HIGHWAY FUNDING IN NEW HOUSE COVID BILL REINFORCES FUNDING FORMULA INEQUITIES

Federal Funding Highways

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Yesterday's $3+ trillion coronavirus relief bill introduced by House Democrats (H.R. 6800, the HEROES Act) includes a $15 billion appropriation to state governments to use on highway programs. The money was requested by states as an "immediate revenue backstop" to replace "revenues that would otherwise have been collected for a wide range of state DOT activities without the COVID-19 pandemic" (though the states requested $50 billion, not $15 billion). But the House bill would distribute that money using a formula that has nothing to do with the levels of revenues raised by states for their DOTs, which will create wide disparities on a state-by-state basis when states try to use that money to replace falling tax revenues.

The $15 billion certainly functions a lot like revenue replacement – the House bill would allow the money to be used not only for broad highway and bridge capital projects as described under 23 U.S.C. §133(b) but also "for administrative and operations expenses, including salaries of employees (including those employees who have been placed on administrative leave) or contractors, information technology needs, and availability payments..."

However, the HEROES Act would distribute $14.7 billion in $15 billion in highway funding to states via the standard federal-aid highway funding distribution formula established by the 2005 SAFETEA-LU law and reinforced, with *de minimis* changes, in the 2012 MAP-21 law and the 2015 FAST Act. That formula was the result of decades of incremental negotiations in Congress about what the federal highway funding role should be after construction of the Interstate Highway System was completed – the states that had a lot of Interstate miles per capita felt entitled to keep their outsized shares of total federal funding post-Interstate, while the states with fewer Interstate miles per capita wanted to keep more of their federal motor fuels taxes post-Interstate instead of subsidizing other states in the name of a national connectivity.

(For much more detail on how the current and past formulas worked, see the Eno Center's 2019 report *Refreshing the Status Quo: Federal Highway Programs and Funding Distribution*.)

By using a funding formula based on decades-old political compromises and earmarks to distribute what is supposed to be a replacement for lost state revenues, from a variety of sources that vary by state, the House bill will result in some significant disparities between states.

Methodology – revenue side. How do we know how much money each state raises for its highway program? The Federal Highway Administration publishes an annual table, and we look to the January 2020 update of Table SF-1, which covers fiscal year 2018 revenues.* States received a total of $182.6 billion to use on highways in 2018, but we subtract the $42.0 billion in federal grants because that money is not being reduced. We also subtract the $23.8 billion that 34 states and D.C. collectively raised by bond issuances because the bond market is not affected by coronavirus in the way that tax receipts are (the Federal Reserve is taking care of that). And we subtract the $8.1 billion that 33 states and D.C. appropriated from their general revenues for highways, because the HEROES Act is already giving states $500 billion towards their general revenue replacement that the can use to replace any and all general revenues lost to coronavirus. That leaves $108.7 billion in dedicated non-federal revenues raised by states for highways in 2018.

Methodology – HEROES Act funding. The text of the introduced bill appropriates an even $15 billion, less $150 million for Indian tribes, $60 million for Puerto Rico, and $15 million for other territories. That leaves $14.775 million for the 50 states and D.C. – but there is also a provision that allows FHWA to retain "up to one-half of one percent" of the total appropriation for administrative expenses, and there is some confusion about whether the fixed dollar amount of all the set-asides from the $15 billion is in conflict with the admin set-aside being a percentage of the $15 billion. For these purposes we are assuming that the $75 million comes entirely out of the $14.775 billion for states + D.C., leaving $14.700 billion to be apportioned, but we could be wrong, in which case the total amount distributed to states and D.C. would be $14,701 billion. (Not enough to worry about for this exercise.)

The HEROES Act says that the $14.7 billion shall be apportioned "in the same ratio as the obligation limitation for fiscal year 2020 was distributed among the States in accordance with the formula specified in section 120(a)(5) of division H of Public Law 116–94…" That obligation limitation was distributed on January 24, 2020 by FHWA in Notice 4520.264 but apparently, the way FHWA would apply it under the HEROES Act is before the safety penalties and highway performance standard penalties are applied, so you have to add back the penalties taken in Tables 2, 3, 4, and 5 and add them to the Table 1 totals for each state, then divide by the adjusted subtotal, then multiply those shares by $14,700,000,000.

Results.The $14.7 billion that would be provided by the HEROES Act is 13.5 percent of the $108.7 billion in dedicated state tax revenues for highways. But since the HEROES Act uses the political highway funding formula, instead of a formula based on actual state revenues, the apportionments that some states that do very well under the funding formula (Alaska, Montana, and Wyoming, as well as the District of Columbia) would total half of a year's worth or more of dedicated tax revenues used for highways, while other states (Delaware, Maine, Nebraska, New Jersey, New York, Virginia, and Washington State) would receive funding equal to less than 10 percent of a year's worth of dedicated tax revenues used for highways.

