



MEMORANDUM

TO: ECA MEMBERS

FROM: SETH KIRSHENBERG
KARA COLTON

DATE: FEBRUARY 19, 2009

RE: SUMMARY OF KEY ENERGY-RELATED APPROPRIATIONS AND
TAX PROVISIONS IN THE ECONOMIC STIMULUS PACKAGE

President Obama signed into law the \$787.2 billion economic stimulus measure, The American Recovery and Reinvestment Act of 2009 (the “Act” or “HR 1”) on February 17th in Denver, Colorado. The legislation will be immediately effective; however some provisions in the Act have alternative effective dates.

While the Obama administration sought bipartisan cooperation, in the end only three Republicans voted for the bill - Senators Olympia Snowe and Susan Collins of Maine and Senator Arlen Specter of Pennsylvania. They were the only Republican votes for the bill in either chamber.

According to the latest analysis from the Congressional Budget Office (CBO), the measure’s 11-year cost would be slightly less than the \$789 billion previously estimated. Furthermore, CBO expects that 74.2 percent of the bill’s spending and tax breaks would go out by the end of fiscal year 2010, essentially meeting the Obama administration’s goal of having 75 percent out the door by that time.¹ All applicable provisions in the Act are designated as an emergency for purposes of pay-as-you-go principles. Furthermore, funding is provided to the Offices of the Inspector General of various federal agencies to provide oversight and audit of the programs, grants, and projects funded under the measure. In the case of the Office of the Inspector General-Department of Energy, \$15 million is obligated through September 30, 2012.

Tax cuts account for almost a third of the bill’s total cost, while the spending portion is close to \$507 billion. Overall, nearly 10 percent of the entire bill provides funding and tax credits for green-energy related projects including renewables, energy efficiency, transmission and weatherization. More specifically, the measure includes \$16.8 billion for the DOE’s Office of Energy Efficiency and Renewable Energy (EERE). The funding is a nearly tenfold increase for EERE, which received \$1.7 billion in fiscal year 2008. While the bulk of the new EERE funding is supporting direct grants and

¹ Krawzak, P. and Schatz, J. “Senate Clears Stimulus Package Without a Vote to Spare.” *CQ.com*, 15 February 2009.

rebates, \$2.5 billion will support EERE's applied research, development, and deployment activities. There are a number of provisions that aim specifically to provide funding to local governments to invest in greater efficiency and reduce energy usage, for example, \$3.2 billion in block grants for local government energy efficiency and renewable energy projects.

It is interesting to note there are no appropriations or tax incentives for nuclear energy programs.

The Act is comprised of two divisions, Division A-Appropriations Provisions and Division B-Tax Provisions. Please find attached a summary of the key energy-related provisions from each Division below. Unless noted, citations to Act section numbers are to Division B.

If you have any questions, please contact Seth Kirshenber at (202) 828-2317 or via email at sethk@energyca.org, or Kara Colton at (703) 864-3520 or via email at kara.colton@energyca.org.

THE ACT

Division A

APPROPRIATIONS FOR ENERGY PROGRAMS TITLE IV- DEPARTMENT OF ENERGY

Energy Efficiency and Renewable Energy

The conferees agree to provide an additional \$16.8 billion for the Energy Efficiency and Renewable Energy (EERE) program. This includes \$2.5 billion for applied research, development, demonstration and deployment activities, including \$800 million for projects related to biomass and \$400 million for geothermal activities and projects. Within available funds, \$50 million is directed for the Department of Energy (DOE) to support research to increase the efficiency of information and communications technology and improve standards.

Funding for other areas under this heading include:

Energy Efficiency and Conservation Block Grant Program

HR 1 provides \$3.2 billion to assist local governments in implementing energy efficiency and conservation programs authorized under subtitle E of title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.).

Under the Energy Efficiency and Conservation Block Grant (EECBG) program, state and local governments can receive federal funding to leverage efforts to improve energy efficiency, lower energy usage, and reduce fossil fuel emissions.

