



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

---

June 6, 2023

Joint Committee on Finance

Paper #776

### **National Electric Vehicle Infrastructure (NEVI) Formula Program (Transportation -- Local Transportation Assistance)**

[LFB 2023-25 Budget Summary: Page 635, #9]

---

#### **DISCUSSION POINTS**

1. The Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (IIJA), includes the five-year authorization of a newly-created \$7.5 billion National Electric Vehicle Infrastructure (NEVI) program comprised of a \$5 billion NEVI formula grant program for states (10% reserved for NEVI-discretionary grants) and a \$2.5 billion Charging and Fueling Infrastructure (CFI) competitive grant program for community and corridor projects serving a wider range of applicants.

#### **NEVI Formula Grant Program**

2. The NEVI formula grant program provided Wisconsin with \$11.6 million in 2022, and will provide an estimated \$16.8 million annually over the next four years. In total, Wisconsin is eligible to receive an estimated \$78.7 million in NEVI program formula funds through federal fiscal year 2026.

3. The Federal Highway Administration (FHWA) has proposed regulations setting minimum standards and requirements specific to the use of NEVI formula grant program funds for the construction of publicly accessible EV chargers with the "prioritization of projects along interstates in order to create a reliable national network of EV charging infrastructure for those travelling long distances or for multiple hours at a time". The formula grant program is specifically intended to build out the electric vehicle charging system along federally designated alternative fuel corridors. Currently, Wisconsin's alternative fuel corridor federal designations include portions of I-90, I-94, I-39, I-41, I-43, I-535, U.S. 151, U.S. 53, U.S. 51, WIS 29, U.S. 2, and U.S. 141, and all of U.S. 8 and U.S. 41.

4. Federal guidance further specifies that new EV charging infrastructure locations be spaced a maximum distance of 50 miles apart along designated alternative fuel corridors and that EV

charging infrastructure be located, in general, no greater than one mile from interstate exits or highway intersections along these corridors. Each location must be equipped with at least four NEVI-compliant "fast charging" ports able to simultaneously deliver 150 kilowatts of electricity (minimum total station capacity, or "peak load", of 600kw), which is enough to mostly refill an EV's battery in 20 to 40 minutes.

5. To qualify for NEVI formula funding, states were required to submit an EV infrastructure deployment plan to FHWA describing how the state intends to use its apportioned NEVI formula funds. On July 28, 2022, the Department submitted the Wisconsin Electric Vehicle Charging Infrastructure (WEVI) Plan to FHWA, as required. On September 14, 2022, DOT was notified by FHWA that the state plan was approved for implementation. With this approval, \$11.6 million of federal fiscal year 2022 funding was made available to the state for eligible program expenses. Funding does not have to be obligated by the close of each federal fiscal year, but will continue to be available to the state through federal fiscal year 2026. Through 2026, the Department will be required to submit yearly updates to FHWA on progress made implementing the WEVI plan.

6. The federally-approved WEVI plan specifies that the state will be seeking private sector, third party site hosts, owners, and operators to compete for NEVI formula program funding through structured procurements. The plan also specifies that the state is not proposing to deploy charging stations on DOT property and will not own or operate charging stations, but that site selection could be on private or public land. According to the WEVI plan, Wisconsin intends to create a competitive procurement program that will seek applications from eligible EV charging site hosts seeking NEVI program funding to install, own, and operate NEVI-compliant charging sites throughout Wisconsin. Currently, Wisconsin will seek to secure non-federal matching funds of at least 20% from awarded EV charging site owners and operators.

7. The Department intends to host a yearly RFP process throughout the duration of the NEVI Program. The Department does not yet have information as to when it will schedule the yearly solicitation process or plan update submittals. The Department is currently developing its NEVI program based on the federal NEVI standards and requirements, 23 CFR Part 680, which had an effective date of March 30, 2023. DOT intends to launch its NEVI Program, guided by the WEVI plan, after the 2023-25 biennial budget provides DOT the recommended authority.

8. As authorized under IIJA, FHWA has set aside \$500 million for an eventual NEVI discretionary program that could make available additional competitive grants for states to fund EV infrastructure. FHWA has not released information on this program to date. Furthermore, after a state's alternative fuel corridor system has met the minimum standards under the NEVI formula program, a state would have the flexibility to use any remaining NEVI formula funds in a manner consistent with the federal NEVI standards and requirements under 23 CFR Part 680. The Department states that it will take this into account and fully evaluate any discretionary program under the NEVI program when information is released to in determining if any state projects could compete for additional NEVI funds.