Put another way, the formula used in the HEROES Act would give Wyoming and Alaska around 7 full months worth of replacement highway revenues to compensate for revenues being reduced due to coronavirus. It would only give Delaware and Washington State two to three weeks worth of replacement highway revenues. The totals for each state are shown in the table at the end of this article.

Note: We did a separate run that adds back the $8.1 billion that some states collectively appropriated from general revenues for highways in 2018, increasing the denominator of the overall calculation to $116.8 billion – it reduced the most egregious disparities by lowering Alaska and D.C.'s HEROES totals to around 4 months worth of tax revenue (plus general fund) replacement, but it still left vast differences. Under that calculation, Delaware, Maine and Washington State still receive less than one month's worth of highway tax revenue (plus state general fund) replacement, while ten states (Alaska, Hawaii, Louisiana, Mississippi, Montana, North Dakota, Rhode Island, South Dakota, Vermont, and Wisconsin) plus D.C. would receive more than three month's worth of highway tax revenue (plus state general fund) replacement.

HEROES Act Highway Funding vs. Actual State Highway Revenues

Sources: FHWA Table SF-1, HEROES Act text, FHWA Notice 4520.264

	FY 2018 Dedicated Non-Federal Tax Revs (Thousand $$)	House HEROES Act Estimated Funding (Thousand $$)	HEROES Percent of Full-Year Dedicated Revenue	HEROES Months of Dedicated Revenue Replacement
Alabama	$1,197,323	$283,054	23.6%	2.8
Alaska	$310,100	$187,198	60.4%	7.2
Arizona	$1,901,848	$273,245	14.4%	1.7
Arkansas	$1,085,897	$193,189	17.8%	2.1
California	$13,495,828	$1,372,092	10.2%	1.2
Colorado	$1,800,149	$199,734	11.1%	1.3
Connecticut	$902,964	$187,631	20.8%	2.5
Delaware	$1,260,463	$63,174	5.0%	0.6
Dist. of Col.	$53,176	$59,584	112.1%	13.4
Florida	$7,652,155	$706,861	9.2%	1.1
Georgia	$1,932,045	$482,048	25.0%	3.0
Hawaii	$248,644	$63,157	25.4%	3.0
Idaho	$584,892	$106,767	18.3%	2.2
Illinois	$3,380,198	$531,054	15.7%	1.9
Indiana	$1,916,020	$355,708	18.6%	2.2
Iowa	$1,651,668	$183,381	11.1%	1.3
Kansas	$946,140	$141,015	14.9%	1.8
Kentucky	$1,562,763	$247,912	15.9%	1.9
Louisiana	$767,517	$261,867	34.1%	4.1
Maine	$930,101	$68,923	7.4%	0.9
Maryland	$2,228,093	$224,506	10.1%	1.2
Massachusetts*	$1,609,168	$226,969	14.1%	1.7
Michigan	$2,776,621	$393,212	14.2%	1.7
Minnesota	$1,428,366	$243,434	17.0%	2.0
Mississippi	$647,814	$180,465	27.9%	3.3
Missouri	$1,479,208	$353,262	23.9%	2.9
Montana	$310,588	$153,131	49.3%	5.9
Nebraska	$1,446,197	$107,878	7.5%	0.9

Nevada	$740,987	$135,654	18.3%	2.2
New Hampshire	$394,862	$61,697	15.6%	1.9
New Jersey	$4,321,265	$373,115	8.6%	1.0
New Mexico	$562,242	$137,045	24.4%	2.9
New York	$7,130,665	$627,335	8.8%	1.1
North Carolina	$3,753,866	$389,342	10.4%	1.2
North Dakota	$308,156	$92,672	30.1%	3.6
Ohio	$2,823,457	$500,600	17.7%	2.1
Oklahoma	$1,788,900	$236,630	13.2%	1.6
Oregon *	$1,479,834	$186,563	12.6%	1.5
Pennsylvania	$4,884,713	$612,673	12.5%	1.5
Rhode Island	$208,688	$81,644	39.1%	4.7
South Carolina	$1,267,749	$249,850	19.7%	2.4
South Dakota	$326,832	$105,268	32.2%	3.9
Tennessee	$1,341,149	$315,430	23.5%	2.8
Texas	$8,848,259	$1,366,052	15.4%	1.9
Utah	$1,334,299	$129,610	9.7%	1.2
Vermont	$230,242	$75,782	32.9%	3.9
Virginia	$4,605,258	$379,927	8.2%	1.0
Washington	$3,905,853	$253,114	6.5%	0.8
West Virginia	$942,758	$163,093	17.3%	2.1
Wisconsin	$1,810,213	$280,831	15.5%	1.9
Wyoming	$174,379	$95,623	54.8%	6.6
50 STATES + D.C.	**$108,690,572**	**$14,700,000**	**13.5%**	**1.6**

*The latest FHWA Table SF-1 shows FY 2018 revenue totals for 48 states and D.C. but only has FY 2017 revenue totals for Massachusetts and Oregon.

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