National Capital Region Transportation Planning Board
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MEMORANDUM

TO: Transportation Planning Board

FROM: Ronald F. Kirby
Director, Department of
Transportation Planning

SUBJECT: Summary of American Recovery and Reinvestment Act of 2009

DATE: February 18, 2009

The American Recovery and Reinvestment Act of 2009 was signed into law this week on February 17, 2009 and includes a substantial funding infusion into the nation's transportation system. The final version of the $789 billion legislation contains over $48 billion for transportation, including $27.5 billion for highway infrastructure investment, $8.4 billion for transit capital assistance, $8 billion for high speed rail, $1.5 billion for a competitive grant program for surface transportation, and $1.3 billion for Amtrak. This memorandum summarizes the funding details for each of these broad transportation funding categories.

Highway Infrastructure Investment, $27.5 billion

For highway infrastructure investment, a total of $27.5 billion will be administered through the Federal Highway Administration (FHWA).

For all highway projects, priority will be given to projects expected to be complete within three years and in economically distressed areas.

Of this $27.5 billion, $900 million will be set aside for the following:

1. Puerto Rico highway program, $105 million
2. Territorial highway program, $45 million
3. Ferry boats and terminals, $60 million
4. Competitive discretionary grants to states with priority given to projects projected to be complete within two years, $60 million
5. Indian reservations and federal lands, $550 million ($170 million for park roads and parkways, $60 million for the Forest Highway Program, $10 million for the Refuge Roads Program)
6. Highway surface transportation and technology training, $20 million
7. Disadvantaged business enterprises bonding assistance, $20 million
8. FHWA administrative/oversight, up to $40 million

The remaining highway funds of $26.6 billion will be given to states through two different formula programs: 50% ($13.28 billion) will be apportioned to states based on the FY 2009 STP formula, and 50% ($13.28 billion) to states based on the FY 2008 obligation limitation distribution as in section 120(a)(6) of division 6 of Public Law 110-161.

Of the total $26.6 billion given to states, 30% will be sub-allocated to urban areas based on current urbanized area formulas under STP (subsection 133 (d)(3)(A)), meaning that 30% of the total highway formula funds will be distributed to areas within a state based on their population share.

There are also "use it or lose it" time limits on both the state funds and sub-allocated funds. After 120 days, states will be forced to forfeit 50% of the funds awarded (excluding sub-allocated funds), less amounts obligated. Funds sub-allocated to urbanized areas and other areas will not be subject to the 120 day time requirement. All remaining un-obligated funds, including sub-allocated funds, will be forfeited after one year, to be redistributed to other states.

It is estimated that DC will receive $123.5 million ($37 million for sub-allocation), Maryland $431 million ($129 million for sub-allocation) and Virginia $694.5 million ($208 million for sub-allocation) in highway formula funds.

Transit Capital Assistance, $8.4 billion

For transit capital assistance, a total of $8.4 billion will be administered through the Federal Transit Administration (FTA).

Formula Funding

$6.8 billion will be administered through the transit urbanized area formula funding, and will be split into three categories of formula grants:

1. 80% ($5.44 billion) through the urbanized area formula (Section 5307)
2. 10% ($680 million) through the urban growing and/or high density states program (Section 5340)
3. 10% ($680 million) through the non-urbanized area formula (Section 5311)

$750 million will be distributed by formula for Fixed Guideway Infrastructure Investment (Section 5309).

Similar to the "use it or lose it" time limits for highway formula funding, after 180 days each urbanized area or state must forfeit 50% of transit formula funds awarded, less amounts obligated. Any un-obligated funds after 1 year will be forfeited as well.

It is estimated that the Washington Metropolitan Area will receive $230 million under these formula programs.

Other Transit Funding

Another $750 million will be distributed for Capital Investment Grants (Section 5309, "New Starts"), which will be discretionary grants to be used through September 30, 2010. Priority will be given to projects already under construction or able to obligate funds within 150 days.

$100 million will be set aside to go to public transit agencies in the form of discretionary grants for capital investments to reduce energy consumption or greenhouse gas emissions of their systems. Grants will be awarded based on total energy savings from the investment as well as energy savings as a percentage of the system's total energy usage.

These funds are not subject to the obligation limitations applying to other transit programs.

High Speed Rail, $8 billion

$8 billion will be administered through the Federal Railroad Administration as discretionary grants to states with 100% federal share, which can be used through September 30, 2012. Priority will be given to intercity high speed rail service.

