

NATIONAL ELECTRIC VEHICLE INFRASTRUCTURE FORMULA PROGRAM

	FAST Act (extension)	Bipartisan Infrastructure Law (BIL)				
Fiscal year	2021	2022	2023	2024	2025	2026
Advance appropriation (General Fund)	---	\$1.000 B	\$1.000 B	\$1.000 B	\$1.000 B	\$1.000 B

Note: Except as indicated, all references in this document are to the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117-58 (Nov. 15, 2021).

Program Purpose

The BIL establishes a National Electric Vehicle Infrastructure Formula Program (“NEVI Formula”) to provide funding to States to strategically deploy electric vehicle (EV) charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability.

Statutory Citation

- Division J, title VIII, Highway Infrastructure Program heading, paragraph (2)

(Note: Except as indicated, all statutory citations herein are to the provisions of such paragraph (2).)

Funding Features

Type of Budget Authority

- Advance appropriations from the General Fund; not subject to any limitation on obligations.

Pre-Apportionment Set-asides

- For Fiscal Year 2022 (FY22) only, sets aside up to \$300 million, which may be transferred to the Joint Office of Energy and Transportation (Joint Office), to establish such Joint Office and carry out its duties (see below, under “program features”). [twenty-first proviso]
- For each of FY22-26, after the set-aside listed above, sets aside 10% of NEVI Formula funding for grants to States and local governments that require additional assistance to strategically deploy EV charging infrastructure. [twenty-second proviso]
- Allows FHWA to use up to 1.5% of annual NEVI Formula funds for FHWA’s operations and administration. [Division J, title VIII, Highway Infrastructure Program, third proviso]

Apportionment of Funds

- Directs FHWA to apportion NEVI Formula funding among States (including the District of Columbia and Puerto Rico) on a formula basis. Under the formula, each State receives a share of program funding equal to the State’s share of the combined amount that FHWA distributes in—
 - Federal-aid highway apportionments; and
 - Puerto Rico Highway Program funding. [second proviso]

- NEVI Formula funds will not be made available to a State for obligation until the State has submitted to the Joint Office of Energy and Transportation, and FHWA has approved, the State's Electric Vehicle Infrastructure Deployment Plan.

Redistribution of Funding

- Allows the Secretary to—
 - withhold (or withdraw) funding from a State if the State fails to submit to the Department by a date specified by the Secretary its plan for use of NEVI Formula funding (see below), or if the Secretary determines that a State has not taken action to carry out its plan; and
 - through a competitive process, award funds withheld (or withdrawn) from a State to local jurisdictions in the same State, for use on eligible projects. [sixth proviso]
- Provides for a notification, rectification, and appeal process in connection with any such withholding (or withdrawal) of NEVI Formula funding. [seventh and eighth provisos]
- If the Secretary determines that withheld or withdrawn funds cannot be fully awarded to local jurisdictions in the same State, directs the Secretary to redistribute any remaining funds—
 - among other States via the same formula used in the initial apportionment; except
 - excluding from that redistribution States from which NEVI Formula funds have been withheld or withdrawn for that fiscal year. [ninth proviso]

Transferability to Other Highway Formula Programs

- Prohibits the transfer of NEVI Formula funding to other highway formula programs. [twenty-fifth proviso]

Federal Share

- 80% [third proviso]

Eligible Projects

- Limits NEVI Formula funding to use on projects that are directly related to the charging of a vehicle and only for EV charging infrastructure that is open to the public or to authorized commercial motor vehicle operators from more than one company. [twelfth proviso]
- Directs the Secretary of Transportation, in coordination with the Secretary of Energy, to develop guidance for States and localities to strategically deploy electric vehicle charging infrastructure, which must consider:
 - the distance between publicly available electric vehicle charging infrastructure;
 - connections to the electric grid, including electric distribution upgrades; vehicle-to-grid integration, including smart charge management or other protocols that can minimize impacts to the grid; alignment with electric distribution interconnection processes, and plans for the use of renewable energy sources to power charging and energy storage;
 - the proximity of existing off-highway travel centers, fuel retailers, and small businesses to electric vehicle charging infrastructure acquired or funded with NEVI Formula funding;
 - the need for publicly available electric vehicle charging infrastructure in rural corridors and underserved or disadvantaged communities;
 - the long-term operation and maintenance of publicly available electric vehicle charging infrastructure to avoid stranded assets and protect the investment of public funds in that infrastructure;
 - existing private, national, State, local, Tribal, and territorial government electric vehicle charging infrastructure programs and incentives;
 - fostering enhanced, coordinated, public-private or private investment in electric vehicle charging infrastructure;

