

Private Sector Tax Benefits and Funding Opportunities in the “Stimulus Bill” -- The American Recovery and Reinvestment Act of 2009 (H.R. 1)

April 9, 2009

On Tuesday, Feb. 17th, the President signed the Stimulus Bill -- H.R. 1, the American Recovery and Reinvestment Act -- into law in Denver after the Senate passed it the previous Friday. The legislation authorizes \$575 billion in spending to provide aid to states and cities, funding for transportation and infrastructure projects and expand the Medicaid program to cover more unemployed workers. It also includes \$212 billion in personal and business tax breaks and provisions affecting federal payments to states -- for a total of \$789 billion in spending and tax cuts.

- The bill provides direct and indirect funding, tax benefits and other opportunities for certain industries and private businesses that are already engaged in -- or able to adopt their business practices and/or purposes to conform with -- the various activities and endeavors that receive preferential support under the bill.
- The bill also provides direct and indirect funding to state and local governments via formula or competitive grants to subsidize and support specific activities by such governmental units. This funding will also indirectly benefit private sector companies that currently -- or are willing to -- contract with or support state and local governments in the activities supported under the bill.

The bill is a comprehensive legislative enactment that makes a broad range of entities eligible for funding directly or indirectly under its terms. Potential benefits for private sector businesses will be available directly or indirectly on an extremely accelerated basis from almost every branch of the federal government as well as state and local governments. While there are some new government programs, most of the direct funding will be distributed through current government programs and funding mechanisms that have existed for years -- which means that current direct or indirect business recipients of federal funds are best positioned to receive the benefit of the new Stimulus bill funding.

As a general matter, the Act gives preference to “quick start” activities in which 50 percent of the funds can be used for activities initiated no later than 120 days after the enactment of the bill and seeks to award formula grants to states and local governments no later than 30 days after the bill’s enactment, and competitive grants at the federal level no later than 90 days after enactment. The bill also establishes a “use it or lose it” requirement that would obligate those receiving funds to use at least 50 percent of the funds by the end of the first year and the remaining funds by the end of the second year. It also requires that 50 percent of the money for highway, aviation, transit and rail projects be obligated within 90 days. Such requirements could prompt additional opportunities for the private sector if the requirements are not met by some recipients and the funding is then redistributed among new recipients in May or June.

Potential applicants for Stimulus bill funds need to be cognizant that the federal government places numerous conditions on the recipients of the funds in many instances such as the establishment of “whistle blower” protections for non-federal employees who provide evidence of mismanagement; a requirement that all employers that receive contracts using funds directly or indirectly from the bill must pay their workers the prevailing wage under Davis-Bacon laws; and a requirement that all the iron, steel, and manufactured goods used in a project funded with Stimulus bill funds for the construction, alteration, maintenance, or repair of a public building or public work must be produced in the United States. In addition, there is a specific prohibition on using Stimulus bill funds for a casino or gambling establishment, aquarium, zoo, golf course or swimming pool.

DIVISION B -- STIMULUS BILL TAX/FINANCING BENEFITS FOR BUSINESSES

Tax Benefits/Subsidies Available to Private Sector Businesses

Sec. 1201. Bonus Depreciation

Allows companies the ability to more quickly recover the costs of capital expenditures by permitting first-year bonus depreciation -- allowing businesses to immediately write off 50% of the cost of depreciable property acquired in 2009 (and to 2010 for some types of properties.) [Sec. 1201 (a). Extension of a 2008 tax law provision.]

Also permits most C and some S Corporations -- in lieu of bonus depreciation -- to accelerate the recognition of a portion of their historic AMT or research development carry forward tax credits by converting them into currently refundable tax credits (i.e. cash refunds.) [Sec. 1201(b). Extension of a 2008 tax law provision.]

Sec. 1202. Section 179 Expensing

Increases the amount a business making limited amounts of investments may write-off to \$250,000 for qualifying property placed in service in 2009 (with that amount reduced to the extent that the cost of the qualifying property exceeds \$800,000). [Extension of a 2008 tax law provision.]

Sec. 1221. Work Opportunity Tax Credit for Hiring Veterans and “Disconnected Youth”

Current law allowing businesses to receive a \$2,400 work opportunity tax credit (40% of the first \$6,000 of wages paid) for hiring employees from certain disadvantaged groups was expanded in the bill to include unemployed veterans (discharged in previous 5 years and received unemployment benefits for 4 weeks or more prior to being hired) and disconnected youth (between 16 and 25 years old not regularly employed or attending school in previous 6 months) hired in 2009 or 2010.

TITLE III – COBRA Premium Assistance and Tax Consequences for Businesses

The bill creates a 65% federal subsidy for COBRA premiums for nine months for workers terminated between September 1, 2008, and December 31, 2009. Any company subsidizing all or a portion of COBRA premiums for employees who are receiving severance payments may wish to stop subsidizing COBRA premiums in the future and let the government do it instead, thus saving the company money. For example, assume that the applicable COBRA premium is \$600 and a firm currently pays 75% of that amount (i.e., \$450), and the individual pays the remaining 25% of that amount (i.e., \$150). Under the new rules, the individual is now only required to pay 35% of the \$150 amount (i.e., \$52.50). This means that the firm must pay a total of \$547.50 (\$600 minus \$52.50) and is entitled to a payroll tax credit of \$97.50 (\$150 minus \$52.50). This result punishes the firm for having subsidized COBRA. If the company had not subsidized COBRA, the company could have paid much less money (\$390 per month instead of \$547.50) and received a much larger credit (\$390 per month instead of \$97.50). Many companies may decide to amend their existing severance plans and policies to eliminate COBRA subsidies, at least through December 31, 2009. [See Womble Carlyle Client Alert dated Feb. 19, 2009 listed at the end.]

