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Ed: Hello and welcome to "Our American States," a podcast from the National Conference of State Legislatures. This podcast is all about legislatures, the people in them, the policies, process and politics that shape them. I am your host, Ed Smith.

MR: The final Bill contains several of NCSL priorities. This includes 90% of the highway funding being provided directly to states via the Core Formula Programs. This translates to over three hundred billion that states can start planning for today.

MH: We've identified more than seven hundred billion in funding that will flow to or through states in the Bill and almost five hundred fifty billion of that is in the area of transportation. Almost three hundred fifty billion in highways. Almost a hundred billion in transit. And then more than one hundred billion in other transportation spending.

Ed: That was Molly Ramsdell, director of NCSL's State Federal Relations Division, and Marsha Howard, the executive director of Federal Funds Information for States. They are my guesst on the program. The 1.2 trillion-dollar Infrastructure in Jobs Act or IIJA was signed by President Biden in November of 2021. It directs a huge amount of money through states for roads, bridges, highways, broadband, water projects and more. Ramsdell and Howard discussed how the money is being distributed and the flexibility states have in deciding how to spend it.

The bulk of the money will go to transportation projects. But some will be distributed by formula and other money will be given out through competitive grants. We also discussed the money for broadband and explained that since Congress is still operating under a continuing resolution to fund the government, some of the money in the cct will not be available for some time. Here is our discussion.

(TM): 2:03

Ed: Marsha, Molly, welcome to the podcast.

MR: Hi Ed.

MH: Hi. Thanks for having us.

Ed: I wonder if each of you could take a minute to tell our listeners a little bit about your role and why you are in such a good position to fill us in about the Federal Infrastructure Bill and how it's going to affect states. So, Marsha, why don't you go first?

MH: Okay. Thanks so much. I work for federal funds information for states. We are a creation of and affiliated with NCSL and have been since our founding. And what we do is we track federal funds that flow to states focusing primarily on formula funds. We maintain a grant's database of all of those funds over several years with a lot of background information about them. But we've also developed a dedicated IIJA database which pertains to the infrastructure law. It summarizes the state funding that is in the bill and how it works and the match requirements and eligibilities and so forth. And then we have written a bunch of briefs summarizing all of the major program areas funded in the bill, how those grants work and the rules around them.

(TM): 3:09

Ed: Molly, how about your role at NCSL?

MR: Sure. Thanks again Ed. I'm director of NCSL's State Federal Regulations Division so I'm part of a team that serves as the voice of state legislatures in Washington, D.C. So that is with Congress and the Administration. And we do that on everything from agriculture to wastewater. And we can do this by working with our members to develop positions on state federal issues, but we can only advocate on a position when it's approved by three quarters of the states, and I'll save the details on NCSL's policy process for another discussion. And before you ask, Ed, the answer is yes. Infrastructure has been and continues to be a top priority for state legislatures.

Ed: Molly, let me stay with you for just a minute. Now, I know this bill is a combination of reauthorized spending and new money which might have been a little misleading when the headlines first came out and the top dollar amount was listed. So, I wonder if you could break that down for us and a little bit about whether you think states were successful in influencing how the bill was structured and written?

MR: Sure. Happy to break it down. The new infrastructure law provides about $1 trillion for our nation's infrastructure. And this includes funding from drinking water, wastewater, energy, broadband, surface transportation and other items. As you said, this isn't all new funding. The bill includes a reauthorization of some existing programs including the Service Transportation Bill, which was last reauthorized I believe in 2015. That was the Fast Act. And it also includes approximately $550 billion over five years in new spending across both new and existing programs. And while some of the $550 billion states can access now, not all is available due to the time it takes the federal government to stand up a new program. And the fact that the federal government is operating under a continuing resolution.

As for the second part of your question, were states successful in influencing the bill – absolutely. The final bill contains several of NCSL priorities. This includes 90% of the highway funding being provided directly to states via the core formula programs. This translates to over $300 billion that states can start planning for today. NCSL also supported increases in funding for clean and safe drinking water and large investments in the nation's electric grid, cyber-security and broadband.

