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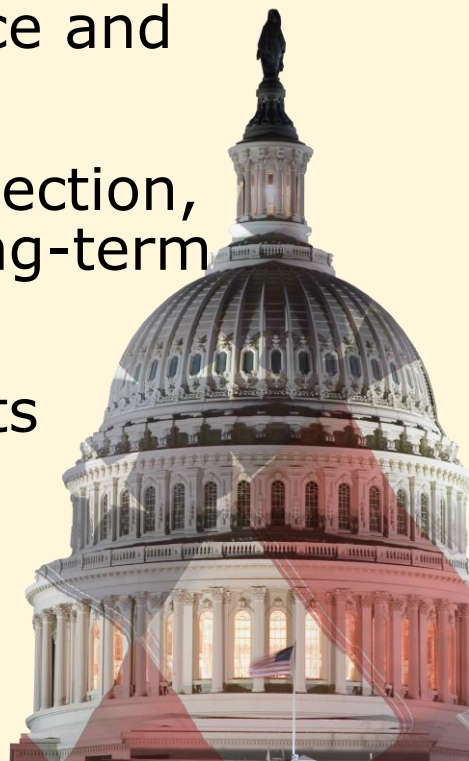
Follow The Money: Opportunities for Lawyers in Implementation of the Economic Recovery Plan

March 2009

The American Recovery and Reinvestment Act - The Purpose

- Preserve and create jobs and promote economic recovery
- Assist those most impacted by the recession
- Provide investments to increase economic efficiency by spurring technological advances in science and health
- Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits
- Stabilize State and local government budgets



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The American Recovery and Reinvestment Act - General Provisions

- Infrastructure projects that can be started and completed quickly and maximize job creation will receive preference
- Federal prevailing wage provisions (Davis-Bacon) apply
- Projects receiving funding must comply with the National Environmental Policy Act
- Funds can not be used for casinos, swimming pools, zoos or golf courses
- Buy America Provisions apply, however agencies can waive under special circumstances



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The American Recovery and Reinvestment Act – Unprecedented Transparency & Oversight

- Central database housed at www.recovery.gov allows the public to track government expenditures under the stimulus plan
- Recovery Act Transparency and Accountability Board to monitor for wasteful spending and issue periodic reports to the public
  - Earl Devaney, former inspector general at the Department of the Interior, will serve as Chairman



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The American Recovery and Reinvestment Act

- The spending and tax cuts in the American Recovery and Reinvestment Act total **$789 billion**, including:
  - $463 billion in spending for transportation, infrastructure, health care programs, education assistance, housing assistance and energy efficiency upgrades
  - $326 billion in personal and business tax breaks and tax provisions affecting payments to the states



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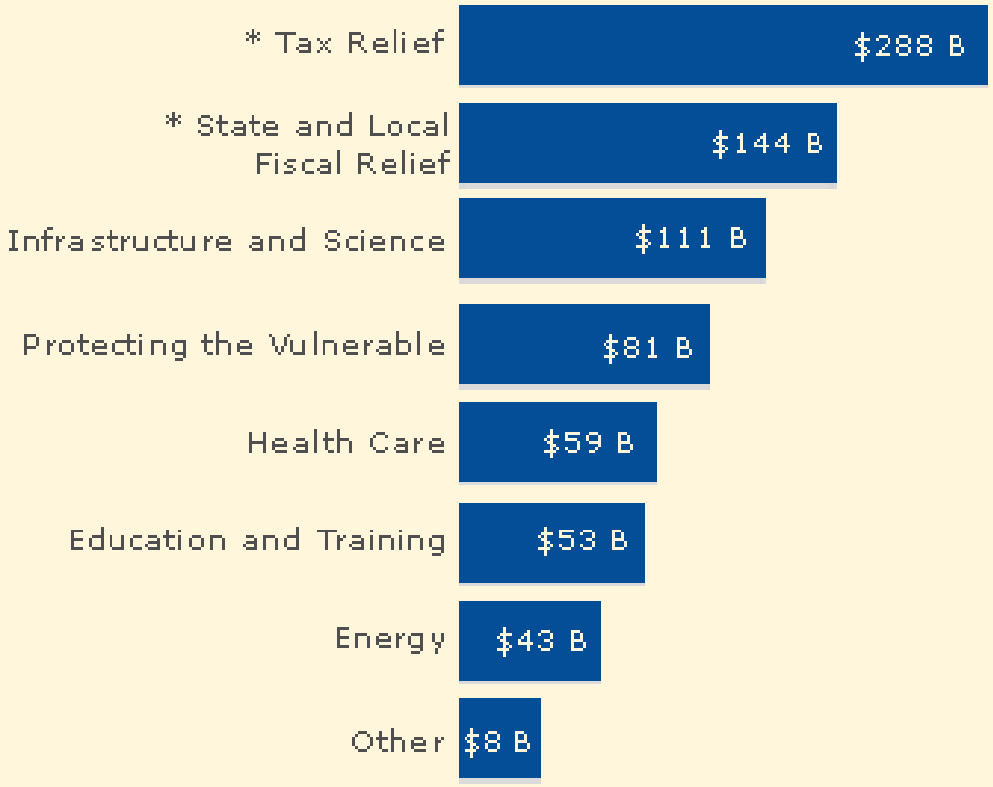
The American Recovery and Reinvestment Act - Where Is the Money Going?

