

Topic	House Bill (HR 1 As Passed House)	Senate Bill (S 336 As Introduced)	Conference Report
HIGHWAY/TRANSIT/FREIGHT/RAIL/PORTS			
		<ul style="list-style-type: none"> ○ \$5.5 billion reserved for discretionary grants made by the Secretary of US DOT <ul style="list-style-type: none"> - Grant minimum is \$20 million, maximum is \$500 million - Awarded to State and Local Governments - Used for highway, transit, freight and passenger rail, and port infrastructure projects - \$200 million reserved for TIFIA program and State Infrastructure Bank support 	<ul style="list-style-type: none"> ○ Discretionary Program reduced to \$1.5 billion, which remains available until September 30, 2011. <ul style="list-style-type: none"> - Grant minimum is \$20 million, maximum is \$300 million - Grant minimum can be waived by Secretary for small cities and regions - Awarded to State and Local Governments and transit agencies - Used for highway, transit, freight and passenger rail, and port infrastructure projects - Federal grant share can be up to 100% ○ Secretary to publish criteria for competition 90 days after enactment <ul style="list-style-type: none"> - Applications due 180 days after publishing - Projects selected 1 year after enactment - Priority to projects that require a contribution of federal funds and can be completed within 3 years of enactment ○ \$200 million reserved for TIFIA program and State Infrastructure Bank support
HIGHWAYS:			
Funding:	<ul style="list-style-type: none"> ○ \$30 billion Total – estimated California Share of formula funding is \$2.796 billion ○ Federal share is up to 100 percent at discretion of the recipient ○ \$29.41 billion made available for projects and activities eligible for funding under the following programs: <ul style="list-style-type: none"> - Surface Transportation Program {23 USC 133} - Bridge {except for discretionary program} {23 USC 144} - Interstate and National Highway System {23 USC 103} - Interstate Maintenance {23 	<ul style="list-style-type: none"> ○ \$27.006 billion Total – estimated California share of formula funding is \$2.554 billion ○ Federal share for the formula funds is up to 100 percent at the discretion of the recipient, but discretionary grants must be 100 percent of project cost ○ \$26.356 billion made available for projects eligible for funding under the Surface Transportation Program and Congestion Mitigation and Air Quality Program. Funds may also be used for: <ul style="list-style-type: none"> - Stormwater - Passenger and Freight Rail - Port Infrastructure 	<ul style="list-style-type: none"> ○ \$27.5 billion total - estimate \$2.57 billion for California before suballocation ○ Discretionary Set Asides: <ul style="list-style-type: none"> - \$ 60 million for ferries - \$310 million for Indian Reservation Roads - \$170 million for Park Roads and Parkways - \$ 60 million for Forest Highways - \$ 10 million for Refuge Roads - \$150 million for distribution to US Territories - \$ 20 million for technology training - \$ 20 million for DBE bonding assistance - \$ 40 million for FHWA administrative expenses. ○ Funds remain available until September 30, 2010 ○ \$26.66 billion made available for projects eligible for funding under the Surface Transportation. Funds may also be used for:

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	<ul style="list-style-type: none"> USC119} <ul style="list-style-type: none"> - Metropolitan Planning {23 USC 134} - Highway Safety Improvement Program {23 USC 148} - Congestion Mitigation and Air Quality Program {23 USC 149} o \$300 million for Indian Reservation Roads {23 USC 204} o \$250 million for park roads and parkways {23 USC 204} o \$20 million for highway surface and transportation training {23 USC 140(b)} o \$20 million for Disadvantaged Business Enterprises Bonding Assistance {49 USC 332(e)} 	<ul style="list-style-type: none"> o \$60 million for ferries (discretionary program) o \$320 million for Indian Reservation Roads o \$100 million for Park Roads and Parkways o \$70 million for Forest Highways o \$10 million for Refuge Roads o Balance of funds reserved for distribution to US Territories and FHWA administrative expenses. 	<ul style="list-style-type: none"> - Passenger and Freight Rail - Port Infrastructure o Formula funds apportioned to states as follows: <ul style="list-style-type: none"> - 50% according to STP State distribution formula (population, road miles, vmt) - 50% according to FFY 2008 Obligation Limitation o Funds will be apportioned to states within 21 days of enactment o Priority given to projects that can be completed in 3 years and are located in economically distressed areas as defined under the Public Works and Economic Development Act of 1965 o Federal share for the formula funds is up to 100 percent at the discretion of the recipient o Fund set aside requirement for planning purposes in the Lake Tahoe Region does not apply o Cannot use funds for Advance Construction o SAFETEA LU DBE Requirements apply [Section 1101(B) of Public Law 109-59]
Allocation and Suballocation:	<ul style="list-style-type: none"> o Funds allocated to states based on share of FFY 2007/2008 appropriations formula. o 45 percent of the funds are suballocated in each State according to 23 USC 133(d), the Surface Transportation Program population distribution, including the 10 percent Transportation Enhancement set aside. o 55% of the funds are distributed to the State. 	<ul style="list-style-type: none"> o Funds allocated to states based on the state distribution formula for the Surface Transportation Program (based on highway miles, vmt, and population) o 5 percent of the funds are reserved for CMAQ eligible projects that are in areas meeting CMAQ criteria, the bill does not specify that the funds be distributed according to the CMAQ allocation formulas o 40 percent of the funds are suballocated in each state according to 23 USC 133 (d)(3) and (d)(4), the Surface Transportation Program population formulas, there is no set aside for Transportation Enhancements o 60 percent of the funds distributed to the State 	<ul style="list-style-type: none"> o 3 percent of the funds apportioned to each state are set aside for the purposes of the Transportation Enhancement Program o 30 percent of the funds are suballocated within each state under the population formulas of the STP program (23 USC 133(d)(3)(A), (B),and (C)).
Use It Or Lose It:	<ul style="list-style-type: none"> o If less than 50 percent of the funds are obligated within 90 days of distribution, the remainder of the 50% are redistributed to other states that have met the 50% commitment. o For funds suballocated under 23 USC 133(d) the 50% deadline is triggered in 75 days, at which time the funds will revert to 	<ul style="list-style-type: none"> o If less than 50 percent of the funds are obligated within 180 days of apportionment, the remainder are redistributed to other states o Funds suballocated under the Surface Transportation Program are exempt from the first 50 percent requirement -- it is subject to interpretation as to whether this 	<ul style="list-style-type: none"> o States have 120 days after apportionment to obligate 50% of the funds awarded (except for suballocated funds) or the unobligated balance is redistributed to other states o 1 year after apportionment, the remaining unobligated balances are redistributed, except for suballocated funds o Secretary can grant a waiver for 1 year if he determines that there is cause o Net result – use it or lose it applies to State only

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	<ul style="list-style-type: none"> ○ the state for allocation at its discretion. ○ Any funds not used by August 1, 2010 shall be redistributed to States that have committed all of their funds 	<ul style="list-style-type: none"> ○ provision also applies to the CMAQ set aside ○ After 1 year from the date of apportionment, any unused funds are withdrawn and redistributed through the discretionary grant program described above 	
TRANSIT:			
Funding:	<ul style="list-style-type: none"> ○ \$12 Billion Total – California share has yet to be determined (it was \$932 million of the formula funds prior to the addition of the \$3 billion during floor debate) ○ Transit Capital Assistance \$6.0 billion <ul style="list-style-type: none"> – \$6.75 billion for grants under 5307 program and apportioned under formulas in 49 USC 5336 <ul style="list-style-type: none"> • Recovery funds cannot be commingled with 5336 funds. – \$750 million for grants under the 5311 program <ul style="list-style-type: none"> • Funds cannot be comingled with existing 5311 funds. • 3 % or \$18 million of the funds set aside for Public Transit on Indian Reservations. – The federal share is up to 100 percent at the discretion of the recipient. – 10 percent Disadvantaged Business Enterprise requirement – FTA can reserve .75% for administration and oversight of the 5336 and .5% for 5311 funds. ○ Fixed Guideway Infrastructure Investment: \$2.5 billion <ul style="list-style-type: none"> – For capital expenditures under 49 USC 5309 (b)(2) Fixed Guideway Modernization – Apportioned using formulas in 49 	<ul style="list-style-type: none"> ○ \$8.4 Billion Total – California share yet to be determined ○ \$200 million set aside for discretionary grants for transit capital investments that reduce energy consumption or greenhouse gases ○ Transit Capital Assistance Formula Distribution: \$8.2 billion (note: the following distributions are estimates): <ul style="list-style-type: none"> – \$5.822 billion apportioned to states using the 5307 program distribution formula – \$1.596 billion apportioned to states using the Growing States distribution formula – \$840 million apportioned to states using the 5311 program distribution formula – \$16.4 million or 2 percent of the 5311 distribution is set aside for Indian Reservation Roads – The federal share is up to 100 percent at the discretion of the recipient. – Disadvantaged Business Enterprise requirement ○ Buy America requirement 	<ul style="list-style-type: none"> ○ \$8.4 Billion Total (The following amounts are estimates) ○ investments that reduce energy consumption or greenhouse gases ○ \$6.9 billion -- Transit Capital Assistance Formula Distribution: <ul style="list-style-type: none"> – \$100 million set aside for discretionary grants for transit capital – \$5.40 billion apportioned to states using the 5307 program distribution formula – \$675 million apportioned to states using the Growing States distribution formula – \$677 million apportioned to states using the 5311 program distribution formula – \$16.9 million or 2 percent of the 5311 distribution is set aside for Indian Reservation Roads – Balance of funds reserved for FTA Administration ○ \$750 million -- Fixed Guideway Infrastructure (49 USC 53090(b)(2)) <ul style="list-style-type: none"> – Apportioned within 21 days of enactment – \$7.5 million set aside for FTA Administration ○ \$750 million – Capital Investment Grants <ul style="list-style-type: none"> – Discretionary grants under the New Starts and Small Starts programs – Priority to projects that are either <ul style="list-style-type: none"> • Under construction, or • Able to obligate funds within 150 days of enactment ○ Disadvantaged Business Enterprise requirements of SAFETEA LU apply ○ Buy America requirement ○ The federal share is up to 100 percent at the discretion of the recipient.

