American Recovery & Reinvestment Act of 2009
Preliminary Information for School Districts

The *American Recovery & Reinvestment Act* (ARRA) was enacted on February 17, with provisions for key investments in education that will help school districts avoid cuts in services; retain teachers and personnel; address school repairs and modernization; and, make further progress in data systems, teacher quality, and assessments for English language learners and students with disabilities. Further, the ARRA's investments in education are very timely and targeted, especially as more than forty states are facing a combined budget shortfall of approximately $350 billion.

The legislative process in developing a final economic stimulus bill yielded significant grassroots advocacy from thousands of school boards and education advocates, which conveyed both the urgent need for assistance and tremendous commitment to ensuring high-quality educational services for the 49 million public schoolchildren our school districts educate. While the economic recession has impacted a majority of states and school districts, prompting tough decisions about lay-offs, larger class sizes, four-day school weeks, increased demands for assistance to students affected by the housing/foreclosure crisis, deferrals of cost-of-living adjustments for teachers and staff, etc., the *American Recovery & Reinvestment Act* will help mitigate state and local budget cuts to education.

Overall, the economic stimulus will provide $77 billion to states and school districts for a number of priorities that are paramount to the success of our nation's students and to America's competitiveness in the global economy. Specific investments include state fiscal stabilization funding ($39.6 billion) to help avert education cuts; increased funding ($25.2 billion) for special education programs and Title I grants for disadvantaged students; increased funding ($5 billion) for early childhood programs, including Head Start, Early Head Start, Child Care Block Grants, and programs for infants with disabilities; and, $2 billion in investments for data systems, teacher quality, education technology, and aid to federally-impacted school districts. The ARRA also includes provisions that allow of portion of state fiscal stabilization funding to be used for school repairs and modernization. In addition to the $77 billion investment in education, the ARRA will provide $24.8 billion in bond authority to states and local governments for school construction and modernization through the Qualified Zone Academy Bond program and a new Qualified School Construction Bond program.

There are operational aspects of the *American Recovery & Reinvestment Act* that will still need to be developed by the U.S. Department of Education, which is responsible for administering the education-related provisions.

This paper provides you with the following:

1. Estimates of what your school district will receive as increases for key programs
2. A framework for how the economic stimulus program will operate
3. A summary of the school renovation component
4. An overview relating to two school construction bond provisions
5. An initial review of maintenance of effort and supplement not supplant provisions

As the U.S. Department of Education implements the *American Recovery & Reinvestment Act*, NSBA will provide that information to you as soon as it is available.

State and District Allocations

The Congressional Research Service (CRS) report on NSBA's website outlines the estimates of state-by-state and district-by-district allocations for Title I grants, School Improvement Grants, Education Technology grants, McKinney-Vento Homeless Assistance to students, special education grants under the *Individuals With Disabilities Education Act* (IDEA), and State Fiscal Stabilization Funding. The ARRA directs that states/school districts obligate funding for specific purposes by September 30, 2010.

Note: The allocations in the CRS report are estimated grants only based, in part, on FY2008 allocations, and are not intended to predict specific amounts states and districts will receive.

Title I Grants for Disadvantaged Students

The law provides an increase of $13 billion for Title I grants, which is the largest source of federal funding to help school districts fulfill requirements under the *No Child Left Behind Act* (NCLB). The increased funding will be an addition to Fiscal Year 2009 appropriations, which Congress is expected to finalize in the coming weeks. Of the $13 billion, $5 billion will be allocated through the Title I Targeted Grant formula; and, another $5 billion will be allocated through the Title I Education Finance Incentive Grant formula. Both formulas provide higher allocations to districts based on increasing numbers and percentages of low-income children. The remaining $3 billion under Title I will be provided to states for School Improvement Grants to help fund state and local district efforts targeted towards schools identified as "in need of improvement" under NCLB. Districts receiving these funds must report to its state education agency (SEA) a school-by-school listing of per-pupil expenditures, during the 2008-09 school year no later than Dec 1, 2009.

Special Education (IDEA)

The ARRA provides an increase of $12.2 billion for special education programs to be spent over two years (for the 2009-2010 and 2010-2011 school years). Of that amount, $11.3 billion will be made available for Part B (Section 611) grants to states and school districts for students ages 6-21; $400 million for Part B (Section 619) grants for pre-school students, ages 3-5; and $500 million for Part C grants to families with infants and toddlers, ages 0-3.