Activities eligible under EECBG may include, among others:

- Developing/implementing an energy efficiency and conservation strategy;
- Conducting residential and commercial building energy audits;
- Establishing financial incentive programs for energy efficiency improvements (e.g. loan programs, rebate programs, waive permit fees);
- Developing/implementing programs to conserve energy used in transportation;
- Developing public education programs to increase participation and efficiency rates for recycling programs;
- Developing, implementing or installing on or in any government building of onsite renewable energy technology that generates electricity from renewable resources (solar and wind energy, fuel cells, and biomass);
- Implementing energy distribution technologies; and
- Purchasing/implementing technologies to reduce and capture methane and other greenhouse gases generated by landfills or similar sources.

Of the \$3.2 billion, \$2.8 billion will be available through the existing formula in the Energy Independence and Security Act of 2007, Sec. 541:

68 percent will be set aside for grants distributed directly to eligible cities, towns and counties - Every city with a population of 35,000 or more; and every county with a population of 200,000 or more. Furthermore, each state (including Puerto Rico) is guaranteed to have at least its 10 largest cities and 10 largest counties eligible for formula grants, regardless of population.

28 percent will be awarded to the states – Each state is required to pass through at least 60% of its funding share to cities and counties not receiving direct funding. Each state decides how to award these funds among these cities and counties.

2 percent will be set aside for Indian tribes

2 percent will be set aside for competitive grants to local governments that are not eligible based on population or to a consortium of local governments.

Under this provision, HR 1 provides an additional \$400 on a competitive basis. The EERE office of the DOE will likely administer the EECBG Program. The U.S. Environmental Protection Agency (EPA), the U.S. Department of Transportation (DOT), and the U.S. Department of Housing and Urban Development (HUD) can approve additional eligible activities.

There are no specific instructions on how to apply for EECBG funds as this is the first time the program has been funded.

Weatherization Assistance Program

HR 1 provides \$5 billion for DOE's Weatherization Assistance Program which enables low-income families to permanently reduce their energy bills and increase energy efficiency. The Act also increases the eligible income level under the program, increases the funding assistance level to \$6,500 per home, and allows new weatherization assistance for homes that were weatherized as recently as 1994. Authorized in part A of title IV of the Energy and Conservation and Production Act (42 U.S.C. 6861 et seq.), funding is provided to the states by DOE and the grants are managed by DOE's EERE Project Management Center. The Oak Ridge National Laboratory provides technical support and evaluations.

From the total congressional appropriation, DOE reserves funds on a national level for national training and technical assistance (T&TA) activities that benefit all states. DOE also allocates specific funding to states for T&TA activities at both the state and local levels. The total funds for national, state, and local T&TA cannot exceed 10% of the total congressional appropriation for the year.

The remaining funds are distributed to states as program allocations, consisting of two parts: the first part is the base allocation, which is fixed for each state but differs from state to state. The sum of the base allocations for all the states totals \$171,258,000. The second part is the formula allocation, which is computed by applying the revised formula to appropriated funds in excess of \$171,258,000.

The revised formula utilizes an appropriation-level trigger before the full impact of the changes takes effect. When congressional appropriations for the DOE Weatherization Program exceed the trigger-level of \$233.1 million, warm-climate states receive a greater share of the allocation than under the pre-1995 formula. This revised formula impacts only those funds allocated by Congress above the base level of \$171,258,000.

Individuals may apply for funding. Services are provided by the states, and each state has slightly different criteria. All energy services are handled by local weatherization agencies.

State Energy Program (SEP)

HR 1 makes a \$3.1 billion appropriation to DOE's State Energy Program (SEP) authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321) SEP dollars are used to provide grants and funding to state energy offices for energy efficiency and renewable energy programs.

The funding allocation in HR 1 is conditioned on state Governors' assurances to the Secretary of Energy the Governor has obtained certain assurances, regarding regulatory policies, building code requirements and the prioritization of existing state programs in favor of energy efficiency and renewable projects.

DOE's SEP provides grants are based on a yearly appropriation by Congress States must also match the grants with funding of their own amounting to 20% of the DOE contribution.