Within 60 days, U.S. DOT will be required to submit a strategic plan, outlining how they plan on using this funding. Within 120 days, U.S. DOT will then issue interim guidance for grant terms, conditions and procedures, including separate guidance for the high speed rail corridor program, capital assistance for intercity passenger rail service grants and congestion grants. Projects are not required to be in the State rail plan, and there is no obligation deadline prior to September 30, 2012.

Competitive grant program for surface transportation, $1.5 billion

$1.5 billion will be administered via a discretionary grant program, the funds from which can be used through September 30, 2011. Each grant will range from a minimum of $20 million to a maximum of $300 million. The funds can be used for a wide range of transportation improvements, including highway and bridge, transit, and freight. However, priority will be given to projects that can be completed within three years of enactment of Act. It should be noted that U.S. DOT has one year after enactment to announce projects selected, thus leaving two years for projects to be completed.

This program is required to ensure equitable geographic distribution of funds (no one state may be awarded more than 20% of the total program funding) and balance between urban and rural investments. The Secretary of U.S. DOT is required to publish criteria on which to base the competition within 90 days of enactment of the Act.

AMTRAK, $1.3 billion
$1.3 billion will be made available for Amtrak capital expenditures, including $450 million for security upgrades. No more than 60% of the non-security funding can be used along the Northeast Corridor.

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

James L. Oberstar
Chairman

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Ward W. McCarragher, Chief Counsel

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February 27, 2009

Ronald F. Kirby
Transportation Planning Director
National Capital Region Transportation Planning Board
Metropolitan Washington COG - Transportation Planning Dept.
777 North Capitol Street NE, Suite 30
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Dear Mr. Kirby:

On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) ("Recovery Act") to create and sustain family-wage jobs, help the United States recover from the worst recession since the Great Depression, and invest in transportation, environmental, and other infrastructure that will provide long-term economic benefits to the nation. The Recovery Act provides $64.1 billion of infrastructure investment authorized by the Committee on Transportation and Infrastructure to enhance the safety, security, and efficiency of our highway, transit, rail, aviation, environmental, inland waterways, public buildings, and maritime transportation infrastructure.

This investment includes $27.5 billion of Federal-aid highway funding under the jurisdiction of this Committee that is distributed directly to States and large Metropolitan Planning Organizations (MPOs) by existing statutory formulas. These funds will enable States and MPOs to proceed immediately with "quick-hit", ready-to-go construction projects. In addition, the Recovery Act includes specific "use-it-or-lose-it" deadlines by which States and MPOs must invest transportation and infrastructure funding provided under the Act.

The Committee on Transportation and Infrastructure will closely oversee the implementation of transportation and infrastructure provisions of the Recovery Act to ensure that the funds provided are invested quickly, efficiently, and in harmony with the job-creating purposes of this Act. To this end, we request that you provide the specific certification and transparency and accountability information discussed below within <u>45 days</u> of the date of enactment of the Recovery Act (April 4, 2009).

Please provide the certification and transparency and accountability information on the "Federal Highway Administration, Highway Infrastructure Investment" funding under the Recovery Act which is suballocated to MPOs pursuant to Section 133 of Title 23, United States Code.[1]

These requests go beyond the transparency and accountability requirements of the Recovery Act. The Recovery Act certification and transparency and accountability provisions do not specifically require MPOs to provide this information within 45 days of the date of enactment.

However, the certification and information that we are requesting are critical to the Committee's review of implementation of the Recovery Act. Furthermore, Chairman James L. Oberstar has repeatedly described and insisted upon these transparency and accountability provisions in Committee hearings (October 29, 2008, and January 22, 2009), speeches, and conference calls, and posted these requirements on our Committee website. These requirements should come as no surprise to any practitioner of infrastructure investments. We expect you to provide the requested certification and transparency and accountability information by April 4, 2009.

CERTIFICATION

Please provide by April 4, 2009, a copy of the certification required by Section 1511 of the Recovery Act. The Recovery Act requires the Governor, mayor, or other chief executive to certify that the infrastructure investment has received the full review and vetting required by law and the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars.[2]

TRANSPARENCY AND ACCOUNTABILITY INFORMATION

For amounts suballocated to MPOs under the Highway Infrastructure Investment funding,[3] please provide by April 4, 2009, the following information required by the Recovery Act:[4]

- the amount of Federal funds allocated or apportioned to your Metropolitan Planning Organization by the State and the amount of Federal funds obligated and outlayed;[5]

- a detailed list of all projects or activities for which Recovery Act funds were obligated and the purpose, total cost, and rationale for funding the infrastructure investment;[6]

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[1] American Recovery and Investment Act of 2009, Pub. L. No. 111-5, Title XII (2009).
[2] *Id.* § 1511. Such certification shall include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and shall be posted on a website and linked to the Recovery.gov website. *Id.*
[3] *Id.* Title XII.
[4] Although the Recovery Act does not specifically require that MPOs provide this information within 45 days of the date of enactment, the Committee expects each MPO to provide the requested information.
[5] *Id.* § 1201(b)(2)(A).
[6] *Id.* § 1512(c)(3).