There are new grant programs for both cyber-security and broadband and NCSL currently is working closely with the administration on the development of these new programs and the guidance that will come out for states to implement. I'm also going to emphasize that the bill was strongly bipartisan, which is always important to NCSL.

Ed: So, Marcia, as I understand it, transportation spending is the biggest piece here. But, I wonder if you can explain how that money is distributed. There is a difference. guess, between formula appropriations and competitive ones. And I wonder if you can talk about how that affects states.

(TM): 6:26

MH: So, your premise is correct that transportation does get most of the money in this Bill. We've identified more than $700 billion in funding that will flow to or through states in the bill. And almost $550 billion of that is in the area of transportation. Almost $300 billion in highways. Almost $100 billion in transit and then more than a $100 billion in other transportation spending. So, a lot of the money is in transportation. And in addition to the existing programs that got big increases in funding, the law created scores of new programs. We tallied four new formula grant programs in transportation and at least 30 new competitive programs in DOT alone. As is true with federal grants generally, sort of across the spectrum, there are more competitive grants than there are formula grants. Competitive grants tend to be smaller grants and they account for many fewer dollars than the large formula programs. So, what does this mean for states? With formula programs, the funds flow to states automatically based on formula. So, states have some assurances of how much they are going to get and then the states put together their plans and choose how they are going to deploy those funds within the broad parameters of the program.

For competitive programs, they tend to be much more narrowly targeted, and the federal agency evaluates applications for whatever states apply. And then they choose the winners, and they decide how much and to whom they will award funds. And then finally, a final point to which Molly alluded and that we will get to in a little more detail in a minute, I think, is that because of the continuing resolution that is currently finding the federal government, states are limited in how much of the new funding they have access to because of the continuing resolution. So, some of those funds are currently inaccessible.

Ed: Now, Molly, given that transportation is such a big piece, can you talk a little bit about that in terms of roads, bridges, electric vehicle charging, that kind of thing? A little more specific about what kind of categories are there.

MR: Marica touched on a little bit of this. In total, the bill includes $500 billion for surface transportation so that's highways, roads, bridges, public transit and rail. And that's a $110 billion increase over baseline funding. And again while most, as Marcia mentioned and I mentioned before so we don't, we are going to repeat it again. While most of the increase to the federal aid highway program are not available yet due to the continuing resolution, the new bridge and electric vehicle charging programs did receive advance appropriations. So, those programs are ready to be implemented.

On the new bridge program, states will receive approximately $27 billion in formula funding. That can cover up to 80% of the cost of repairing or replacing a bridge. If the bridge is off the national highway system such as a local bridge, the federal funds can cover 100% of the cost. As for the EV electric vehicle charging program, actually a 31-one-page guidance document was released earlier this month that clarifies eligible uses, and the steps states must take to access the funds. States will split about $5 billion dollars to increase the number of publicly available electric vehicle chargers. States will choose where they want to build the charging stations with some limitations and can work with the provide sector on installation and operations.

Ed: We've alluded to this continuing resolution, and I think that many of our listeners are aware of what that is. But, I think, a lot of people we find it sort of astounding that Congress approves a bill and says all this money is going to go out there. But the money is not actually there yet. I wonder if you could talk a little bit about this, Marcia, and talk about how this will affect the ability of states to actually sign contracts and get their work underway?

(TM): 10:48

MH: So yes. The CR continuing resolution does limit spending. And the way a CR works, in general, is that it allows spending at last year's levels. So here we are in fiscal year 2022 and states are limited to fiscal year 2021 in what they can spend. So existing transportation programs that received an increase in contract authority and that's kind of a highway specific lingo which really is a spending authorization. These programs that received contract authority increases in the infrastructure law can't get to that increase because they are limited to last year's amount. And then there are new programs that were also funded through contract authority, but they can't access that money at all because those programs didn't exist in 2021 so there's no pre-existing money, you know, to tie to.