There are three sources of funding for DOE's State Energy Program: DOE grants, SEP Special Projects, and Petroleum Violation Escrow (PVE) Funds. States receive yearly grants from DOE based on annual appropriations from Congress. DOE distributes the grants to state energy offices according to a formula that takes into account population and energy consumption in each state.

SEP also funnels funding from technology programs in EERE to the states for Special Projects. EERE awards this funding annually to state energy offices through a competitive solicitation. Many states join with private sector partners and contribute their own funds toward these projects.

Under the program, DOE also provides technical assistance to state and local officials to help them with their renewable energy and energy efficiency programs through the Technical Assistance Project. State and local officials can make requests directly to DOE; the project is designed for timely response, involves limited paperwork, and requires no formal procedures for funding. Title IV.

Plug-in Electric Vehicles

The Act authorizes \$400 million for the Plug-In Electric Drive Vehicle Program, which provides grants to state and local governments, and others to carry out projects to encourage the use of plug-in electric drive vehicles, as authorized under Section 131 of the Energy Independence and Security Act (EISA) of 2007.

How to apply: DOE is the agency with jurisdiction. EERE provides funding opportunities through competitive solicitations. DOE is strongly committed to partnerships to help ensure the eventual market acceptance of the technologies being developed. New solicitations are announced regularly at <http://www1.eere.energy.gov/vehiclesandfuels/financial/index.html>

Advanced Batteries

The Act authorizes \$2 billion for grants for the manufacturing of advanced batteries and components. The Secretary is to provide facility funding awards under this section to manufacturers of advanced battery systems and vehicle batteries that are produced in the U.S., including advanced lithium ion batteries, hybrid electrical systems, component manufacturers, and software designers.

Energy Efficient Appliance Rebate Program and Energy Star Program

The Act provides \$300 million for the Energy Efficient Appliance Rebate program and the Energy Star Program.

Electricity Delivery and Energy Reliability

The Act appropriates \$4.5 billion for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid, to include demand responsive technology, enhance security and reliability of the energy infrastructure, energy storage research, development, demonstration and deployment, and facilitate recovery from disruptions to the energy supply, and for implementation of programs authorized under title XIII of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381 et seq.) to coordinate smart grid activities across the Federal government.

The term “Smart Grid” refers to a distribution system that allows for flow of information from a customer’s meter in two directions: both inside the house to thermostats, appliances, and other devices, and from the house back to the utility. Smart Grid is defined to include a variety of operational and energy measures — including smart meters, smart appliances, renewable energy resources, and energy efficiency resources.

Specifically, the Act allocates \$10 million to implement section 1305 of Public Law 110-140 (the Energy Independence and Security Act of 2007) which directs the National Institute of Standards and Technology to establish protocols and standards to increase the flexibility of use for Smart Grid equipment and systems.

A complementary section - under the General Provisions heading of this Title - opens smart grid demonstration projects to electric systems in urban, suburban, tribal, and rural areas, including areas where electric system assets are controlled by nonprofit entities, and areas where electric system assets are controlled by investor-owned utilities. It also establishes a smart grid information clearinghouse to share data from the demonstration projects. The Act further requires that within 60 days after enactment, the Secretary of Energy should provide notice of intent and subsequent solicitation of grant proposals for demonstration projects and establish

procedures by which applicants can obtain grants of not more than one-half of their documented costs.

Under this heading, further provisions related to electric transmission include: \$100 million for worker training activities; \$80 million within available funds to DOE's Office of Electricity Delivery and Energy Reliability (EDER) to facilitate the development of regional transmission plans; and to conduct a resource assessment and an analysis of future demand and transmission requirements after consultation with the Federal Energy Regulatory Commission (FERC). Language is also included that accelerates the hiring of personnel for the EDER program.

In coordination with FERC, EDER should provide technical assistance to the North American Electric Reliability Corporation, regional reliability entities, the States and other transmission owners and operators for the formation of interconnection-based transmission plans for the Eastern and Western Interconnections and ERCOT. Such assistance may include modeling, support to regions and States for the development of coordinated State electricity policies, programs, laws, and regulations.

Finally, the Secretary of Energy is given the ability to use or transfer amounts provided under this heading to carry out new authority for transmission improvements authorized in any subsequent act.