Tax Benefits Available to Small Businesses

Sec. 1211. 5-Year Net Operating Loss (NOL) Carryback for Small Business

Increases from 2 years to 5 years the period of time for which companies can carry their 2008 net operating losses back -- but only for businesses with no more than \$15 million in gross receipts -- thus allowing them to recover taxes paid in previous years.

Sec. 1212. Reduced Estimated Tax Payments for Small Business

The amount of estimated taxes individuals receiving income from a small business must pay during the 2009 tax year is reduced from 100% to 90% of their previous year's liability – if their income is less than \$500,000 and at least half of that amount comes from a small business employing less than 500 people.

Sec. 1241. Capital Gains Exclusion for Qualified Small Business Stock

Allows a 75% (instead of 50%) exclusion for individuals on the gain from the sale of certain small business stock issued after the Stimulus bill's enactment (Feb. 17, 2009) and before 2011 (i.e. 2009 and 2010) if held for more than 5 years.

Tax Benefits Available to Financial Sector and Other Businesses

Sec. 1231. Deferral of Income from Debt Cancellation

Allows certain businesses to defer tax on certain cancellation-of-debt income (from discounted debt repurchases in 2009 and 2010) for up to five years until 2014 and then recognize this income in equal annual amounts over the following five years.

Sec. 1232. Original Issue Discount Deduction Extended to "Junk Bonds"

Issuers of high yield debt instruments (junk bonds) exchanged for debt between Sept. 1, 2008 and Dec. 31, 2009 may now deduct any original issue discount (OID) associated with such debt instruments.

Sec. 1251. C to S Corporation Built-In Gains Holding Period Reduced to 7 years

The required period for holding built-in gains assets is reduced from 10 to 7 years for such assets sold in 2009 and 2010.

Sec. 1261. Limits Placed on Banks Using Acquired Bank Losses to Offset Income

Treasury Notice 2008-83 allowing banks purchasing other banks to more fully use an acquired bank's losses from prior years to offset current income at the acquiring bank is prospectively repealed for acquisitions after Jan. 16, 2009.

Sec. 1262. Lower Limits on EESA Restructured Corporation Losses Offsetting Income

Corporations required to change ownership or restructure under the Emergency Economic Stabilization Act (EESA) have the legal limits on their use of losses to offset income relaxed – unless they are subsequently acquired (50% or more ownership transferred) in which case the limits are not relaxed.

Tax Change Benefiting Government Contractors

Subtitle F, Part II – One Year Delay in Government Contractor Withholding

The federal 3 percent withholding requirement for those providing goods and services to the government scheduled to begin in 2010 is delayed for a year to 2011.

Tax Exempt Financing for Tangible/Intangible Property Manufacturers

Sec. 1301. Industrial Development Bonds Allowed for Intangible Property Facilities

Extends eligibility for IDB tax exempt bond financing to manufacturing facilities used in the manufacturing, creation, or production of tangible or intangible property, such as patents or copyrights.

State/Local Bond Financing Available in Economically Distressed Areas

Sec. 1401. Recovery Zone Bonds for Infrastructure, Economic Development

Permits municipalities to use \$25 billion in recovery zone bonds to invest in infrastructure, job training, education, and economic development in areas with significant poverty, unemployment, or home foreclosures and such efforts may include financing for private sector activities that fulfill these purposes.

Sec. 1402. Tribal Economic Development Bonds.

Permits tribal governments to issue \$2 billion in tax exempt bonds for economic development projects on tribal lands, and such efforts may include financing for private sector activities.

Sec. 1403. Increased New Markets Tax Credit for Low-Income Distressed Communities

Increases New Market Tax Credits available for private sector investments in low-income distressed communities from \$3.5 billion to \$5 billion in 2009 and such efforts may include financing for private sector activities.

Renewable Energy Incentives/Tax Benefits for Private Sector Businesses

Sec. 1302. Tax Credit for Investing in Facilities Making Energy Efficiency Products

Creates a 30% credit for investment in manufacturing projects that make the high technology equipment necessary to enable the development of energy efficient technologies and processes in the fields of renewable energy, energy storage, energy conservation, efficient electricity distribution/transmission, manufacturing facilities to refine/blend renewable fuels, production facilities for renewable energy, energy conservation technologies, plug-in electric drive motor vehicles, and carbon sequestration. Current law already allows an income tax credit for production of electricity from “renewable energy” resources if sold to a third party and for industry improvements to heating, air conditioning, and insulation systems.

Sec. 1101. Renewable Energy Electricity Production Tax Credit

The bill extends for 3 years the period in which electricity production facilities using qualified energy resources that sell energy to third parties may be placed in service to qualify for the tax credit. Qualified energy resources include wind, closed-loop biomass, open-loop biomass (Ag waste), geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower, and marine and hydrokinetic renewable energy. Solar facilities placed in service after 2005 are not eligible.

Sec. 1102. Election of Energy Investment Credit In Lieu of Energy Production Credit

Allows taxpayers to make an irrevocable election to have certain qualified facilities placed in service in 2009 and 2010 to be treated as energy property eligible for 30% investment credit in lieu of the energy production credit described in Section 1101. Again, solar facilities placed in service after 2005 are excluded.

