants and $2 billion for drinking water plants.
- DOD: $5.127 billion for defense environmental clean-up.

Infrastructure Improvements

- School Construction: No funding was provided to repair, renovate or construct public school facilities despite the fact that the House bill included $14 billion and the Senate bill included $16 billion. The three Senate moderates whose votes were needed to pass the bill felt that school construction funding was not an appropriate use of federal funds.
- Public Facilities: $589 million for public parks to renovate, repair and improve the public facilities.
- DHS: $200 million for DHS headquarters construction.
- Customs: $420 million for planning, management, design, alteration and construction of US Customs & Border Protection Ports of Entry.
- FEMA: $150 million for **public transit security** assistance and railroad security assistance.
- FEMA: $150 million for **port security grants**.
- VA: $1 billion for VA medical facilities for non-recurring maintenance, including energy projects.
- VA: $150 million for VA Grants for Construction of State Extended Care Facilities.
- Job Corps: $200 million for construction, rehabilitation and acquisition of Job Corps Centers (15% is for the operational needs of the centers).
- Housing: $2.25 billion for the HOME Investment Partnerships Program block grant to enable state & local governments (in partnership with community based organizations) to acquire, construct and rehabilitate affordable housing.

Tax Credits

- Extended by 3 years the Section 45 qualified facility (renewable energy) tax credit.
- Added a section that allows for the election of an investment credit in lieu of production credit for Section 45 qualified facilities. The language specifically states any qualified wind facility must be placed in service between 2009 and 2012. Other qualified facilities must be placed in service between 2009 and 2013.
- Increased by $1.6 billion the limitation on issuance of new clean renewable energy bonds.
- Increased to $3.2 billion the limitation on qualified energy conservation bonds which also clarifies green community programs for the purposes of loans, grants and other methods of repayment.

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