Fossil Energy Research and Development

HR 1 authorizes \$3.4 billion for fossil energy research and development.

More specifically, funds under this heading include \$1 billion for fossil energy research and development programs; \$800 million for additional amounts for the Clean Coal Power Initiative Round III Funding Opportunity Announcement; \$1,520,000,000 for a competitive solicitation for a range of industrial carbon capture and energy efficiency improvement projects - including a small allocation for innovative concepts for beneficial CO₂ reuse. \$50 million is also included for a competitive solicitation for site characterization activities in geologic formations; \$20 million for geologic sequestration training and research grants; and \$10 million for program direction funding.

Uranium Enrichment Decontamination and Decommissioning Fund

The Act authorizes \$390 million, of which \$70 million shall be available for the uranium and thorium programs in accordance with title X, subtitle A of the Energy Policy Act of 1992.

Science

Advanced Research Projects Agency for Energy

HR 1 authorizes \$1.6 billion for Science programs of which \$400 million is designated for DOE's Advanced Research Projects Agency for Energy (ARPA-E).² The stated goal of ARPA-E is to enhance the Nation's economic and energy security through research and development of technologies that reduce U.S. dependence on foreign energy sources, improve energy efficiency of the U.S. economy, reduce the impact of the energy sector on the environment, and ensure the U.S. leadership in developing energy technologies. To achieve this ARPA-E will support collaborative, targeted, high-risk, high pay-off research to accelerate the innovation cycle for transformational energy technologies.

ARPA-E shall be headed by a Director, appointed by the Secretary. No other program within DOE will report to ARPA-E. The Director will administer competitive grants, cooperative agreements, or contracts to universities, private companies, research foundations, industry collaborations, and consortia. These consortia can include federal laboratories, in addition to the aforementioned parties, and can be led by federal laboratories. As authorized under section 5012 of the America Competes Act (42 U.S.C. 16538), signed by former President Bush in August 2007.

Until HR 1, ARPA-E had not received federal funding.

Title 17-Innovative Technology Loan Guarantee Program

The Act appropriates \$6 billion for the cost of guaranteed loans authorized by section 1705 of the Energy Policy Act of 2005. The Act requires the DOE Loan Guarantee Program to only make loan guarantees to projects that will start construction by September 30, 2011, and that involve renewable energy, electric transmission, or leading-edge biofuel technologies. The \$6 billion in appropriated funds is expected to support more than \$60 billion in loans for these projects.

DOE will announce solicitations which will include application directions. Funds are to be made available until expended.

Obligations under this heading also include \$10 million to be transferred to and available for administrative expenses for the Advanced Technology Vehicles Manufacturing Loan Program. Section 136 of the Energy Independence and Security Act of 2007 establishes an incentive program consisting of both grants and direct loans to automobile and automobile part manufacturers for the cost of re-equipping, expanding, or establishing manufacturing facilities in the United States to produce advanced technology vehicles or qualified components, and for associated engineering integration costs.

General Provisions

The Act increases the borrowing authority of the Bonneville Power Administration (BPA), increasing the borrowing authority ceiling by \$3.25 billion to assist in financing the construction, acquisition, and replacement of the transmission system. The Act similarly provides the Western

² The program is similar to the DARPA program within the Department of Defense.

Area Power Administration (WAPA) \$3.25 billion in borrowing authority. HR 1 also provides \$10 million in non-reimbursable funds for construction, rehabilitation, operations, and maintenance for WAPA.

Availability of funds: Funds will remain available until September 30, 2010. In regards to grants, HR 1 establishes that grants shall be available for not more than an amount equal to 80 percent of the costs of the project for which the grant is provided.

**APPROPRIATIONS FOR ENERGY/GREEN PROGRAMS
TITLE V-FINANCIAL SERVICES AND GENERAL GOVERNMENT**

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund – Limitations on Availability of Revenue

HR 1 provides \$5.55 billion to the Federal Buildings Fund of which no less than \$4.5 billion is to be used to convert General Services Administration (GSA) facilities to High-Performance Green buildings as defined in P.L. 110-140. An additional \$4 million is provided for the Office of Federal High-Performance Green Buildings, authorized in the Energy Independence and Security Act of 2007.