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	<p>USC 5337</p> <ul style="list-style-type: none"> - Funds cannot be comingled with funds available under Formula and Bus Grants account. - The federal share is up to 100 percent at the discretion of the recipient. - Use It Or Lose It Deadline for first 50% is 120 days after apportionment otherwise see Grant Provisions below. - 10 percent Disadvantaged Business Enterprise requirement - FTA can reserve 1 % for administration and oversight o Capital Investment Grants \$1.0 billion <ul style="list-style-type: none"> - For Major Capital Investment Grants under discretionary allocation. - Priority given to projects that can award within 90 days of enactment - Use It Or Lose It Deadline for first 50% is 120 days after apportionment otherwise see Grant Provisions below. - FTA can reserve 1 % for administration and oversight 		
Use It Or Lose It:	<ul style="list-style-type: none"> o Use It Or Lose It Deadline for first 50% is to obligate 90 days after apportionment o Second 50 percent of the funds <ul style="list-style-type: none"> - Must award contract within two-years of enactment or 21 months of grant award, whichever is later o Funds not awarded within the timeframe above are redistributed to other eligible recipients o Uncommitted funds redistributed by appropriate federal department or agency 	<ul style="list-style-type: none"> o If less than 50 percent of the funds are obligated within 180 days of apportionment, the remainder are redistributed to other states o After 1 year from the date of apportionment, any unused funds are withdrawn and redistributed through the discretionary grant program described in the Highway section of the bill 	<ul style="list-style-type: none"> o If less than 50 percent of the funds are obligated within 180 days of apportionment, the remainder are redistributed to other states o After 1 year from the date of apportionment, any unused funds are withdrawn and redistributed through the discretionary grant program described in the Highway section of the bill

RAIL:

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<p>Funding:</p>	<ul style="list-style-type: none"> ○ Capital Assistance for Intercity Passenger Rail: \$300 million <ul style="list-style-type: none"> - US DOT Secretary to give preference for projects that: <ul style="list-style-type: none"> • Can be awarded within 180 days, • Are FRA compliant for rolling stock and locomotive acquisitions, • Support the development of high speed rail service. - The federal share is up to 100 percent at the discretion of the recipient. ○ AMTRAK: \$800 million <ul style="list-style-type: none"> - Priority given to repair, rehabilitation, and upgrade of railroad assets and infrastructure - Funds cannot be used to subsidize operating losses. - Funds must be awarded within 7 days of enactment. 	<ul style="list-style-type: none"> ○ Capital Assistance for Intercity Passenger Rail: \$250 million <ul style="list-style-type: none"> - US DOT Secretary to give preference for projects that: <ul style="list-style-type: none"> • Can be completed within 2 years, • Improve safety and reliability - The federal share shall be 100 percent of the project cost - Prevailing wage requirements apply - Projects must be included in a Statewide Transportation Improvement Plan ○ AMTRAK: \$850 million <ul style="list-style-type: none"> - Not more than 50 percent may be allocated to the Northeast Corridor - Priority to capacity expansion - Projects shall be completed within 2 years ○ High Speed Rail: \$200 million <ul style="list-style-type: none"> - Federal share shall be 100 percent of project cost - Funds remain available until September 30, 2011 ○ Buy America requirements apply to all sections of this part of the Title 	<ul style="list-style-type: none"> ○ \$9.3 billion total ○ \$8 billion for Capital Assistance for High Speed Rail Corridors and Intercity Rail – funds remain available until September 30, 2014 <ul style="list-style-type: none"> - Priority to intercity high speed rail projects - US DOT Secretary has 60 days after enactment to present strategic plan to Congress for use of the funds to deploy high speed passenger rail system - Secretary has 120 days after enactment to issue guidance on grant competition - State Rail Plan requirement is waived - Federal share at option of recipient up to 100 percent - Wage rate laws apply - Buy America requirements apply ○ \$1.3 billion for AMTRAK <ul style="list-style-type: none"> - Funds remain available until September 30, 2010 - \$450 million set aside for capital security grants - \$845 million set aside for repair, rehabilitation and upgrade - Awarded within 30 days of enactment - Projects completed within 2 years of enactment - No more than 60 percent of the non-security funds may be used in the Northeast Corridor - \$5 million reserved for the AMTRAK Inspector General
<p>Use It Or Lose It:</p>	<ul style="list-style-type: none"> ○ First 50 percent Intercity Passenger Rail funds <ul style="list-style-type: none"> - Must award contract within one-year of enactment or 9 months of grant award whichever is later ○ Second 50 percent of the funds <ul style="list-style-type: none"> - Must award contract within two-years of enactment or 21 months of grant award, whichever is later ○ Funds not awarded within the timeframe above are redistributed to other eligible recipients 	<ul style="list-style-type: none"> ○ Silent on use it or lose it. 	

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	<ul style="list-style-type: none"> ○ Uncommitted funds redistributed by appropriate federal department or agency. 		
AVIATION:			
Funding:	<ul style="list-style-type: none"> ○ For Grants In Aid to Airports \$3 Billion <ul style="list-style-type: none"> – Subject to Grant Program provisions described below, 	<ul style="list-style-type: none"> ○ \$1.3 Billion total ○ \$200 million for FAA infrastructure ○ \$1.1 billion for discretionary grants to airports ○ Priority to projects that can be completed in 2 years ○ Federal share is 100 percent ○ Prevailing wage rate law applies 	<ul style="list-style-type: none"> ○ \$1.3 Billion total ○ \$200 million for FAA infrastructure distributed as competitive grants ○ \$1.1 billion for discretionary grants to airports under the Grants in Aid program. ○ Priority to projects that can be completed in 2 years ○ Federal share is 100 percent ○ Prevailing wage rate law applies
Use It Or Lose:	<ul style="list-style-type: none"> ○ First 50 percent of the funds <ul style="list-style-type: none"> – Use It or Lose It provisions require grantees to award contracts for not less than 50 percent of the funds within 120 days after award of grant ○ Second 50 percent of the funds <ul style="list-style-type: none"> – Must award contract within two-years of enactment or 21 months of grant award, whichever is later ○ Funds not awarded within the timeframe above are redistributed to other eligible recipients ○ Uncommitted funds redistributed by appropriate federal department or agency. 	<ul style="list-style-type: none"> ○ Silent on Use it or Lose it. 	<ul style="list-style-type: none"> ○ No use it or lose it clause.
TRANSPARENCY/ MAINTENANCE OF EFFORT/BUY AMERICAN			
	<ul style="list-style-type: none"> ○ Federal Agencies are required to post their plans for using their funds and announcements for grant competitions, allocations of formula grants, and awards of competitive grants on the Recovery.gov website. (1201) ○ State and Local Agency Requirements (1201) <ul style="list-style-type: none"> – Agencies are required to post notices of obligation of funds on Recovery.gov website. <ul style="list-style-type: none"> · Includes a certification that the investment has received the full review and vetting 	<ul style="list-style-type: none"> ○ \$7.75 million to the Inspector General for audits and investigation in regard to the transportation provisions of the bill. ○ In general "Buy America" applies throughout the act ○ Governor or responsible chief executive required to certify that investment is an appropriate use of tax dollars ○ Includes "whistle blower" protections ○ Creates an independent board with oversight and coordination responsibility for audits and fraud and waste prevention ○ Creates an advisory panel to advise on fraud, waste and abuse. 	<ul style="list-style-type: none"> ○ \$20 million to the Inspector General for audits and investigation in regard to the transportation provisions of the bill. ○ Recipients are required to report the following: <ul style="list-style-type: none"> – Amount of funds allocated, obligated, and outlayed – Number of projects put bid, awarded and completed along with the amount of funds associated with them – Number of direct on-project jobs created or sustained by the federal funds provided and if possible, indirect jobs created or sustained in supplying agencies including total increase in employment since the date enactment – Actual aggregate expenditures for projects eligible under the program as compared to planned expenditures for the period from enactment to September 30, 2010 – Reports due 90 days, 180 days, 1 year, 2 years, and 3 years