### **CFI Discretionary Grant Program**

9. While the NEVI formula grant program sends funding to states to build EV charging

infrastructure along designated interstates, U.S. routes, and state highways, a separate Charging and Fueling Infrastructure (CFI) discretionary grant program will award competitive grants to projects serving a wider range of applicants to fill gaps in the national charging and alternative-fueling network, and build out charging capacity within communities. The stated priority of the CFI grant program is to bring EV charging into urban and rural communities; downtown areas and local neighborhoods, particularly in underserved and disadvantaged communities; as well as to designated alternative fuel corridors. The CFI program builds on the NEVI formula program, by requiring that EV chargers constructed with CFI funds must comply with the same standards and requirements set forth by NEVI (23 CFR Part 680). This requirement is to support a national network that offers a consistent and predictable charging experience for potential users.

10. On March 14, 2023, the FHWA released a notice of funding opportunity to provide \$700 million in grants through the CFI discretionary program. The CFI program divides available funds into two separate grant categories: (a) a community charging and fueling grants program for up to \$350 million to deploy EV charging infrastructure, hydrogen, propane, and natural gas fueling infrastructure located on public roads or in other publicly accessible locations; and (b) an alternative fuel corridor grants program for up to \$350 million to deploy charging and alternative fueling infrastructure located along designated alternative fuel corridors.

11. Administered by FHWA, the application submission deadline for CFI grants is June 13, 2023. Eligible applicants include states, political subdivision of states, metropolitan planning organizations, unit of local governments, special purpose districts, public authorities with a transportation function, port authorities, American Indian tribes, and certain other governmental entities. Applicants to FHWA for the CFI program will need to determine the viability of any proposal. Tasks include verifying available grid capacity and determining related service extensions through coordination with the local utility. While the Department has developed a technical understanding of these topics for the purposes of the NEVI Program, eligible applicants are responsible for their application to FHWA for the CFI Program.

### **Assembly Bill 43/Senate Bill 70**

12. The Department's 2023-25 biennial budget request related to NEVI was included as part of Assembly Bill 43/Senate Bill 70 (AB 43/SB 70). AB 43/SB 70 would provide DOT the authority to establish and administer an electric vehicle infrastructure program that would provide funding for eligible electric vehicle infrastructure projects under the NEVI formula program. The recommendations specify that all funding would be provided from the three newly-created appropriations: (a) a FED continuing appropriation for all monies received from the federal government from the newly-created NEVI formula program estimated at \$17,085,000 in 2023-24 and \$17,426,700 in 2024-25; (b) a SEG-L continuing appropriation to receive and expend monies from local units of government and other sources for the construction of electric vehicle charging infrastructure estimated at \$4,271,600 in 2023-24 and \$4,356,700 in 2024-25; and (c) a SEG appropriation to support the implementation of the state's federally-approved NEVI plan, with no funding provided. Therefore, the bills would establish additional statutory and expenditure authority, so that the Department can administer the NEVI program and award grants, as guided by the federally-approved WEVI plan. [Alternative 1]

13. Under federal law, Title 23 CFR Part 680.116, charging stations funded under the NEVI Program must sell electricity by kilowatt hour. This requirement applies to all Title 23 funds (formula and discretionary) utilized to support the construction of electric vehicle charging stations. Federal law specifies that if the price for charging is not currently based on the price for electricity to charge an electric vehicle in \$/kWh, this requirements must be satisfied within one year from February 28, 2023.

14. Under existing state law, with certain exceptions, a person who directly or indirectly provides electricity to the public is regulated as a public utility by the Public Service Commission. The Department has stated that language providing an exemption to the definition of a utility, for the sale of electricity by an electric vehicle charging station, is required for the Department to meet program requirements under 23 CFR Part 680. AB 43/SB 70 would provide a statutory exemption from regulation as a public utility, to a person who supplies electricity through the person's electric vehicle charging station to users' electric vehicles. This exemption would only apply if the person does not otherwise directly or indirectly provide electricity to the public. On May 2, 2023, this provision was removed from further budget consideration by the Committee as part of Motion #10. Given the importance of this provision to the electric vehicle charging infrastructure discussion, separate legislation would likely be needed to address the issue. At that time the Legislature could consider, as part of that bill, creating the necessary appropriations, related expenditure authority, and statutory language necessary to administer the NEVI program, if the Committee chose to not take action on these items in the 2023-25 biennial budget. [Alternative 2]

**ALTERNATIVES**

1. Provide \$17,085,000 FED in 2023-24 and \$17,426,700 FED in 2024-25, and provide \$4,271,600 SEG-L in 2023-24 and \$4,356,700 SEG-L 2024-25. Provide authority to allow DOT to establish and administer an electric vehicle infrastructure program that would provide funding for eligible electric vehicle infrastructure projects under the NEVI formula program. Specify that all funding under this provision would be provided from the three newly-created appropriations under the bill.

<b>ALT 1</b>	<b>Change to Base</b>
FED	\$34,511,700
SEG-L	<u>8,628,300</u>
Total	\$43,140,000

2. Take no action.

Prepared by: Ryan Horton