Sec. 1103. Repeal of Limitations on Renewable Energy Equipment Investment Credit

Removes caps that were placed on the credit for wind energy equipment and removes the rule that limited equipment's basis if it was financed in whole or in part with private activity bonds, etc. Current law allows a 10% energy business tax credit for the cost of new equipment that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat. There is a special rule in the bill for solar energy property whereby the credit for solar energy property is increased to 30% in the case of periods prior to January 1, 2017. Additionally, equipment that uses fiber-optic distributed sunlight to illuminate the inside of a structure is solar energy property eligible for the 30% credit. Fuel Cell, Micro-turbine, and geothermal heat pump equipment is also covered.

Sec. 1104/ Sec. 1603. Coordination of Tax Credit with DOE Renewable Energy Grants

Current law allows an income tax credit for the production of electricity from qualified energy resources at qualified facilities (the “renewable electricity production credit”). Qualified energy resources comprise wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, etc. Qualified facilities are, generally, facilities that generate electricity using qualified energy resources. To be eligible for the credit, electricity produced from qualified energy resources at qualified facilities must be sold by the taxpayer to an unrelated person.

In lieu of the current tax credits, the Stimulus bill allows the Sec. of Energy to provide grants of up to 30% of the property basis if placed in service, or construction begins, in 2009 or 2010 and is completed by 2013/2014.

Sec. 1123. Temporary Increase for Alternative Fuel Vehicle Refueling Equipment Credit

Current law provides a 30% credit for the cost of installing clean fuel vehicle refueling or electric vehicle recharging equipment. Maximum credit available for business property is increased in the Stimulus bill to \$200,000 from \$30,000 for hydrogen refueling and to \$50,000 for other refueling equipment for 2009 and 2010. Non-business property cap is increased to \$2,000 from \$1,000.

Renewable Energy Financing for Private Sector Businesses/Public Utilities

Sec. 1111. Increased Funding for New Clean Renewable Energy Bonds

If a facility is a qualified facility eligible to claim the energy production tax credit and owned by a public power provider, governmental entity, or a cooperative electric company, then it may receive financing through the use of these bonds which are increased in the bill by another \$1.6 billion on top of the current \$800 million for the program.

Sec. 1112. Increased Funding for Qualified Energy Conservation Bonds

An additional \$2.4 billion in bonds are authorized in the bill on top of the current \$800 million for these bonds which may be used to finance “qualified energy conservation purposes” via grants, loans, and other repayment mechanisms to pay for capital and other expenditures, which include:

1. Capital expenditures incurred for purposes of reducing energy consumption in publicly owned buildings by at least 20 percent; implementing green community programs (which can include the retrofitting of private buildings through loans and/or grants to individual homeowners or businesses and retrofits can include heating, cooling, lighting, water-saving, storm water reducing, or other efficiency measures); rural development involving the production of electricity from renewable energy resources; or any facility eligible for the production tax credit under section 45 (other than Indian coal and refined coal production facilities);
2. Expenditures with respect to facilities or grants that support research in: (a) development of cellulosic ethanol or other nonfossil fuels; (b) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels; (c) increasing the efficiency of existing technologies for producing nonfossil fuels; (d) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation; and (e) technologies to reduce energy use in buildings;
3. Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting;

4. Demonstration projects designed to promote the commercialization of: (a) green building technology; (b) conversion of agricultural waste for use in the production of fuel or otherwise; (c) advanced battery manufacturing technologies; (d) technologies to reduce peak-use of electricity; and (e) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity; and

5. Public education campaigns to promote energy efficiency (other than movies, concerts, and other events held primarily for entertainment purposes).

Title 17 - Innovative Technology Loan Guarantee Program \$6 Billion Authorization

Amends the Renewable Energy and Electric Power Transmission Loan Guarantee Program to provide \$6 billion to fund the rapid deployment of renewable energy and electric power transmission projects. Loan guarantees are limited to projects that commence construction not later than September 30, 2011 and fall in the following categories:

- (1) Renewable energy systems, including incremental hydropower, that generate electricity or thermal energy, and facilities that manufacture related components.
- (2) Electric power transmission systems, including upgrading and reconditioning projects.
- (3) Leading edge biofuel projects that will use technologies performing at the pilot or demonstration scale that the Secretary determines are likely to become commercial technologies and will produce transportation fuels that substantially reduce life-cycle greenhouse gas emissions compared to other transportation fuels.

[Appropriations for the program are provided in Division A, Title IV, Department of Energy.]

Individual Renewable Energy Incentives Indirect Benefit to Businesses

Sec. 1121. 30% (\$1,500 Max) Tax Credit for Energy Efficient Home Improvements

The Stimulus Bill increases the Energy Efficiency standards required for equipment to qualify for the tax credit and increases the tax credit to 30% from 10% -- up to a \$1,500 maximum -- for Energy Efficient equipment purchased for an already existing home in 2009 and 2010 and includes items such as: insulation, exterior windows, doors, metal or energy efficient asphalt roofs, air circulating fans, energy efficient propane, gas, oil furnace or hot water boiler, biomass fuel property (e.g. wood stoves).