Energy-Efficient Federal Motor Vehicle Fleet Procurement

The Act appropriates \$300 million for the capital expenditures and necessary expenses of acquiring motor vehicles with higher fuel economy for the federal fleet, including: hybrid vehicles; electric vehicles; and when domestically produced and commercially- available, plug-in hybrid vehicles.

Vehicles must be replaced on at least a one-for-one basis. Each vehicle purchased must have a higher fuel-economy, as measured by EPA, than the vehicle being replaced and the overall government-purchased vehicles must have an improved fuel economy at least 10 percent greater than the vehicles being replaced.

Availability of funds: To remain available until September 30, 2011.

**APPROPRIATIONS FOR ENERGY/GREEN PROGRAMS IN HR 1
TITLE VII-DEPARTMENT OF THE INTERIOR, ENVIRONMENT AND RELATED
AGENCIES**

ENVIRONMENTAL PROTECTION AGENCY

Diesel Emission Reduction Act (DERA) Grants

HR 1 authorizes \$300 million for assistance to state and local governments to reduce diesel emissions, as authorized under title VII, subtitle G of the Energy Policy Act of 2005, which created a national program known as the Diesel Emissions Reduction Act (DERA). DERA was designed to fund diesel emissions reduction programs and enables EPA to offer awards to

eligible organizations and entities on a competitive basis. The funding is used to create clean diesel programs that achieve significant reductions in diesel emissions that improve air quality and protect public health.

The National Diesel Emissions Reduction Program provides funding through its two components: the National Clean Diesel program (70% of funding) and the State Clean Diesel Grant Program (30% of funding) which makes funds directly available to States interested in establishing new diesel emission reduction programs. HR 1 included language to waive the State Grant and Loan Program matching incentive provisions of DERA.

How to apply for funding: Funding opportunities available under the National Clean Diesel program can be found on the Environmental Protection Agency's website. See: <http://www.epa.gov/cleandiesel/grantfund.htm#2009>. Eligible entities are U.S. regional, state, local, tribal or port agencies with jurisdiction over transportation or air quality; and nonprofit organizations or institutions that represent or provide pollution reduction or educational services to persons or organizations that operate diesel fleets; or have as its principle purpose the promotion of transportation or air quality. School districts, federally recognized Indian tribes, municipalities, metropolitan planning organizations (MPOs), cities and counties are all eligible under this program.

For the State Clean Diesel Grant Program, EPA allocates funding to the states through a formula outlined in the Energy Policy Act of 2005. According to the Act, each state will receive one of two amounts, contingent on the provision of matching funds provided by the state. Two-thirds of the funds from the state program are provided to the participating states as base funding. The remaining third is awarded to states that provide matching funds. Any unclaimed funds will revert to the National Clean Diesel Funding Assistance Program.

The Conferees expect the EPA to award DERA funds in an expeditious manner, consistent with fair and open competition. To ensure the additional goal of creating jobs as quickly as possible, the Agency may make awards for meritorious and quality proposals submitted under competitions that were initiated within the past 18 months.

***APPROPRIATIONS FOR ENERGY/GREEN PROGRAMS
TITLE VIII-DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND
EDUCATION AND RELATED AGENCIES***

DEPARTMENT OF LABOR

Training and Employment Services

HR 1 provides \$750 million for a program of competitive grants for worker training and placement in high growth and emerging industry sectors. Within the amount provided, \$500 million is designated for projects that prepare workers for careers in energy efficiency and renewable energy as described in the Green Jobs Act of 2007 (which amends the Workforce Investment Act of 1998 to establish an energy efficiency and renewable energy worker training program).

Office of Job Corps

The Act appropriates \$250 million for Job Corps Centers, of which up to \$37.5 million is available for the operational needs of the Job Corps program including activities to provide additional training for careers in energy efficiency, renewable energy and environmental protection industries.

**APPROPRIATIONS FOR ENERGY/GREEN PROGRAMS
TITLE X-MILITARY CONSTRUCTION AND VETERANS AFFAIRS**

DEPARTMENT OF DEFENSE

Military Construction, Navy and Marine Corps

HR 1 includes \$280 million of which \$100 million is for energy conservation and alternative energy projects.