- the number of projects that have been put out to bid under the appropriation and the amount of Federal funds associated with such projects;[7]

- the number of projects for which contracts have been awarded and the amount of Federal funds associated with such projects;[8]

- the number of projects for which work has begun under such contracts and the amount of Federal funds associated with such contracts;[9]

- the number of projects for which work has been completed under such contracts and the amount of Federal funds associated with such contracts;[10]

- the number of direct, on-project jobs created or sustained by the Federal funds provided under the appropriation and, to the extent possible, the estimated indirect jobs created or sustained in the associated supplying industries, including the number of job-years created and the total increase in employment since the date of enactment;[11] and

- information tracking the actual aggregate expenditures by each grant recipient from State sources for projects eligible for funding under the program during the period from the date of enactment through September 30, 2010, compared to the level of expenditures that were planned to occur during such period as of the date of enactment.[12]

Please provide the certification and transparency and accountability information electronically and in a format that meets the Obama administration's requirements for Section 1201 and Title XV of the Recovery Act. Please work with the Office of Management and Budget and the U.S. Department of Transportation to address any questions regarding the format for the certifications and other information to ensure consistency among reporting MPOs.

In April 2009, the Committee will hold the first of a series of oversight hearings on implementation of the Recovery Act. We believe that the Recovery Act provides a unique opportunity to showcase the ability of transportation and infrastructure investments to create and sustain family-wage jobs and provide long-term economic benefits to the nation. We also know that every MPO partner welcomes the opportunity to demonstrate to its user-public that you can deliver these projects and create urgently needed employment in the timeframes set forth in this Act.

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[7] *Id.* § 1201(b)(2)(B).
[8] *Id.* § 1201(b)(2)(C).
[9] *Id.* § 1201(b)(2)(D).
[10] *Id.* § 1201(b)(2)(E).
[11] *Id.* § 1201(b)(2)(F).
[12] *Id.* § 1201(b)(2)(G).

If you have any questions regarding this request, please have your staff contact Joseph Wender, Counsel of the Committee on Transportation and Infrastructure, at (202) 225-4472 or Joseph.Wender@mail.house.gov.

Thank you for your consideration.

Sincerely,

James L. Oberstar, M.C.
Chairman

Peter A. DeFazio, M.C.
Chairman
Subcommittee on Highways
and Transit

March 4, 2009

Stimulus Spurs Road Projects, Big and Small

By MICHAEL COOPER

Kansas will widen U.S. 69 to remove a bottleneck outside Kansas City, along with a few other expensive projects. Maryland will spend its money in smaller pieces, resurfacing dozens of rutted roads and highways. Colorado will build an interchange on Elk Creek Road in Jefferson County, complete with an underpass for the elk.

There is nothing monumental in President Obama's plan to revive the economy with a coast-to-coast building spree, no historic New Deal public works. The goal of the stimulus plan was to put people to work quickly, and so states across the country have begun to spend nearly $50 billion on thousands of smaller transportation projects that could employ up to 400,000 people, by the administration's estimates.

More than a dozen states have now said how they plan to spend at least some of their transportation money, giving the clearest picture yet of how one of the president's signature programs is playing out around the country. Beyond all the money for Medicaid and unemployment benefits in the huge bill passed last month, this will be the face of the country's stimulus program: a bridge will be painted on a rural road, a new lane added on a suburban highway, a guardrail built on a median strip.

They may be old plans that the recession had forced a state to shelve, but multiplied by thousands, they will quickly get bulldozers rolling again and paychecks flowing. On the highway projects alone, the White House said Tuesday that 150,000 jobs would be created or saved.

Some states are taking radically different approaches with their transportation money. While Kansas is using it on a few big marquee projects to expand capacity at several highways, Maryland has adopted a fix-it-first policy, and plans to use its money to repair dozens of roads and bridges instead of building new ones.

The work, however mundane much of it is, cannot come too soon for a construction industry buffeted by an unemployment rate that has risen to twice the national average as many states cut back on building. Mike Gibson, the executive director of Associated Contractors of New Mexico, a trade group, said his state had lost 4,500 highway construction jobs in the last year.

"We have lost the equivalent of a plant closure," Mr. Gibson said. "When you lose 10 jobs here, 100 jobs here, it adds up very quickly."