Sec. 1122. 30% Credit for Cost of Solar & Other Electric/Heating Equipment

The bill eliminates varying caps on the tax credit -- and the reduction in property basis -- in current law for energy efficient solar heating equipment (\$2,000), geothermal heat pump (\$2,000), fuel cell (\$500 per 0.5 kilowatt), and small wind (\$4,000), to conform such credits with the lack of a cap on the credit for solar electricity equipment. Credit is good through 2016.

Direct Benefits to Telecom Companies in \$4.7 Billion NTIA Broadband Program

TITLE VI – Broadband Technology Opportunities Program

Bill authorizes a new program and appropriates \$4.7 billion (in the Department of Commerce Title II of Division A) for the National Telecommunications and Information Administration (NTIA) to award wireless and broadband deployment grants to cover the costs of deploying broadband infrastructure in qualifying urban, suburban, and rural areas to wireless, wireline, satellite, backhaul and other providers, tower companies, public-private partnerships and others to best serve unserved, underserved, and vulnerable populations in the adoption of broadband service. Computer related software, hardware, and service providers and other IT related businesses should indirectly benefit from purchases by the winning broadband providers and their customers. Includes \$200,000,000 in competitive grants for expanding public computer center capacity, including at community colleges and public libraries and \$250,000,000 for competitive grants for innovative programs to encourage sustainable adoption of broadband service.

Indirect Benefits to Businesses from \$19 Billion Health IT Program

TITLE IV – Medicare/Medicaid Health IT Funding Authorized for Doctors, Hospitals, etc.

Computer related software, hardware, and service providers and other IT related businesses should indirectly benefit from purchases by hospitals, doctors, community health centers, rural health clinics, dentists, nurses, etc. who will receive funding (in some cases with a 100% federal match) under this \$19 billion program authorized in the Stimulus bill for the adoption, implementation, and meaningful use of Electronic Health Record systems that comport with the mandated medical records information security requirements that accompany the funding. [The \$19 billion appropriation for the program is provided in Division A, Title XIII of the Stimulus bill.]

DIVISION A – APPROPRIATED FUNDS BENEFITS FOR BUSINESSES

Division A is essentially a massive supplemental appropriations bill funneling \$575 billion in additional federal dollars to government agencies for their existing programs and operations. Therefore, any company that is not currently receiving government funds via grants or government contracts will find most of Division A of limited benefit since the government will merely spend more money via existing government programs with the majority of the money distributed among states and local governments according to existing funding formulas.

TITLE I – AGRICULTURE, RURAL DEVELOPMENT, FDA, AND RELATED AGENCIES

- **\$2.5 Billion for Distance Learning, Telemedicine and Broadband Program**
Like the \$4.7 billion in Division B of the bill for the NTIA to award wireless and broadband grants to cover the costs of deploying broadband infrastructure in qualifying urban, suburban, and rural areas, this funding will be used by the Rural Utilities Service (RUS) program within the USDA to provide loans, loan guarantees, and grants to deploy broadband in underserved rural areas. Wireless, wireline, satellite, backhaul and other broadband providers should benefit directly while computer related software, hardware, and computer service providers and other IT related businesses should indirectly benefit from purchases by the winning broadband providers as well as their customers.
- **Estimated \$4.9 Billion for Increase in Food Stamp Benefits**
Grocers and other food stuff providers should indirectly benefit from expanded eligibility criteria and benefits under the program. Time limits and work requirements for assistance are lifted by the bill.
- **\$1 Billion for Road, Bridge, Trail and Watershed Maintenance and Improvement**
Private sector contractors in the road building and other construction trades should benefit from contracts to rebuild, repair and maintain forest roads, bridges, and trails including watershed projects, abandoned mine remediation, and forest and other watershed improvements.
- **\$1.38 Billion for Rural Water and Wastewater RUS Loans to Local Governments**
Supports \$2.8 billion in loans and \$968 million in grants. Private sector contractors in the water, sewer and other construction trades should benefit from contracts from local government loan recipients to rebuild, repair and maintain water and waste water systems.
- **\$500 Million to Support the Women, Infants, Children Nutrition Program**
- **\$200 Million for Rural Housing Insurance Fund to Support \$11.4 Billion in Loans**
- **\$290 Million for Natural Resources Conservation Service**
For watershed and flood prevention operations with possible benefit to construction trade businesses.
- **\$176 Million for Agricultural Research Service Maintenance**
Possible benefit to construction trade businesses.
- **\$150 Million to Support \$3 Billion in Rural Business and Industry Loans**
Qualifying private sector entities can benefit directly from this Rural Business program by applying for loans.
- **\$150 Million to Support Commodity Emergency Food Assistance Program**

- \$130 Million to Support \$1.2 Billion for Rural Community Facilities
Private sector contractors in the building and other construction trades and equipment providers should benefit from contracts from local government loan recipients to build hospitals, health clinics, elder care and child care facilities and other public buildings as well as provide necessary health and safety vehicles and equipment.

