

Renewable Energy and Energy Efficiency Programs Emerge as Winners in American Recovery and Reinvestment Act

With more than \$43 billion in grant funding, loan guarantees and tax incentives, renewable energy and energy efficiency programs emerged as winners in the final version of the American Recovery and Reinvestment Act agreed to by Congressional negotiators yesterday. The House of Representatives is expected to clear the bill today, with Senate approval to follow shortly thereafter. While it is possible that Senate Republicans could delay the process with procedural tactics, the bill should become law in a matter of days.

What follows is a breakdown of energy programs and energy tax incentives included in the bill. While the tax portion of the bill remained largely unchanged from the initial House and Senate proposals, the spending portion of the bill did see a number of programs proposed for funding by either the House or Senate dropped from the final bill.

STIMULUS BILL – DIRECT SPENDING PROVISIONS

Department of Energy

- Weatherization – \$5 billion
- Loan guarantees for renewable technologies and transmission technologies – \$6 billion. *\$6 billion in appropriated funds is expected to support more than \$60 billion in loans for eligible projects that commence construction no later than September 30, 2011. Eligible projects include incremental hydropower, upgrading and reconditioning electric power transmission systems, and leading edge biofuel projects that use technologies performing at the pilot or demonstration scale which substantially reduce life-cycle greenhouse gas emissions compared to other transportation fuels.*
- Alternative Fueled Vehicle Pilot Grant Program – \$300 million
- Transportation Electrification – \$400 million
- Advanced Battery Manufacturing Grants - \$2 billion. Funding supports the manufacturing of advanced vehicle batteries and components.
- Energy Efficiency and Conservation Block Grants – \$3.2 billion
- State Energy Programs – \$3.1 billion
- Fossil Energy Research and Development – \$3.4 billion. *Of this funding, \$1 billion is for fossil energy research and development programs, \$800 million is for the Clean Coal Power Initiative Round III Solicitation, and \$1.52 billion is for a competitive solicitation for a range of industrial carbon capture and energy efficiency improvement projects.*

- Electricity Delivery and Energy Reliability Program – \$4.5 billion
- Applied research, development, demonstration and deployment through DOE EERE – \$2.5 billion. *Of the \$2.5 billion, \$800 million is dedicated for projects related to biomass, and \$400 million is dedicated for geothermal activities and projects.*
- Western Area Power Administration Borrowing Authority – \$3.25 billion
- Bonneville Power Administration Borrowing Authority – \$3.25 billion

Department of Defense

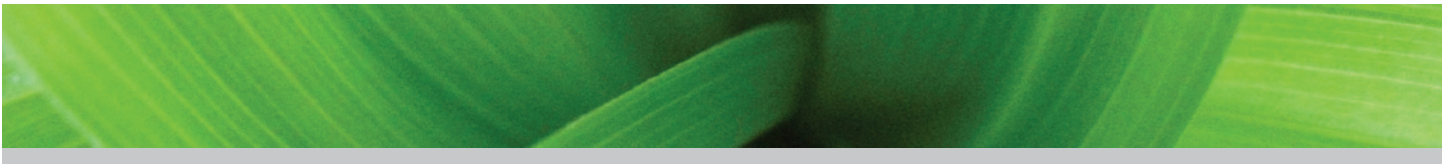
- Defense Manufacturing Technology Program – \$300 million

General Services Administration

- Energy Efficient Federal Motor Vehicle Fleet Procurement – \$300 million
- Green Federal Buildings – \$4.5 billion

STIMULUS BILL – TAX PROVISIONS

- Three year extension of the tax credit for renewable electricity production (through 2012 for qualified wind, and 2013 for other qualifying resources)
- Qualifying renewable energy facilities may take a 30 percent investment tax credit for qualified expenditures on facilities placed in service in 2013 (2012 for wind) in lieu of the production tax credit.
- Creates a Treasury Department Energy Grant Program which allows taxpayers with an investment tax credit in qualifying renewable energy facilities to receive a cash grant in an amount equal to the credit within 60 days of the facility being placed in service.
- Eliminates the investment tax credit limitation for projects that receive subsidized energy financing or private activity bonds after 2008.
- Removes the dollar value cap on the 30 percent investment tax credit for qualifying small wind, geothermal heat pump and solar water heating property.
- \$1.6 billion in new CREB financing.
- \$3.2 billion in new Qualified Energy Conservation Bond financing
- 30 percent tax credit for qualified non business energy property placed in service in 2009 and 2010 up to an aggregate cap of \$1,500.
- Tax credit equal to 50 percent of the cost of installing qualified alternative fuel vehicle refueling property up to a maximum of \$50,000 (\$200,000 for hydrogen refueling property). Credit expires December 31, 2010.



- \$2,500 tax credit for plug-in electric vehicles and an additional tax credit for plug-in vehicles with battery propulsion. Credit remains available until 200,000 vehicles are sold beginning after December 31, 2009.
- Establishes a 30 percent investment tax credit for qualifying advanced energy projects which re-equip, expand or establish a manufacturing facility for the production of property used to produce, refine, store or transport renewable energy or other advanced energy property designed to reduce greenhouse gas emissions. \$2.3 billion limitation on the total amount of credits that can be allocated under this program. Applicants must be certified to receive the credit.

STIMULUS BILL – ADMINISTRATIVE PROVISIONS

The Act includes the following provisions that govern the disbursement of stimulus funding to Federal agencies:

- Funding for programs and initiatives under the Act will be available, unless otherwise specified, until September 30th, 2010.
- The Act establishes the Recovery Accountability and Transparency Board whose responsibility it is to maintain regular oversight and track progress of funding expenditures.
- The Board will maintain a website containing information relating to funding opportunities, contract awards and updates on funds obligated by month to each State and Congressional district.
- For funds made available for infrastructure investment, preference is given to activities that can be started and completed expeditiously.
- Projects using Act funding must use American iron, steel and manufactured goods absent an agency waiver.

In the coming weeks we expect the various Federal agencies to make public their plans for distributing stimulus funding consistent with the goals of the Act. We also anticipate that many agencies will face substantial challenges in appropriately targeting and allocating funding in a timely manner. Given this reality, Congress will exercise close oversight over implementation of the stimulus bill to ensure that this funding meets the objectives of job creation, energy infrastructure deployment and renewable energy development.

FOR ADDITIONAL INFORMATION

For more information on the American Recovery and Reinvestment Act, please contact Curt Rich, Shelley Fidler, or any member of Van Ness Feldman's Public Policy practice at (202) 298-1800.

© 2009 Van Ness Feldman, P.C.
All Rights Reserved. This document has been prepared by Van Ness Feldman for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.