Funding Breakdown according to www.recovery.gov:





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The American Recovery and Reinvestment Act - Funding Pathways

- **Formula Grants**
  - Funds -→ agencies to flow to States and localities through pre-established formulas (e.g. Byrne Justice Grants)
- **Competitive Grants**
  - Funds -→ agencies and agencies to issue Notice of Funding Availability (NOFA) for eligible applicants to compete (e.g. COPS)
- **Agency Discretion**
  - Funds -→ agencies and agencies to determine funding based on internal criteria and project assessment (e.g. Corps of Engineers)



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Key Funding Opportunities



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Housing and Economic Development

$13.6 billon for projects and programs

- 75% of funding is primarily formula based through set program criteria going out to states and local jurisdictions
- 25% of funding will be competitively awarded

Funding Categories:

- Public Housing Capital Fund Program - $4 billion formula; $1 billion competitive
- Assisted Housing Stability and Energy and Green Retrofit Programs - $2.25 billion
- Neighborhood Stabilization Program - $2 billion
- Home Investment Partnerships - $2.25 billion
- Community Development Block Grant - $1 billion
- Emergency Shelter Grant Program - $1.5 billion
- Economic Development Administration – $150 million



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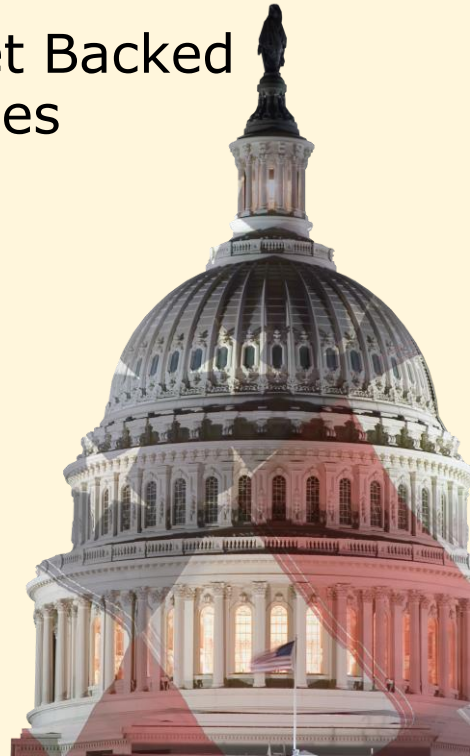
Financial Recovery TARP Related Efforts

- Treasury Department's so called Aggregator Bank concept
  - Treasury will establish several competing funds to purchase, manage and make valuations of toxic mortgage backed securities from financial institutions
- Federal Reserve may soon expand its Term Asset Backed Securities Loan Facility (TALF) to include securities backed by commercial real estate



Key Bond Provisions

- Build America Bonds (2009 and 2010 only, can elect to issue government obligation bonds as tax credit bonds or to receive a direct interest subsidy, not applicable to private activity bonds) **No dollar limit on amount of bonds.**
- Qualified School Construction Bonds $22.4 billion (new tax credit bonds for school construction, rehab or repair to be allocated among states (60%), large school districts (40%) and tribal governments ($400M))
- Qualified Zone Academy Bonds $2.8 billion (extends and increases authorization for these tax credit bonds for schools in an Enterprise Zone or Empowerment Community)
- Recovery Zone Bonds
  - Facility Bonds **$15 billion** (allocated to states based on 2008 job losses and reallocated to counties and large municipalities based on employment declines, private activity bonds for facilities)
  - Economic Development Bonds **$10 billion** (may be used to promote economic development)
- Industrial Development Bonds (enlarges definition of manufacturing to include the manufacture of intangible property)



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QUESTIONS?



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