TITLE II – COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

- \$4.7 Billion for NTIA Broadband Technology Opportunities Program
Includes \$200,000,000 in competitive grants for expanding public computer center capacity, including at community colleges and public libraries and \$250,000,000 for competitive grants for innovative programs to encourage sustainable adoption of broadband service.
- \$1 Billion for NASA Programs
Includes \$150 million for aeronautics research and development, \$400 million for exploration, and \$400 million for Earth Science Climate missions.
- \$1 Billion Additional Funding for Census Takers
- \$2.8 Billion for State/Local Law Enforcement Assistance
Direct benefits to manufacturers and retailers of law enforcement communications and other equipment.
- \$1 Billion for COPS Program (local match requirement eliminated)
- \$220 Million for National Institute for Standards and Technology (NIST)
To work with the private sector in an effort to advance U.S. research in science and technology fields.
- \$360 Million for NIST Building Maintenance and Repair
Private sector contractors in the building and other construction trades should benefit from contracts.
- \$650 Million for DTV Digital to Analog Converter Box Program at NTIA
Direct benefits to manufacturers and retailers of converter boxes.
- \$150 million to Commerce Dept’s Economic Development Assistance Program
To support economic development for declining urban industrial cores and stagnating rural areas. Private sector entities should benefit from such programs.
- \$830 Million for NOAA
\$600 million is for construction and repair of NOAA ships, facilities, and to purchase equipment to improve weather forecasting and close gaps in climate modeling and \$230 million will fund operations and research. Some shipbuilders and private sector contractors should benefit from maintenance work and equipment purchases.
- \$2.5 Billion for National Science Foundation
For research instrumentation purchases, academic facilities modernization and major research and facilities construction.

TITLE III – DEPARTMENT OF DEFENSE

- \$4.24 Billion for Facilities Sustainment, Restoration, Energy Efficient Modernization
Private sector contractors in the building and other construction trades should benefit from contracts to repair, modernize, and make energy efficient upgrades to DOD military medical facilities.
- \$300 Million for Research Development, Testing by All Four Service Branches
Funding for research, pilot projects, demonstrations of energy efficient manufacturing enhancements and improvement in energy generation from wind, solar, and other renewable energy sources including biofuels and bioenergy. Private sector companies should benefit from research and procurement contracts.
- \$2.3 Billion for Building, Modernizing Family Housing, Hospitals, Child Care Facilities
Private building contractors and other construction trades should benefit from contracts for such activities.

TITLE IV – ENERGY AND WATER DEVELOPMENT

- \$3.2 billion for the Department’s Energy Efficiency and Conservation Block Grants

Provides grants to states to fund state government energy technology research and development programs to reduce energy use in all sectors with \$400 million set aside for competitive grants. Private entities should be able to compete for some of these funds.

- \$5 Billion for Weatherization Assistance Program
To weatherize and make energy efficient improvements to low-income homes. Private contractors should receive contracts for such work from state/local governments. Eligibility raised from 150% to 200% of poverty, max award now \$6,550 from \$2,500 per unit.
- \$3.1 billion for the Energy Department's State Energy Program
Provides grants to states to fund state government energy technology research and development programs. States should award some competitive grants. Waives state matching requirements, but requires state/local governments to pass more stringent energy-related building codes as a condition of receiving funds.
- \$2.5 Billion for Energy Dept's Energy Efficiency/Renewable Energy Research
For development, demonstration, and deployment projects including \$800 million for biomass and \$400 million for geothermal projects. Private sector entities are eligible for some of the funds, directly or indirectly via public/private consortiums.
- \$2 billion for Advanced Vehicle Battery Domestic Manufacturing Facilities
- \$4.5 Billion for Smart Grid National Electric Power Transmission Modernization
Provides funding for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid, to include demand responsive equipment, enhance security and reliability of the energy infrastructure, energy storage research, development, demonstration and deployment, and facilitate recovery from disruptions to the energy supply. Funding will go to private/public entities to fund electricity grid research, demonstration projects and other activities.
- \$6 Billion for Title 17 — Innovative Technology Loan Guarantee Program
Amends the Renewable Energy and Electric Power Transmission Loan Guarantee Program for fund the rapid deployment of renewable energy and electric power transmission projects. Loan guarantees are limited to projects that commence construction no later than September 30, 2011 and fall in the following categories:
 - (1) Renewable energy systems, including incremental hydropower, that generate electricity or thermal energy, and facilities that manufacture related components.
 - (2) Electric power transmission systems, including upgrading and reconductoring projects.
 - (3) Leading edge biofuel projects that will use technologies performing at the pilot or demonstration scale that the Secretary determines are likely to become commercial technologies and will produce transportation fuels that substantially reduce life-cycle greenhouse gas emissions compared to other transportation fuels.
- \$3.4 Billion for Fossil R&D and Demos of Carbon Sequestration/Capture Projects
To capture and store underground carbon produced from the burning of fossil fuels, fund Clean Coal efforts and fossil fuel research.
- \$4.6 Billion for Army Corps of Engineers Construction, Operation, and Maintenance
Private sector contractors in the building and other construction trades should benefit from contracts.
- \$1.6 billion for Office of Science
To fund research.
- \$1 Billion for Bureau of Reclamation Projects
To manage, develop and protect water and related resources.
- \$400 Million for Transportation Electrification (Railroads)
- \$300 Million for Energy Efficient Appliance Rebate (Tax Credit) Program
- \$400 Million for Energy's Advanced Research Projects Agency —ARPA-E
- \$1 Billion for Non-Defense Environmental Clean-up and Uranium Decontamination
- \$5.1 Billion for Defense Environmental Cleanup Program
- \$3.25 Billion Borrowing Increase for Western Area/ Bonneville Power Administrations

TITLE V – FINANCIAL SERVICES AND GENERAL GOVERNMENT

- \$5.5 Billion for Federal Facility Conversion, Construction and Repair
With \$4.5 billion for converting federal sites to “High Performance Green Buildings.”
- \$300 Million for the Federal Government to Purchase Hybrid and Electric Vehicles
- \$636 Million for Additional SBA Business Loans
Waives SBA loan program fees and guarantees up to 90 percent of qualifying small business loans made by eligible lenders.
- Such Sums as Necessary to Establish SBA Secondary Market Guarantee Authority
Guarantees up to \$3 billion in pools of first lien 504 loans to be sold to third-party investors; establishes SBA Secondary Market Lending Authority to provide loans to secondary market brokers and dealers.
- \$100 Million for Community Development Financial Institutions
New authority for SBA to provide low interest refinancing for Community Development under Local Business Development Loan Program; to allow for business stabilization by providing deferred loans with no repayment until 12 months after last disbursement of loan funds, a 100% guarantee, and government paying interest for “viable” small businesses experiencing immediate financial hardship.