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	<p>required by law. Certification is signed by the Governor, mayor, or other chief executive officer as appropriate.</p> <ul style="list-style-type: none"> - Contracts will also be posted on the website with proprietary data redacted. o To the maximum extent possible, contracts will be awarded as fixed price contracts (1205) o Establishes an Accountability and Transparency Board (1221, 1222, 1223) <ul style="list-style-type: none"> - Seven members - Purpose is prevent fraud, waste and abuse - Oversight of compliance with reporting, competition, and other requirements of the Act. o Includes "whistle blower" protections 		<p>after enactment</p> <ul style="list-style-type: none"> - Grant recipients may ask FHWA, FTA, FRA and MARAD to prepare the reports on their behalf o Language in General provisions requires similar information on a quarterly basis within 10 days of the end of each quarter. o Creates an independent board with oversight and coordination responsibility for audits and fraud and waste prevention o Creates an advisory panel to advise on fraud, waste and abuse. Includes "whistle blower" protections o
Maintenance of Effort:	<ul style="list-style-type: none"> o Requires certification by the Governor that grant funds will not supplant existing funds. Funds may be rescinded under specified circumstances. 	<ul style="list-style-type: none"> o Silent on maintenance of effort 	<ul style="list-style-type: none"> o Governor has 30 days after enactment to certify that: <ul style="list-style-type: none"> - The State will maintain its effort in regard to State funding for the types of projects that are funded by the appropriation - Must submit a statement the amount of funds the State planner to expend on the types of projects from the date of enactment through September 30, 2010 - If the State fails to maintain its effort it cannot receive redistributions under the August Redistribution for FFY 2011 o Governor, mayor or appropriate Chief Executive is required to certify that the investment is appropriate and lawful
Buy America and Davis Bacon			<ul style="list-style-type: none"> o Requires that all iron, steel and manufactured goods be produced in the US o Allows for waivers as follows: <ul style="list-style-type: none"> - It is in the public interest - Items are not produced in US in sufficient or reasonably available quantities and quality - Inclusion of domestic materials would increase project cost by more than 25%

			<ul style="list-style-type: none"> – Waiver must be published in Federal Register ○ Davis Bacon prevailing wage applies
MISCELLANEOUS:			
	<ul style="list-style-type: none"> ○ Provides \$400 million to fund an alternative fuel vehicle pilot program established under the Energy Policy Act of 2005 (Title V) ○ Transportation Security Administration: \$500 million for Aviation Explosive Detection Systems at airports. (Title VII) ○ Coast Guard: \$150 million to repair or remove bridges deemed hazardous to marine navigation. (Title VII) ○ Border Ports of Entry: \$1.15 billion to construct GSA and Border land ports of entry. (Title VI and Title VII) ○ Bureau of Land Management (Title VIII) <ul style="list-style-type: none"> – \$325 million for priority road, bridge and trail repair – \$1.5 billion for national parks, an unspecified portion of which can be used for bridge and road repair. – Bureau of Indian Affairs: \$500 million, an unspecified portion of which can be used for Indian Reservation roads. – Forest Service: \$650 million, an unspecified portion of which can be used for forest roads, bridges, trails, removal of fish passage barriers and watershed improvement. 	<ul style="list-style-type: none"> ○ \$1.9 billion for Army Corps of Engineers operations and maintenance activities, which includes dredging (funds derived from the Harbor Maintenance Trust Fund) ○ \$1.2 billion to the General Services Administration for border stations ○ \$100 million to the Maritime Administration for small shipyards. 	<ul style="list-style-type: none"> ○ \$100 million to the Maritime Administration for small shipyards. ○ \$2.075 billion for Army Corps of Engineers operations and maintenance activities, which includes dredging (funds derived from the Harbor Maintenance Trust Fund)