Military Construction, Defense-wide

Of the \$1.45 million provided under the Act, \$120 million is allocated for the Energy Conservation Investment Program (ECIP). The ECIP improves the energy and water efficiency of existing Military Services' facilities, promoting energy conservation and investment in renewable energy resources including wind, solar, geothermal, waste-to-energy, and biomass, at U.S. military installations.. The program's projects help the Military Services save on energy usage and helps offset DoD's rising energy costs.

**APPROPRIATIONS FOR ENERGY/GREEN PROGRAMS
TITLE XII-TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT,
AND RELATED AGENCIES**

DEPARTMENT OF TRANSPORTATION

Supplemental Discretionary Grants for a National Surface Transportation System

HR 1 provides \$1.5 billion for capital investments in surface transportation infrastructure. Designated funds under this heading will be distributed by the Secretary of Transportation as discretionary grants to state and local governments, or transit agencies, on a competitive basis for capital investments in surface transportation infrastructure. These include New Starts and Small Starts projects and passenger and freight rail transportation projects, as well as highway and bridge projects.

Availability of funds: A grant funded under this heading shall be not less than \$20 million and not greater than \$300 million. However, the Secretary may waive the minimum grant size cited in the preceding proviso for the purpose of funding significant projects in smaller cities, regions,

or States. Furthermore, no more than 20 percent of the funds made available under this paragraph may be awarded to projects in a single state.

The Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 90 days after enactment of the Act. The Secretary shall require applications for funding provided under this heading to be submitted not later than 180 days after the publication of such criteria, and announce all projects selected to be funded from such funds not later than 1 year after enactment of HR 1.

Funding will remain available through September 30, 2011.

FEDERAL TRANSIT ADMINISTRATION

Transit Capital Assistance

HR 1 provides \$100 million for public transit agencies that will assist in reducing the energy consumption or greenhouse gas emissions of their public transportation systems. For these energy-related investments, priority shall be given to projects based on the total energy savings that are projected to result from the investment, and projected energy savings as a percentage of the total energy usage of the public transit agency.

Availability of funds: Funding will remain available through September 30, 2010.

HOUSING AND URBAN DEVELOPMENT

Public Housing Capital Fund

HR 1 provides \$4 billion in funding to assist public housing authorities in rehabilitating and retrofitting public housing units, including increasing the energy efficiency of units and making critical safety repairs. Of the funding provided, \$3 billion will be distributed to public housing authorities (PHAs) through the existing formula and \$1 billion will be awarded through a competitive process.

PHAs are advised to consult with local government officials and PHA residents as they plan for activities to be included in the Capital Fund Program.

Native American Housing Block Grants

HR 1 provides \$510 million in funding to rehabilitate and improve energy efficiency in housing units maintained by Native American housing programs. Half of the funding will be distributed by formula and half will be competitively awarded to projects that can be started quickly.

Assisted Housing Stability and Energy and Green Retrofit Investments

The Act appropriates \$2.25 billion for energy retrofit investment grants and loans for owners who receive project-based assistance for the Section 8 Project-Based program. Of this amount,

\$250 million will support a program to upgrade HUD sponsored low-income housing to increase energy efficiency, including new insulation, windows, and furnaces.

Home Investment Partnership Program

Under HR 1, \$2.25 billion is designated for the HOME Investment Partnerships Program to help build and rehabilitate low-income housing, including the use of green technologies. HOME is the largest Federal block grant to State and local governments designed exclusively to create affordable housing for low-income households.

HOME funds are awarded annually as formula grants to participating jurisdictions. HUD establishes HOME Investment Trust Funds for each grantee, providing a line of credit that the jurisdiction may draw upon as needed. The program's flexibility allows States and local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancement, or rental assistance or security deposits.