So, our estimate is that about 24% of highway funding in the bill and about 30% of transit funding is currently inaccessible under the terms of the continuing resolution. Now, it's not all bad news because some programs received advanced appropriations in the IIJA or they got a mix of some appropriated funds and some through contract authority. But to the extent that they got advance appropriation, those funds are available in states and the federal government is starting to employ those and states are beginning to use them.

The final point I want to make about a continuing resolution is that apart from not being able to access the new money, continuing resolutions make it really difficult for states to run transportation programs because these are big dollar items that require multi-year contracts. And as long as states are only getting what are called part year apportionments, you know, right now through Feb. 18 and probably next week that will be extended into March. States are only getting a portion of their funds and so it makes it more difficult for them to plan for these programs and to get the contracts in place that will allow them to use the funds effectively.

Ed: Thanks Marcia. We are going to take a quick break and then come back with the rest of our discussion.

(TM): 13:08

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Ed: One of the big headlines coming out of this bill had to do with the broadband funding, broadband intended to target underserved areas, and particularly places in rural America. How do states get access to that money and when do they get that money. Are they going to have to wait a couple of years? Molly, do you want to take a shot at that first? But, I'd like to hear from both of you.

MR: You are correct. The bill provided $65 billion in new federal funding for programs dedicated to the deployment of broadband infrastructure. The most significant program is the broadband equity access and deployment program. And I say significant because it's $42.5 billion in funding that's going to be distributed to states through a new formula-based grant program. The states in turn will then competitively award grants to support broadband infrastructure mapping and deployment. I will mention there is a 25% matching requirement that either the state or a sub-grant team must provide. In general, the match must come from non-federal funds although NTIA can waive the matching requirements in high-cost areas.

In addition, which was really good news, funds that states received from federal Covid relief packages that have previously been appropriated, some of those funds can be used for the matching requirement as well. When we look at the program itself, the application process, when you say, Ed, you know when will the funds be available? It's very fluid still at this point. While we would be looking for updated guidance from the National Telecommunications and Information Administration in the coming months, here is what we currently do know. NTIA is going to need to issue a notice of funding opportunity for the program within six months of the law's enactment, which would fall around May 15. For the funding itself, each state will receive a minimum allocation of $100 million dollars, and you know we like to say no questions asked, no application needed. And there is also $4.25 billion allocated specifically for those high-cost areas and the remaining $32 billion is for underserved areas in states. And this will be determined how they determine the underserved areas. There are going to be several different formulas that are examined. The program does require a lot of coordination by the state with local and regional entities.

Ed: Marcia, I wonder if you have other thoughts on that and how that funding breaks down?

(TM): 16:29

MH: Sure. While that program at $42.5 billion dollars is much larger than anything else in the bill, there are in fact three other new programs for broadband that are funded in it. And then some existing programs that also receive some significant funding at least compared to their baselines in the bill. So to touch on those briefly, one is called broadband equity and it's. I'm sorry … that's the one Molly just talked about. That's the big one. Then there is state digital equity and that's to promote digital equity an inclusion in getting broadband to users. And it has two components. One is a formula component that is funding at $1.5 billion dollars over five years by formula. It's a multi-factor formula that they use to allocate those funds including a small statement among what is called a supplement, not supplant provision, which means states can't use it to replace funding they may already be using, but they have to supplement that funding. And states are required to submit state plans to get access to that funding. And then there's a competitive component as well for the state digital equity grants which has broader availability. It includes states, but it also includes nonprofits, locals, libraries, things like that. And one of the provisions is that you can't have gotten money from the formula program if you are applying for the competitive program. So that is funded at $1.25 billion over five years. It does have a state match requirement or a match requirement , it might not be a state. It can be waived. It has the same supplement, not supplant provision. Applications will be evaluated based on how much the applicant is increasing broadband access among covered populations, how geographically diverse an area they propose to serve and whether they avoid duplication of other programs. That is one. There are a couple more that I just want to touch on. One is called middle mile grants. They are a $1 billion over five years. They are competitive. They expand and extend the capabilities, but they don't go to the end user, so they take it close to, but not to the end users. States and locals, companies, nonprofits are eligible for these. Again, they try to target unserved communities and they have a 70% maximum federal share on those grants.