TITLE VI – DEPARTMENT OF HOMELAND SECURITY

- \$1 Billion for TSA to Purchase Checked Baggage Explosive Detection Systems
- \$420 Million for Construction at Land Border Points of Entry
- \$650 Million to Build New DHS Headquarters
- \$100 Million to Deploy Non-Intrusive Inspection Systems
- \$100 Million for Border Security Fencing, Infrastructure and Technology
- \$98 Million for Coast Guard Acquisition, Construction, Improvement
- \$142 Million for Coast Guard Alteration/Removal of Obstructive Bridges
- \$150 Million for FEMA for State/Local Public Transportation/Railroad Security Grants
- \$150 Million for FEMA for State/Local Port Security grants
- \$210 Million for FEMA Firefighter Assistance Grants
Without current limits on using funds to pay cost of hiring firefighters; can be used for modifying, upgrading, or constructing non-Federal fire stations, etc. up to \$15 million.
- \$100 Million for FEMA Emergency Food and Shelter

TITLE VII – INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

- \$7.2 Billion for the EPA
- \$6.4 Billion for State/Tribal Assistance Grants
\$4 billion for Clean Water (Wastewater Treatment) State Revolving Fund; \$2 billion for Safe Drinking Water Act; \$100 million for Brownfields projects; \$300 million for Diesel Emission Reduction Program.
- \$600 Million for EPA Hazardous Substance Superfund
- \$200 Million Leaking Underground Storage Tank (LUST) Trust
- \$125 Million BLM Abandoned Mine Remediation
- \$180 Million BLM Road, Bridge, Facilities Energy Efficient Construction, Repair
- \$165 Million USFWS Wildlife Refuge/Fish Hatchery Construction, Restoration
- \$115 Million USFWS Road, Bridge, Facilities Energy Efficient Construction, Repair
- \$735 Million for USPS Road, Bridge, Facilities Energy Efficient Construction, Repair
- \$15 Million for HBC preservation funding
With non-federal funds match requirement waived.
- \$140 Million for USGS Facilities Energy Efficient Construction, Repair, Modernization
- \$500 Million for BIA Road, Bridge, School, Facilities Energy Efficient Construction
- \$650 Million for Ag Department Road, Bridge, Facilities Energy Efficient Construction

Repair road, bridges, trails, facilities and energy efficient construction, repair, modernization and ecosystem restoration and enhancement, etc.

- \$500 Million for Wildfire Management
\$250 million for hazardous fuels reduction, \$50 million for “wood to energy” grants.
- \$85 Million for Indian Health Service
For “tele-health” service development.
- \$415 Million for IHS for Construction and Equipment
- \$25 Million for Smithsonian facilities repair/revitalization
- \$50 Million for National Endowment for the Arts
To preserve jobs for artists.

TITLE VIII – DEPARTMENTS OF LABOR, HHS, EDUCATION, AND RELATED AGENCIES

- \$3.95 billion for DOL Training and Employment Services
\$500 million is for grants to states for adult employment/training services; \$1.2 billion in state grants for youth activities/summer jobs; \$1.25 billion in state grants for dislocated worker training; \$200 million for dislocated worker reserve funds; \$50 million for “YouthBuild” activities; \$200 million for competitive grants for worker training and placement; \$750 million for competitive grants to train workers for energy efficiency and renewable energy careers.
- \$120 Million for Older Americans Community Service Employment
- \$400 million for State Unemployment Insurance/Services Grants
- \$250 million for Job Corps
- \$2.5 billion for HHS Department Health Resources and Services
\$500 million is for Public Health Service health centers; \$1.5 billion for construction, renovation, repair, equipment for PHS health centers; \$500 million to PHS to address health profession workforce shortages including providing scholarships.
- \$10 Billion for NIH
\$1.3 billion for NIH to construct, renovate, repair facilities with \$1 billion in competitive grants to construct and renovate extramural research facilities; \$300 million to provide equipment to NIH grant recipients and contractors; \$8.2 billion for the NIH Director with \$7.4 billion of that going to the various institutes of health; \$500 million for NIH Bethesda, Md. campus for construction, repair, and improvement of facilities; \$1.1 billion for the Agency for Healthcare Research and Policy for comparative effectiveness research (\$300 million for AHRQ, \$400 million at NIH and \$400 million by Sec. of HHS).
- \$2 Billion for Child Care and Development Block Grant Payments to the States
- \$3.15 Billion for Children and Families Program
\$1 billion for Head Start, \$1.1 billion for Early Head Start expansion, \$1 billion for sections 674-679 of the Community Services Block Grant Act, \$50 million for section 110 of the Social Security Act.
- \$100 Million for Congregate, Home-Delivered and Native American Nutrition Services
- \$2 Billion to Sec. of HHS & Office of National Coordinator to Implement Health IT
\$300 million for regional info exchange efforts.
- \$50 Million for PHS Health IT
- \$1 Billion for Prevention/Wellness Fund
\$300 million for the CDC; \$650 million for clinical and community based prevention addressing chronic disease; \$50 million for states for infection reduction strategies.
- \$13 Billion for Education Department ESEA Title I
\$5 billion for targeted grants under ESEA section 1125; \$3 billion for school improvement grants.
- \$100 Million for Impact Aid to Carry Out ESEA Section 8007 of Title VIII
- \$720 Million for School Improvement Program per ESEA subpart 1, part D of title II
\$70 million for state grants for Title VII McKinney-Vento Homeless Assistance Act.