States have tremendous latitude in how they spend the money, and in some places that is leading to pitched political battles — battles that must be waged quickly, since the states must begin spending the money in four months. Regional politics is playing a role in some states, as local lawmakers fight to get money sent to their districts.

Since the stimulus law provided much less money for transportation than many states had expected — less than $50 billion, which is about what the federal government spends on transportation every year — the competition for those dollars can be particularly fierce.

A fight in Washington State is emblematic of the questions facing state lawmakers across the country: Who decides how the money is spent? Is it better spent on a few big projects or many smaller ones? Should the bulk of the money go to metropolitan regions where the bulk of the population and economic activity are or should it be spread out evenly to suburban and rural areas across the state?

Seattle, in one of the most ambitious building projects in the nation, plans to tear down the aging, unsafe elevated highway that blocks off its waterfront and replace it with a tunnel. Seattle's mayor, Greg Nickels, and Washington's governor, Christine Gregoire, both Democrats, wanted to jumpstart the project with around $75 million in stimulus money to help the city replace two major roads.

The state's Democratic-controlled Legislature had other ideas. It drew up a list of how it wanted to spend the $341 million in transportation money — and none of it went to Seattle. Lawmakers said they had decided to spend the money on roads that the state controlled and on projects that they had been forced to put off because of fiscal constraints.

"There's not a single project in Seattle on the entire list," Mr. Nickels said in an interview, arguing that the Seattle road projects would continue to stimulate development and create jobs long after the last asphalt was spread. "The fact is that the 100 largest metropolitan areas in this country generate 75 percent of the gross national product, so if you're going to create jobs, that's where you're going to do it."

But lawmakers argued that the money should be spread out to other regions in the state. State Senator Mary Margaret Haugen, Democrat of Camano Island and chairwoman of the transportation committee, said the state had fallen behind on its planned construction projects as the economy worsened, and she saw this as an opportunity to begin catching up.

"I think everybody thought there was going to be more money," Ms. Haugen said. "Had it been double, we might have made our decisions differently."

In Texas, a proposal to use $181 million of the federal money to help build a toll road that will eventually form part of an outer ring around Houston has drawn criticism from some transportation advocates who warn that the project will spur more sprawl.

Two schools of thought are emerging as states decide what to do with their shares.

Kansas decided to concentrate its money on a few new projects that its transportation secretary, Deb Miller, called "game changers." So it will spend nearly a quarter of its money building the next leg of a project to expand U.S. 69 in Overland Park, a bustling suburb of Kansas City. It will rebuild an interchange in Wichita in an area where developers want to put more retail space, rebuild a rural highway in Gove County that has heavy truck traffic, and complete a 10-year project to improve a corridor in McPherson County where work was stopped because the money had dried up.

"We wanted to build projects that would have a lasting impact, so that 20 years later people could look at them and see what we did," said Ms. Miller, who added that the department was considering making plaques to show that the projects had been paid for by the American Recovery and Reinvestment Act of 2009, the official name of the stimulus law.

Others argue that the money should be used to fix the crumbling infrastructure that already exists. They note that for years, many states have put off much-needed maintenance to save money, and that repair projects can be done quickly. In the absence of a broader policy discussion about the future of transportation — which would involve wrestling with questions about sprawl and how to reduce dependence on foreign oil — these states have decided it is better to fix existing roads than to build new ones that would only attract more cars.

Maryland is taking the fix-it-first approach — and calls the $638 million it will receive in stimulus money most welcome, given that the state was forced to defer $2.1 billion worth of construction and repair projects when the economy soured. John D. Porcari, Maryland's transportation secretary, said the state would quickly put some 10,000 people to work resurfacing dozens of roads, painting and repairing bridges and putting in guardrails.

"It's like maintaining your car: if you neglect the relatively easy periodic maintenance, you're building up to a very big bill — and eventually replacing it," Mr. Porcari said. "Instead of having one or two or three megaprojects, we have literally dozens and dozens of projects in every corner of the state, which maximizes the ability of local firms to compete for them."

Now contractors across the country — many of which have had to shed workers as construction slowed to a halt — are gearing up for more work. Jim Andoga, the president of Austin Bridge & Road, which does heavy highway work in Texas, said his firm had mothballed one of the asphalt plants it owned and let go about 50 workers. Other companies have had to lay off up to half of their workforce, Mr. Andoga said.

Mr. Andoga predicted that with so many companies desperate for work, the government would get some bargains on early bids.

"I'll tell you," he said, "the first round of the stimulus, I think the work's going to go pretty cheap."