State Fiscal Stabilization Fund

How much will be available for education?

The law provides $53.6 billion to states to help avoid budget cuts to education. The Fund will be administered by the U.S. Department of Education and will be appropriated for FY 2009. Of the $53.6 billion, about $39.6 billion is dedicated for elementary, secondary, higher education and early education through formula funding to governors.

Another $5 billion is reserved for State Incentive Grants, which will be awarded by the Secretary of Education to states through competitive grants based on states' performance measures in three areas described below. The remaining $8.7 billion will be provided to governors for "other government services" including education. Other services include transportation, public safety, and social services.

Distribution of funds to states
Approximately $48 billion of the Fund (i.e. $39.6 billion for education and $8.7 billion other government services, including education) will be distributed to governors through the following formulas: 61% on the basis of their relative population of individuals ages 5 through 24; and 39% on the basis of their relative total population.

Once a state receives its allocations, the governor must divide the funds according to the following method:

- 81.8% (approximately $39.6 billion) to support of elementary, secondary, postsecondary and early childhood education programs and services;
- 18.2% (about $8.7 billion) for public safety and other government services, including education, and for modernization and repair of public school and higher education facilities at the state's discretion.

In order to receive the stabilization funds, the governor must submit an application to the U.S. Department of Education. The application must describe how the state intends to use the funds and include certain assurances and baseline data on each of these areas: maintaining state support for elementary, secondary and postsecondary education at least at the levels in FY 2006 (see wavier language under "Maintenance of Effort"); achieving equity in teacher distribution; establishing longitudinal data systems; enhancing the quality of academic standards and assessments for students with disabilities and with limited English proficiency; and, ensuring compliance with corrective action and restructuring requirements for school improvement under ESEA.

Distribution of funds to school districts
Your state must use the $39.6 billion to restore, in each of Fiscal Years 2009, 2010 and 2011, the level of state support in education to the FY2008 or FY2009 level--whichever is greater. These funds will be distributed to school districts based on the state education funding formula. After meeting this requirement, the state must use any funds remaining to provide subgrants to school districts based on the funding formula of Part A Title I of the Elementary and Secondary Education Act (ESEA – also known as NCLB).

School districts receiving stabilization funds may use the funds for general support, as well as for any activities authorized under ESEA, IDEA, the Carl D. Perkins Career and Technical Education Act of 2006, and for school modernization, renovation, and repair of public school facilities (including charter schools), which may include modernization, renovation, and repairs consistent with a recognized green building rating system.

State Incentive Grants
At the Secretary's discretion, $650 million of the $5 billion allocated for State Incentive Grants can be reserved for an **Innovation Fund** to recognize eligible entities that have made significant gains in closing achievement gaps. Eligible entities include partnerships among one or more school districts, and nonprofit organizations.

Your state can apply for the remainder of the $5 billion in State Incentive Grants by meeting one or more of four performance measures. The Secretary will determine which states receive grants and the amounts of those grants based on information provided by the states. Specifically, to receive the state incentive grants your state must show that progress has been made in the following areas: 1) improving teacher effectiveness and distributing highly-qualified teachers equitably among low- and high-poverty schools; 2) improving data collection through longitudinal data systems; 3) enhancing the quality of academic standards and assessments, including assessments for students with disabilities and limited English proficiency; 4) ensuring compliance with corrective action and restructuring sanctions for identified schools under ESEA.

Each state receiving a grant under the State Incentive Grant program must use at least 50 percent of the grant to provide school districts with subgrants based on their relative shares of funding under Part A, Title I of the ESEA for the most recent years.

The State Incentive Grants will be awarded on a competitive basis.

<u>State Reports</u>
States receiving stabilization funds must submit a report to the Secretary each year. Some of the information required for reports includes:

- The use and distribution of funds;
- Estimates for the number of jobs that were saved or created;
- Estimates of tax increases that were averted;
- State progress in reducing inequities in the distribution of highly-qualified teachers, implementing longitudinal data systems, and developing and implementing valid and reliable assessments for English language learners and students with disabilities; and,
- A description of each school modernization, renovation and repair project funded.