- \$200 Million for ESEA Innovation & Improvement per ESEA subpart 1, part D, title II
- \$12.2 Billion for Special Ed (IDEA)
\$11.3 billion for IDEA section 611; \$400 million for IDEA section 619 of part B; \$500 million for part C of IDEA.
- \$680 Million for Rehabilitation Services and Disability Research
\$540 million for part B of Title I of Rehabilitation Act for Vocational Rehabilitation State Grants; \$140 million for parts B and C Independent Living Programs (with \$18.2 million of that for state grants for Independent Living, \$87.5 million for Independent Living Centers, and \$34 million for older blind individuals).
- \$15.84 Billion for Student Financial Assistance
Of that, \$15.64 Billion for Pell Grants (with max Pell Grant raised to \$5,350 for 2009 and 2010); and \$200 million for work study.
- \$250 million for Institute of Education Sciences
For state-wide education data systems and coordination.
- \$160 million for Community Service/Americorps
- \$1 billion for Social Security Administration
\$500 million to replace National Computer Center, \$500 million to process claims backlog.
- Creation of Federal Coordinating Council for Comparative Effectiveness Research
- \$1.474 Billion for Mandatory Portion of Pell Grant Program

TITLE IX – LEGISLATIVE BRANCH

TITLE X – MILITARY CONSTRUCTION AND VETERANS AFFAIRS

- \$180 Million for Army Construction
\$80 million for child development centers, \$100 million for warrior transition complexes.
- \$280 Million for Navy/Marine Construction
\$80 million for child development centers, \$100 million for troop housing, \$100 million for alternative energy projects.
- \$180 Million for Air Force Construction
\$80 million for child development centers, \$100 million for troop housing.
- \$1.45 Billion Military Construction Defense-Wide
\$1.33 billion for hospitals, \$120 million for Energy Conservation Programs.
- \$50 Million for Army National Guard Construction
- \$50 Million for Air National Guard Construction
- \$34.5 Million for Army Family Housing
- \$80 Million for Air Force Family Housing
- \$555 million for Homeowners Assistance Fund for Wounded and Overseas Soldiers
- \$1 Billion for VA Medical Facilities
- \$150 Million for State Grants to Construct Extended Care Facilities
- \$150 Million for VA Operating Expenses to Hire Additional Claims Processors
- \$50 Million for National Cemetery Repairs
- \$50 Million for Info Technology Systems
- Establishes the Filipino Veterans Compensation Fund & Payments to Veterans

TITLE XI – STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

- \$90 Million for Passport and Training Functions
- \$290 Million for IT Security Upgrades
\$38 million for USAID upgrades.
- \$220 Million for US/Mexico International Boundary and Water Commission
For immediate repair and rehabilitation of infrastructure.

TITLE XII – TRANSPORTATION, HUD, AND RELATED AGENCIES

- **\$27.5 Billion for Highway, Rail, Port Construction**
- **\$1.5 Billion for Discretionary Surface Transportation Infrastructure Grants to States**
- **\$8 Billion for High Speed Rail Corridors**
- **\$6.9 Billion for Transit Grants to States** (federal share up to 100%)
- **\$1.1 Billion for Grants-In-Aid for Airports**
Road contractors and other construction trades should benefit.
- **\$200 Million for FAA Improvements**
\$50 million to upgrade FAA power systems; \$50 Million to modernize en route air traffic control centers;
\$80 million to replace air traffic control towers and TRACONS; \$20 million to improve airport lighting.
- **\$1.3 Billion for Amtrak for Security, Infrastructure, and Increased Capacity**
- **\$750 Million for “Fixed Guideway” Infrastructure**
- **\$750 Million for Discretionary “Capital Investment Grants” for New/Small Starts**
- **\$100 Million for Small Shipyard Assistance**
- **\$4 Billion for HUD Public Housing**
\$3 billion for formula grants to states, \$1 billion for competitive grants.
- **\$510 Million for Native American Housing Block Grants**
- **\$1 Billion for Title I of the Housing and Community Development Act**
- **\$2 Billion for Neighborhood Stabilization Program**
- **\$2.25 billion for HOME Investment Partnership Fund**
- **\$1.5 Billion for Homeless Prevention/Emergency Shelter Fund**
- **\$2.25 Billion for Competitive Grants for Public Housing Energy Efficiency Upgrades**
- **\$100 Million for Competitive Grants to Local Governments for Lead Hazard Control**

TITLE XIII -- HEALTH INFORMATION TECHNOLOGY

- **\$19 Billion for Health IT Infrastructure**
Includes \$2 billion in the form of grants and loans and other Medicare and Medicaid incentives to encourage health providers to use Health IT. Computer related software, hardware, and service providers and other IT related businesses should indirectly benefit from purchases by hospitals, doctors, community health centers, rural health clinics, dentists, nurses, etc. who will receive funding (in some cases with a 100% federal match) under this \$19 billion program authorized in the Stimulus bill for the adoption, implementation, and meaningful use of Electronic Health Record systems that comport with the mandated medical records information security requirements that accompany the funding. [This new program is authorized in Division B, Title IV of the Stimulus bill.]

