



January 25, 2022

Stephanie Pollack
Deputy Administrator
200 New Jersey Avenue, SE
Washington, DC 2059

Scott Saiki
Speaker of the House
Hawaii
President, NCSL

**Joseph James
"J.J." Gentry, Esq.**
Counsel
Senate Ethics Committee
South Carolina
Staff Chair, NCSL

Tim Storey
Chief Executive Officer
NCSL

RE: RFI: Development of Guidance for Electric Vehicle Charging Infrastructure Deployment

Dear Deputy Administrator Pollack:

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 Federal Highway Administration (FHWA) in response to the Notice of Request for Information (RFI) on Development of Guidance for Electric Vehicle Charging Infrastructure Deployment.

Transportation electrification has gained significant momentum in recent years, with state legislatures playing a pivotal role in efforts to transform the transportation sector. However, as the number of EVs on our nation's roads grows, so does the need for affordable, accessible, and convenient charging stations. As a result, state policymakers, along with utilities and private industry have been working to rapidly expand charging station infrastructure.

As of July 2021, at least 47 states and the District of Columbia offer incentives to support deployment of EVs or alternative fuel vehicles and supporting infrastructure, either through state legislation or private utility incentives within the state. Policies specific to electric vehicle charging infrastructure include credits, research project grants, alternative fuel technology loans, lead-by-example initiatives like zero-emission vehicle (ZEV) requirements for government fleets, and requirements to install charging infrastructure as part of new developments. With Arkansas and Colorado developing statewide grant programs for electric vehicle charging stations, Hawaii redirecting energy tax revenue into electric infrastructure projects, New Jersey requiring new electric charging stations in multiunit housing, and Indiana, Illinois, Michigan, Minnesota, and Wisconsin signing the REV Midwest MOU, states are at the forefront of this transformation.

The inclusion of the National Electric Vehicle Formula Program as part of the Infrastructure Investment and Jobs Act, and the \$5 billion in formula funds to states the program provides, should help move states closer to accomplishing their electric vehicle charging infrastructure goals. However, if FHWA imposes an overly rigid and programmatic structure which prevents states from effectively and efficiently making use of their allotted formula funds, the nation could end up with both a slower deployment of electric vehicle charging infrastructure and a corresponding reduction in the rate of electric vehicle adoption by the general public.

To that end, NCSL urges FHWA to provide states with maximum flexibility to implement a range of complementary strategies as they seek to accomplish their electric vehicle charging goals. This should include approval of state pilot programs, formation of regional cooperatives aimed at implementing innovative policies, as well as a reexamination of 23 USC 111 due to the preemption it imposes on states which limits the development of electric vehicle charging infrastructure. Such an administrative update would remove this existing barrier to widescale deployment of electric vehicle charging infrastructure. Further, we implore the department to strictly follow the provisions of the IJA that simply requires the submission of a state plan that provides information on how a state intends to use funds distributed to them as part of this program. Thankfully, the law makes clear it is not for the department to pass judgement on whether it agrees with the state's plans, but rather simply that a state submit its plan and take action to carry it out.

States look forward to working with the department on successful implementation of this new and exciting program. The recently released FHWA Frequently Asked Questions on Electric Vehicle Charging was a helpful start, and we appreciate its publication so quickly after the enactment of the IJA. Please contact NCSL staff, Ben Husch (ben.husch@ncsl.org) and Kristen Hildreth (kristen.hildreth@ncsl.org) with any additional questions.

Sincerely,

A handwritten signature in blue ink that reads "Tim Storey". The signature is written in a cursive style with a long, sweeping underline.

Tim Storey
Chief Executive Officer
National Conference of State Legislatures