<u>School Infrastructure</u>
The ARRA does not include a specific program allocation for school infrastructure repairs and modernization. However, funding is available under the State Stabilization Fund for school modernization, renovation and repair. School systems have discretion to a portion of this money for school modernization, as noted above.

If school districts decide to use a portion of subgrants received through the State Stabilization Fund for the modernization, renovation and repair of school facilities, they <u>may not</u> use these funds for:

- Payment of maintenance costs;
- Stadiums or other facilities primarily used for athletic events or other events which charge for admission;
- Purchase or upgrade of vehicles; or
- Improvement of stand-alone facilities whose purpose is not to educate students such as central office administration or operations or logistical support facilities.

Qualified School Construction Bonds
The ARRA creates a new category of tax credit bonds for the construction, rehabilitation, or repair of public school facilities, or for the acquisition of land on which a public school facility will be constructed. There is a national limitation on the amount of qualified school construction bonds that may be issued by state and local governments of $22 billion ($11 billion allocated initially in 2009 and the remainder allocated in 2010). There is also a national limitation on the amount of qualified school construction bonds that may be issued by Indian tribal governments of $400 million ($200 million allocated initially in 2009 and the remainder allocated in 2010). Under this program, bond holders would receive a federal tax credit on their bonds in lieu of interest payments from the school system.

Qualified Zone Academy Bonds (QZABs)
The ARRA would increase bond allocations for the existing QZAB program, from $400 million annually to $1.4 billion for FY 2009 and $1.4 billion for FY2010. QZABs can be used to finance

school renovations, equipment purchases, developing course material, and training teachers and personnel at a qualified zone academy. In general, a qualified zone academy is any public school (or academic program within a public school) below the college level that is located in a federally designated empowerment zone or enterprise community, and is designed to cooperate with businesses to enhance the academic curriculum and increase graduation and employment rates. QZABs are a form of tax credit bonds which offer the holder a Federal tax credit instead of interest.

Maintenance of Effort

In order to receive grants from the State Stabilization Fund, states must agree to maintain their respective funding for education at FY2006 levels or greater. There is language under the State Stabilization Fund that allows state education agencies and school districts to apply to the Secretary of Education to waive or modify any requirement relating to maintaining fiscal effort. It reads as follows: "A wavier or modification under this section shall be for any of the fiscal year 2009, fiscal year 2010 or fiscal year 2011, as determined by the Secretary. The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State or local educational agency receiving such waiver or modification will not provide for elementary and secondary education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State or local educational agency than the amount provided for such purpose in the preceding fiscal year."

"(d) Maintenance of Effort – Upon prior approval from the Secretary, a state or local educational agency that receives funds under this title may treat any portion of such funds that is used for elementary, secondary, or postsecondary education as non-federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of the Individuals with Disabilities Education Act, administered by the Secretary.

"Notwithstanding (d), the level of effort required by a state or local educational agency for the following fiscal year shall not be reduced."

Maintenance of Effort (MOE) is a federal requirement that requires grant recipients and /or sub-recipients to maintain a certain level of state/local fiscal effort (i.e. FY2006 funding levels for education) to be eligible for full participation in federal grant funding. Grant recipients or sub-recipients not meeting MOE requirements face loss of a portion of their federal funds. Elementary and Secondary Education Act (ESEA), as amended by "No Child Left Behind" (NCLB) MOE requirements can be found under 20 USC 7901, Section 9521 of the Act (see actual language below). The MOE requirements are located in Part E-Uniform Provisions of Title IX-General Provisions part of the act. This means MOE covers all the ESEA programs as defined as "cover programs" under Section 9101 (13) of ESEA of the Act. Essentially, MOE requirements will apply to all funding received through the ARRA.

Supplement not Supplant (at the district level)

There is no clear language in the final bill to ease the supplement/not supplant requirements that school districts must meet currently under NCLB and IDEA. For example, school districts can only supplant (i.e. replace) an amount of local funds with federal funding by an amount no greater than 50 percent of the increase in IDEA funds in a given year. NSBA will continue to work with Congress and the Administration to provide greater flexibility that allows the additional federal funding to offset a greater level of local funding for school districts to meet the requirement of the federal law.