TITLE XIV -- STATE FISCAL (PUBLIC SCHOOL) STABILIZATION FUND

- **\$53.6 Billion for State Fiscal Stabilization Fund Administered by DoED.**
\$39.5 billion is designated for enhancing local school budgets to maintain state support levels for local education and for projects that can include school repair, rehabilitation, energy efficiency upgrades, and modernization. The remaining funds can be used to assist institutions of higher education or local schools including the use of funds for teacher retention. Funds cannot be used for stadiums, vehicles, or administrative buildings. Funds are allocated to states 61% on the basis of their relative population of 5-24 year-olds and 39% based on their relative total population. \$650 million is for an Innovation Fund for best education practices working with the private sector.

TITLE XV -- ACCOUNTABILITY AND TRANSPARENCY

- **Creates Recovery Accountability/Transparency Board and Recovery Independent Advisory Panel**

To coordinate and conduct oversight of federal spending contained in the bill. The bill also contains provisions extending federal whistle blower protections to state and local whistle blowers in programs receiving federal funds.

TITLE XVI -- GENERAL PROVISIONS FOR ENTIRE ACT

Potential applicants for Stimulus bill funds need to be cognizant that the federal government places numerous conditions on the recipients of the funds in many instances such as the establishment of “whistle blower” protections for non-federal employees who provide evidence of mismanagement; a requirement that all employers that receive contracts using funds directly or indirectly from the bill must pay their workers the prevailing wage under Davis-Bacon laws; and a requirement that all the iron, steel, and manufactured goods used in a project funded with Stimulus bill funds for the construction, alteration, maintenance, or repair of a public building or public work must be produced in the United States. In addition, there is a specific prohibition on using Stimulus bill funds for a casino or gambling establishment, aquarium, zoo, golf course or swimming pool.

OTHER WCSR CLIENT ALERTS RELATED TO THE STIMULUS BILL

March 25, 2009

- [FCC Seeks Comments on April 13, 2009 Regarding Broadband Stimulus Fund Distribution](http://www.wcsr.com/alert_282.html)
http://www.wcsr.com/alert_282.html

March 13, 2009

- [Talent Management Timeline - Transition and Change](http://www.wcsr.com/alert_271.html)
(Indicates that HR issues may be affected by ARRA.)
http://www.wcsr.com/alert_271.html

March 12, 2009

- [Comment Cycle Announced for Rural Broadband Stimulus Initiatives](http://www.wcsr.com/alert_272.html)
http://www.wcsr.com/alert_272.html

March 10, 2009

- [FCC Announces Comment Cycle and NTIA Announces Further Meetings Regarding Broadband Initiatives in the American Recovery and Reinvestment Act of 2009](http://www.wcsr.com/alert_263.html)
http://www.wcsr.com/alert_263.html

March 3, 2009

- [The Privacy Bulletin: Issue No. 14](http://www.wcsr.com/alert_267.html)
http://www.wcsr.com/alert_267.html

February 19, 2009

- [New Economic Stimulus Law Establishes Premium Subsidy for COBRA Beneficiaries](http://www.wcsr.com/resources/pdfs/empben021909.pdf)
<http://www.wcsr.com/resources/pdfs/empben021909.pdf>

February 18, 2009

- [Municipal Bond Provisions in the 2009 Stimulus Act](http://www.wcsr.com/alert_254.html)
http://www.wcsr.com/alert_254.html

If you have any questions about the bill or the private sector or local government funding opportunities at the federal or state level under the bill, please contact either the Womble Carlyle attorney with whom you usually work or one of our [Federal and State Government Affairs Attorneys](#)

If you would like additional information on any of these items, please contact [John Mashburn](mailto:jmashburn@wcsr.com) at jmashburn@wcsr.com.

Womble Carlyle is an experienced and effective government affairs advocate in Washington, as well as North Carolina and Georgia. Our Government Affairs group includes members from both major political parties who previously held the following positions: four-term North Carolina Governor; eight-term U.S. Representative; Chief Justice of the North Carolina Supreme Court; General Counsel and Deputy General Counsel of the FEC; four-term North Carolina State Senator; Chief of Staff to the Co-Speaker of the N.C. House of Representatives; Chief Counsel to the United States House of Representatives Committee on Small Business; Chief of Staff to a U.S. Congresswoman; two Chiefs of Staff to United States Senators; and a General Counsel to U.S. Senate and House Leadership offices.

The Group lobbies Members of Congress, State Legislators, as well as Federal and State Executive Branches; offers representation in connection with campaign finance, gift, and lobbying laws; assists clients in securing appropriations; tracks legislative activities and assesses proposed legislation for opportunities and impacts on clients; drafts legislative language; builds coalitions and organizes grassroots campaigns; develops and maintains political action committees (including our own Womble PAC); creates and distributes direct mail; and prepares and presents testimony before state and federal regulatory agencies and legislative bodies. Combining our related skills with our proven reputation for successful outcomes, our state and federal lobbying teams address client concerns responsively and cost-effectively.

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