- meeting current and anticipated market demands for electric vehicle charging infrastructure, including with regard to power levels and charging speed, and minimizing the time to charge current and anticipated vehicles; and
- any other factors, as determined by the Secretary of Transportation. [fourteenth and fifteenth provisos]
- Subject to minimum standards and requirements to be established by the Secretary of Transportation, in coordination with the Secretary of Energy and in consultation with relevant stakeholders [eighteenth proviso], NEVI Formula funding may be used for—
 - the acquisition and installation of electric vehicle charging infrastructure to serve as a catalyst for the deployment of such infrastructure and to connect it to a network to facilitate data collection, access, and reliability;
 - development phase activities relating the acquisition or installation of electric vehicle charging infrastructure;
 - operating assistance for costs allocable to operating and maintaining EV charging infrastructure acquired or installed under the program (for up to 5 years);
 - acquisition or installation of traffic control devices located in the right-of-way to provide directional information to EV charging infrastructure acquired, installed, or operated under the NEVI Formula program, and on-premises signs providing information about such infrastructure;
 - mapping and analysis activities to evaluate current and future demand for EV charging infrastructure; and
 - data sharing about EV charging infrastructure to ensure long-term success of investments under program. [first and seventeenth provisos]

Program Features

Location of Projects on Designated Corridors

- Requires that any EV charging infrastructure projects acquired or installed with NEVI Formula funding be located—
 - in general, along a designated alternative fuel corridor; or [thirteenth proviso]
 - if a State determines, and the Secretary certifies, that all designated alternative fuel corridors in a State are fully built out, on any public road or in other publicly accessible locations. [sixteenth proviso]

State Plan for Use of Funding

- Requires the Secretary to—
 - establish plan requirements and a deadline by which each State must submit a plan to the United States Department of Transportation (DOT) describing how the State intends to use NEVI Formula funds distributed to it each FY; [fourth proviso] and
 - develop, make publicly available, and submit to Congress a report summarizing the plan that each State has submitted to DOT, and assessing how such plans make progress towards the establishment of a national network of EV charging infrastructure. [fifth proviso]

Involvement of Private Entities

- Allows funds to be used to contract with private entities to acquire and install publicly accessible EV charging infrastructure and permits private entities to pay the non-Federal share of a project funded under the NEVI Formula program. [eleventh proviso]

Designation of EV Corridors for Freight

- Requires DOT to designate national EV charging corridors that identify the near- and long-term need for, and the location of, EV charging infrastructure to support freight and goods movement at strategic locations—
 - along major national highways and the National Highway Freight Network; and
 - at goods movement locations, including ports, intermodal centers, and warehousing locations. [nineteenth proviso]

Applicability of Title 23 Requirements

- Except as otherwise specifically provided, NEVI Formula funds are administered as if apportioned under chapter 1 of title 23, U.S.C. As a result, Title 23 requirements generally apply to these funds. [twenty-fourth proviso]

Joint Office of Energy and Transportation

- Establishes a Joint Office in DOT and the United States Department of Energy to study, plan, coordinate, and implement issues of joint concern, particularly related to zero emission vehicle charging and refueling infrastructure, and supporting renewable energy generation, storage, and electrical grid infrastructure. [twenty-sixth through thirtieth provisos]
- Requires the Joint Office to establish and maintain a public database that includes the locations of EV charging stations, potential locations for EV charging stations identified by eligible entities through the program, and the ability to sort generated results by various characteristics, including geographical location, status, and charging type. [twenty-seventh proviso]

Additional Information and Assistance

- FHWA can connect you with your local FHWA office and support you with technical assistance for planning, design, construction, preserving, and improving public roads and in the stewardship of Federal funds. For assistance, visit: https://www.fhwa.dot.gov/bipartisan-infrastructure-law/technical_support.cfm
- FHWA Division Offices are available to answer NEVI Formula Program questions and provide associated technical assistance. However, the Joint Office will be the primary provider of technical assistance for the development of State Plans under the Program.