May 31, 2021

Patricia A. Hoffman
Principal Deputy Assistant Secretary, Office of Electricity
1000 Independence Avenue, SW
Washington, DC 20585

RE: Notice of Request for Information on Formula Grants to States and Indian Tribes for Preventing Outages and Enhancing the Resilience of the Electric Grid

Dear Acting Assistant Secretary Hoffman:

The National Conference of State Legislatures (NCSL), the bipartisan organization representing the legislatures of our nation’s states, territories, and commonwealths, appreciates the opportunity to provide information to the U.S Department of Energy’s (DOE) regarding the Request for Information seeking public input on the structure of the new Preventing Outages and Enhancing the Resiliency of the Electric Grid Formula Grant program. NCSL looks forward to working with the department to ensure the $2.3 billion in formula funds are used to strengthen and modernize America’s power grid against wildfires, extreme weather and other natural disasters.

Continued Consultation with States
With the significant level of investment in this new formula program, NCSL requests the Department of Energy expand its educational, engagement and consulting efforts with state legislatures, both as the agency works to finalize this program and as states move forward with their own grid resilience efforts to share best practices, where applicable. Specifically, NCSL encourages DOE to work with those state legislatures where new authorization or enabling legislation may be required in order to comply with the program’s requirements.

Ensuring Flexibility and States Authority
NCSL encourages DOE to ensure states are provided the authority and flexibility to work within an overall framework and consider state and regional differences, to ensure sufficient flexibility for each state to determine how to best achieve nationally set programmatic goals. The program, once finalized, must continue to afford states the flexibility to form regional cooperatives and implement innovative policies that advance federal efforts to improve grid reliability and increase resilience in the face of extreme weather events and natural disasters.

Grant Application Timeline
By enabling state legislatures to actively support the implementation of these grants, the department will create a foundation for achieving the desired programmatic outcomes. NCSL strongly urges DOE to consider states’ legislative session schedules and align the timing of any requirements states must meet, with the capacity of state legislatures to act, especially in the first year of the program. It is important to provide states an appropriate timeline to comply with the program’s final requirements, and NCSL encourages DOE to understand that state legislative administrative processes, similar to
federal government, can be lengthy, and that some states may need new legislative authority and corresponding appropriations. States planning to join in a multistate plan will likely need additional time to get necessary elements in place, and we encourage the department to provide states with the opportunity for extensions in the initial application period to help facilitate such undertakings. Further, assuming DOE does not issue final rules for the program until the second half of 2022, nearly every state’s legislature will have adjourned from their regular session and may not be able to begin legislatively addressing any required changes until their 2023 regular session.

Though state legislatures may hold a special session, such sessions are often limited in scope and duration depending upon the state in question. For those legislatures able to convene a special session, there can be significant costs to the state, which may run into tens of thousands of dollars per day. For additional information on the state legislative calendars and processes for special state legislative sessions, please consult NCSL’s website.

NCSL thanks DOE for the ability to provide this information so as to ensure the new Preventing Outages and Enhancing the Resilience of the Electric Grid Formula Grant program is as strong and effective as it can be. We look forward to working with you and your staff as continue. To discuss this further, please contact NCSL staff, Ben Husch (202-624-7779).

Sincerely,

Representative Megan Blanksma
NCSL Natural Resources and Infrastructure Committee Co-Chair
Idaho House of Representatives

Representative David Tarnas
NCSL Natural Resources and Infrastructure Committee Co-Chair
Hawaii House of Representatives