Program funds are allocated to units of general local government on the basis of a formula that considers the relative inadequacy of each jurisdiction's housing supply, its incidence of poverty, its fiscal distress, and other factors. States are automatically eligible for HOME funds and receive either their formula allocation or \$3 million, whichever is greater. Local jurisdictions eligible for at least \$500,000 under the formula (\$335,000 in years when Congress appropriates less than \$1.5 billion for HOME) also can receive an allocation. Communities that do not qualify for an individual allocation under the formula can join with one or more neighboring localities in a legally binding consortium whose members' combined allocation would meet the threshold for direct funding. Other localities may participate in HOME by applying for program funds made available by their State. Congress sets aside a pool of funding, equivalent to the greater of \$750,000 or 0.2 percent of appropriated funds, which HUD distributes among insular areas.

***APPROPRIATIONS FOR ENERGY/GREEN PROGRAMS
TITLE XIV - STATE FISCAL STABILIZATION FUND***

DEPARTMENT OF EDUCATION

Use of Funds by Local Educational Agencies

HR 1 provides \$9.75 billion (18.2 percent of the State's allocation under section 14001 for public safety and other government services) which may include assistance for elementary and secondary education and public institutions of higher education, and modernization, renovation or repair of institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

Division B
TAX PROVISIONS
TAX CREDITS

Advanced Energy Investment Credit for Manufacturers

HR 1 establishes a new 30% tax credit under Code Section 46 for certain investments with respect to qualifying advanced energy projects which include, with certain exceptions, manufacturing facilities for the production of (1) property designed to be used to produce energy from renewable energy resources, (2) fuel cells, micro turbines or an energy storage systems for use with electric or hybrid-electric motor vehicles, (3) electric grids to support the transmission of intermittent sources of renewable energy, (4) property designed to capture and sequester carbon dioxide, (5) property designed to refine or blend renewable fuels or to produce energy conservation technologies, (6) new qualified plug-in electric drive motor vehicles, or (7) other advanced energy property designed to reduce greenhouse gas emissions. Section 1302, adding new Code Section 48C.

To qualify for the tax credit, applications for certification must be submitted to the Secretary of the Treasury, who shall select which projects to certify on the basis of various criteria, including a reasonable expectation of commercial viability thereof, job creation, impact on air pollution and greenhouse gas emissions, etc. An applicant that receives certification will only have three years from the date of issuance of the certification to place the project in service. Section 1302.

A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under Code Sections 48, 48A, or 48B. Section 1302.

The total amount of credits awarded under the program shall not exceed \$2.3 billion. In selecting projects, the Secretary may consider only those projects where there is a reasonable expectation of commercial viability. In addition, the Secretary must consider other selection criteria, including which projects (1) will provide the greatest domestic job creation; (2) will provide the greatest net impact in avoiding or reducing air pollutants or anthropogenic emissions of greenhouse gases; (3) have the greatest readiness for commercial employment, replication, and further commercial use in the United States, (4) will provide the greatest benefit in terms of newness in the commercial market; (5) have the lowest levelized cost of generated or stored energy, or of measured reduction in energy consumption or greenhouse gas emission; and (6) have the shortest project time from certification to completion.

Effective date: Periods after the date of enactment, under rules similar to the rules of Code Section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Business Energy Credit. HR 1 generally extends for three years the period during which certain qualified facilities producing energy from renewable resources may be placed in service for purposes for the electricity production credit. Section 1101, amending Code Section 45(d).

In addition, HR 1 allows certain qualified facilities (including certain qualified facilities producing energy from renewable resources) to be treated as energy property eligible for a 30% investment tax credit in lieu of a production tax credit. Section 1102, amending Code Section 48(a).

HR 1 also repeals the dollar cap on how much tax credit businesses are allowed to claim for qualified small wind energy properties. Section 1103, amending Code Section 48(c).

Prior to HR 1, property financed by subsidized energy financing or with proceeds from private activity bonds was subject to a reduction in basis for purposes of claiming the credit. The basis reduction is proportional to the share of the basis of the property that is financed by the subsidized financing or proceeds. The term “subsidized energy financing” means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.

HR 1 repeals the investment tax credit limitation for certain properties that qualify for an investment tax credit which are also financed with certain subsidized energy financing. Section 1103, amending Code Section 48(c).