And then two existing programs. One is the FCC's emergency broadband connectivity program received $14.2 billion of another large beast of money available until it is expended. And then the Department of Agriculture's Rural E-Connect program, which is called Reconnect, an existing program receives almost $2 billions. So, lots of money for broadband and understandable an area of keen interest among states because it is kind of a new area for everybody.

(TM): 19:34

Ed: Marcia, let me stick with you for a minute to talk about clean water projects. I understand that state revolving loan funds play a big role in this funding. Can you explain how those work and how the funding differs from the past and a little bit about what the clean water projects are? I know part of it is, I think, service lines and that sort of thing, but fill us in on the broader picture.

MH: So, the clean water programs have been funded since the, you know, first clean water and clean air acts in the '70s. So, they date back to then. And this bill not only increases funding for the two mainstreams that flow to state, no pun intended, but they also create some new service areas and new grants within those structures. There is about $55 billion over five years that is provided for water for the EPA to manage. So, the two main sources of that are what are called the drinking water revolving loan fund and the clean water revolving loan fund. So, under the drinking water fund, the existing program is funded at $11.7 billion dollars. Again, a large amount of money compared the baseline program. That's over five years. It's distributed by formula. It starts out with a 90% federal share that ratchets down to an 80% federal share after the first couple of years. So big increase in that. And then within the drink water state revolving loan fund, two new areas of expenditure. One is dedicated to lead service line replacements. That's $15 billion over five years. Enormous. I think the goal is to replace all lead service lines in the country. It's by formula and it's at 100% federal share. So that's big.

And then the third piece is dedicated to emerging contaminants. And so, we may have heard this acronym of PFAS and I'm not going to try to pronounce what it stands for. It's multi syllabic. And in the drinking water fund, it is $4 billion over five years by formula. Again, 100% federal share. And these new funding streams do come with requirements on how states structure that assistance to public water agencies. And then the clean water revolving state fund is the other big piece and this focuses on municipal water works – what they call nonpoint sources of pollution such as runoff and what washes in with the rain or draining and seepage. Not attributable to one like specific polluter. So, the existing program like the drinking water fund got $11.7 billion by formula. Ninety percent federal share at the beginning drops to 80% just nearest of what happens on the drinking water side. And again, like the drinking water side, the emergent contaminants receive a separate funding stream through the clean water revolving loan fund. This is a $1 billion over five years. It's by formula and again at 100% federal share and again with requirements on how state's structure that assistance to the public water agencies that they assist.

And then on top of these two very large flows of funding, there is a program called assistance for small and disadvantaged communities that goes through states. It got $5 billion dollars over five years. It is 100% federal share and it is also intended to focus on these emerging contaminants. So, you see a real focus on these PFAS in this bill. And then finally, the brown fields program, which has existed for many years, received funding increases as well.

(TM): 23:26

Ed: Molly, how about those matching funds? What kind of challenges does that present for states?

MR: Well, I mean the good news as Marcia mentioned is the number of the programs, you know, don't have matching requirements or have a smaller matching requirement that then kind of ratchets up. But in order for states to access this influx of funding for both the traditional drinking water and clean water revolving funds, they are going to need to come up with this match. And state legislatures, in some cases, will have to appropriate this match. And based on their state revolving fund establishing legislation and the one thing that states are going to have to deal with is the fact that because there is more funding, the match they are going to have to come up with. It is going to have to be higher than they may have traditionally had to deal with in the past.

Ed: Well, I want to thank both of you for walking me and our listeners through some pretty complicated numbers here. I really appreciate it. And I do want people to know that we are going to come back with four more podcasts delving into some of the specifics of this infrastructure bill because this is an issue states are going to be dealing with for a number of years. Thank you again and take care.

(TM): 24:41 MUSIC

Ed: And that concludes this episode of our podcast. We encourage you to review and rate NCSL podcasts on Apple podcasts, Google Play, Pocket Casts, Stitcher or Spotify. We also encourage you to check out our other podcasts: *Legislature, The Inside Story* and the special series *Building Democracy*. Thanks for listening.