



## H.R. 1 - "American Recovery and Reinvestment Act of 2009" Rail Programs in Stimulus Legislation

- Through DOT, office of the Secretary, **\$1.5b in discretionary grants for capital investments in surface transportation infrastructure that will have a "significant impact on the Nation, a metropolitan area, or a region"**
  - o this is a new DOT program
  - o Regulations/criteria from SecDOT will be out in 90 days, applications due 180 days after that, decisions 90 days after that (1 year from now).
  - o funds available through September 30, 2011
  - o Eligible projects include title 23-eligible highway and bridge projects, **transit projects eligible under chapter 53 of title 49 U.S.C. (including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service), passenger rail and freight rail transportation projects**, and port infrastructure investments including multimodal port facilities
  - o Maximum grant size is \$300 million and minimum grant size is \$20 million, but the Secretary of Transportation can waive the minimum size threshold for "significant projects in smaller cities, regions, or States"
  - o The federal share of all project costs is 100 percent, but "the SecDOT shall give priority to projects that require a contribution of Federal funds in order to complete an overall financing package, and to projects that are expected to be completed within 3 years of enactment of this Act"
  - o SecDOT may use up to \$200m of this \$1.5b for the purpose of paying the subsidy and administrative costs of projects eligible for federal credit assistance under chapter 6 of title 23, U.S.C. (TIFIA: <http://tifia.fhwa.dot.gov/>)
  
- Through FHWA, **\$27.5b in highway infrastructure investment money to be apportioned to State DOTs and local MPOs using formula grants** (half via the STP formula and half via the FY08 obligation limitation ratio distribution).
  - o **At their discretion, states may 'flex' any amount of this funding for "passenger and freight rail transportation and port infrastructure projects eligible for assistance"** under subsection 601(a)(8) of section 133 of title 23, U.S.C.
    - Eligible projects include
      - any surface transportation project eligible for Federal assistance under Title 23 or chapter 53 of title 49 of the U.S.C
      - a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by Amtrak and components of magnetic levitation transportation systems
      - projects for a public freight rail facility or a private facility providing public benefit for highway users;
      - projects for an intermodal freight transfer facility;
      - projects providing for access to or service improvements freight rail facilities or intermodal freight transfer facilities
      - projects may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements

- States will have 120 days after apportionment (apportionment must be made within 21 days of the law's enactment) to obligate the first 50 percent of their highway apportionments and until one year after apportionment to obligate the remainder.
  - Federal Share of projects is up to 100%
- **Through the Federal Transit Administration, \$8.4b in funding**
- **\$6.9b for transit capital assistance formula grants** authorized under section 5302(a)(1) of title 49, U.S.C.
    - Funds available through September 30, 2010
    - 180 days from apportionment (apportionment must be made within 21 days of the law's enactment) to use the first 50% of the funds, 1 year from apportionment to use the second 50%
    - Federal share is up to 100%
    - This \$6.9b is apportioned via three different formulas: 80% by the urbanized area formula, 10% by the non-urbanized area formula, and 10% by the high growth and high density state formula.
    - \$100 million is set aside off the top for discretionary grants for making transit systems more energy-efficient.
  - **\$750m for fixed guideway modernization formula grants** authorized under section 5309(b)(2) of title 49, U.S.C.
    - Funds available through September 30, 2010
    - 180 days from apportionment (apportionment must be made within 21 days of the law's enactment) to use the first 50% of the funds, 1 year from apportionment to use the second 50%
    - Federal share is up to 100%
    - This \$750m is apportioned via the formula set forth in section 5337 of title 49, United States
  - **\$750m goes towards new starts, known "Capital Investment Grants"**, as authorized under section 5338(c)(4) of title 49, U.S.C., and allocated under section 5309(m)(2)(A) of such title, to enable the SecDOT to make discretionary grants as authorized by section 5309(d) and (e) of such title
    - Funds available through September 30, 2010
    - Priority shall be given to projects that are currently in construction or are able to obligate funds within 150 days of enactment of this Act
- **Through the FRA, \$8b for capital assistance for high speed rail corridors and intercity passenger rail service**
- Not specified how much of that \$8b must go for conventional intercity passenger rail and how much must go for high-speed rail
    - "The conferees have provided the Secretary flexibility in allocating resources between the programs to advance the goal of deploying intercity high speed rail systems in the U.S."
  - The money is appropriated for "an additional amount for section 501 of Public Law 110-432 and discretionary grants to States to pay for the costs of projects described in paragraphs (2)(A) and (2)(B) of section 24401 of title 49, U.S.C, subsection (b) of section 24105 of such title"
    - Section 501 of Public Law 110-432 is the High-Speed Rail Corridor Program from the "Passenger Rail Investment and Improvement Act of 2008"
      - **Applicants can be a State (including DC), a group of States, an Interstate Compact, a public agency established by one or more States and having responsibility for providing high-speed rail service, or Amtrak.**
      - Current Federally Designated High Speed Rail Corridors can be found here: <http://www.fra.dot.gov/us/content/203>
      - **SecDOT awards the grants in a competitive process** based on criteria the SecDOT establishes (Section 501 of Public Law 110-432 provides further detailed guidance for criteria)
      - **"High speed rail" means intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour.**
      - Eligible projects can include acquiring, constructing, improving, or inspecting equipment, track, and track structures, or a facility of use in or for the primary benefit of high-speed rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail

grade crossing improvements related to high-speed rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing.

- paragraphs (2)(A) and (2)(B) of section 24401 of title 49, U.S.C is the Intercity Passenger Rail Service Corridor Capital Assistance program from the “Passenger Rail Investment and Improvement Act of 2008”
  - Wording of stimulus legislation isn’t 100% clear, but it appears that potential applicants are intended to be the same **applicants identified in the “Passenger Rail Investment and Improvement Act of 2008”, which would include a State (including DC), a group of States, an Interstate Compact, or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.**
  - Applicants would apply to the SecDOT who would award projects using criteria identified in the “Passenger Rail Investment and Improvement Act of 2008” and to be further developed within 120 days of the enactment of this stimulus bill
  - Eligible projects can include acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to intercity passenger rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing
  - Eligible projects can also include rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service;
- Subsection (b) of section 24105 of such title refers to the Congestion Grants program from the “Passenger Rail Investment and Improvement Act of 2008”
  - Eligible projects include:
    - Projects identified by Amtrak as necessary to reduce congestion or facilitate ridership growth in intercity rail passenger transportation along heavily traveled rail corridors;
    - Projects identified by the Surface Transportation Board as necessary to improve the on time performance and reliability of intercity rail passenger transportation under section 24308(f), which is Section 213 (Passenger Train Performance) of the “Passenger Rail Investment and Improvement Act of 2008”
    - Grants to States, or to Amtrak in cooperation with States, for financing the capital costs of facilities, infrastructure, and equipment for high priority rail corridor projects necessary to reduce congestion or facilitate ridership growth in intercity rail passenger transportation
- The funds are available for obligation through the end of FY 2012.
- **High speed rail projects get priority, but any intercity passenger rail projects are eligible.**
  - SecDOT “shall give priority to projects that support the development of intercity high speed rail service”
- Within 60 days of enactment of bill, SecDOT submits a plan to the House and Senate Appropriations Committees on a strategic plan that describes “how the Secretary will use the funding provided under this heading to improve and deploy high speed passenger rail systems”
  - Within 120 days of enactment of bill, SecDOT shall issue interim guidance to applicants covering grant terms, conditions, and procedures until final regulations are issued
    - No deadline for issuing final regulations
- Projects are not required to be in a State rail plan
- Federal share is up to 100%
- Davis-Bacon rules apply, Buy America rules apply, operators of passenger service using these funds are covered by Railway Labor Act and Railroad Retirement, other rail labor protections apply

- **\$850m appropriation for Amtrak capital grants and \$450m through the DOT for Amtrak capital security grants**
  - o Priority for the use of funds shall be projects for the repair, rehabilitation, or upgrade of railroad assets or infrastructure, and for capital projects that expand passenger rail capacity including the rehabilitation of rolling stock
  - o No funds may be used to subsidize the operating losses of Amtrak
  - o Funds shall be awarded within 30 days of enactment of bill
  - o Projects shall be completed within 2 years of enactment of this bill
  - o No more than 60% of the non-security funds may be used for the Northeast Corridor
  
- through FEMA, which is part of DHS, **\$150m for Public Transportation Security Assistance and Railroad Security Assistance** under sections 1406 and 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53; 6 U.S.C. 1135 and 1163)