Effective date: Section 1101, property placed in service after the date of enactment.

Section 1102, facilities placed in service after December 31, 2008.

Section 1103, periods after the date of enactment, under rules similar to the rules of Code Section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Elimination of Double Dipping Restrictions for Property Financed by Subsidized Energy Financing. Prior to HR 1, under Code Section 25D(e)(9) (which is cross-referenced in other sections (e.g., Code Section 25C(e)(1))), for purposes of determining the amount of expenditures made by any individual with respect to qualifying for tax credits, there shall not be taken into account expenditures which are made from subsidized energy financing. The term “subsidized energy financing” means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.

In HR 1, Code Section 25D(e)(9) has been deleted from the Code thereby permitting expenditures made from subsidized energy financing to qualify for tax credits. Section 1103(b).

Energy-efficient Improvements to Existing Homes Credit. Under current law, individuals are allowed a tax credit equal to 10% of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during the taxable year. This tax credit is capped at \$50 for any advanced main air circulating fan, \$150 for any qualified natural gas, propane, oil furnace or hot water boiler, and \$300 for any item of energy-efficient building property.

HR 1 amends and extends the tax credits for improvements to energy-efficient existing homes through 2010. HR 1 increases the amount of the tax credit to 30% of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements during the taxable year and

eliminates the property-by-property dollar caps on this tax credit and provides an aggregate \$1,500.00 cap on all property qualifying for the credit. Section 1121, amending Code Section 25C.

Effective date: Taxable years beginning after December 31, 2008, however, the modified efficiency standards for electric heat pumps, central air conditioners, water heaters, oil furnaces and hot water boilers, and exterior windows, doors and skylights shall apply to property placed in service after the date of enactment.

Effective date: Taxable years beginning after December 31, 2008.

Grants in Lieu of Tax Credits for Specified Energy Property. HR 1 allows the Secretary of Energy to make grants to persons placing certain specified energy property defined in Code Sections 45 and 48 in service in 2009 and 2010 in an amount equal to 30% of the basis in such property. Any such grant is in lieu of other tax credits under those Code sections. The amount of a grant may be limited to less than the full percentage. The Secretary is not allowed to make any grant to any Federal, State or local government (or any political subdivision, agency or instrumentality thereof) or any 501(c)(3) organizations. Section 1721.

Renewable Energy Investment Credit. Under current law, this investment tax credit must be reduced if the property qualifying for the investment tax credit is also financed with industrial development bonds or through any other Federal, State, or local subsidized financing program.

HR 1 repeals the subsidized energy financing limitation on the investment tax credit in order to allow businesses and individuals to qualify for the full amount of the investment tax credit even if such property is financed with industrial development bonds or through any other subsidized energy financing. Section 1103(b), amending Code Section 48(a)(4).

Effective date: Taxable years beginning after December 31, 2008.

Renewable Energy Production Credit. Subject to certain phaseouts and reductions, 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, small irrigation power, municipal solid waste, qualified hydropower production, and marine and hydrokinetic renewable energy. 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. The credit is reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits.

The reduction of the renewable electricity production credits for grants, tax-exempt bonds, subsidized energy financing and other credits appears unchanged under HR 1.

Residential Energy Property Credit. Current law provides a credit of 30% for residential solar electric, solar water heating, small wind energy and geothermal heat pump property expenditures through 2016. The law also provides a 30% credit for the purchase of qualified fuel cell power plants, limited to \$500 for each 0.5 kilowatt of capacity. The solar thermal and geothermal heat

pump credits are capped at \$2,000, while residential wind property is capped at \$4,000. These credits can be used to offset AMT.

HR 1 lifts the caps on residential solar electric, solar water heating, small wind energy and geothermal heat pump property expenditures, but maintains the limit of \$500 per 0.5 kilowatt for fuel cell power plants (with special expenditure limits of \$1,667 for joint occupancy residences). Section 1122, amending Code Section 25D.

HR 1 strikes the restrictions on subsidized energy financing found in Code Section 25D(e)(9). Section 1103(b).

Effective date: Taxable years beginning after December 31, 2008. This credit applies to property placed in service prior to January 1, 2017.