



NEWS RELEASE

Attorney General Mike Hilgers

FOR IMMEDIATE RELEASE

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Nebraska Joins 21-State Coalition Challenging Biden Administration Rule Requiring States Set Targets to Reduce On-road CO₂ Emissions

LINCOLN – Attorney General Mike Hilgers joined a 21-state coalition today in filing a lawsuit challenging a new Biden Administration rule requiring all States with National Highway System mileage to take affirmative steps to set declining targets to reduce on-road CO₂ emissions. Led by the Attorney General of Kentucky, the coalition argues that Congress has not given the U.S. Department of Transportation the authority to regulate greenhouse gas emissions.

“Once again, President Biden is attempting to sidestep the Constitution and federal statutory law in forcing States to advance his radical climate agenda,” said Attorney General Hilgers. “Nebraskans, not faceless federal administrative agencies, should get to choose the policies that are best for our State.”

In the complaint filed today in the United States District Court in Kentucky, the coalition asserts that DOT’s Federal Highway Administration (FHWA) overstepped its legal authority. The coalition writes, “Congress has not given FHWA or DOT authority to regulate greenhouse gas emissions (“GHG”). Nor can the agencies compel the States to administer a federal regulatory program or mandate them to further Executive policy wishes absent some other authority to do so—which is lacking as to this rule.”

The complaint also makes clear that the proposed measure violates the Constitution’s structural protection of States’ rights by requiring States to implement a federal regulatory program. The lawsuit argues that “the Constitution protects us from our own best intentions: It divides power among sovereigns and among branches of government precisely so that we may resist the temptation to concentrate power in one location as an expedient solution to the crisis of the day.” Simply put, “the States [cannot] be directed to implement the policy choices of the federal government.”

Further, the attorneys general note that the Federal Highway Administration previously repealed a similar rule after determining that the measure may duplicate “existing efforts in some States” and imposed “unnecessary burdens on State DOTs and MPOs [metropolitan planning organizations] that were not contemplated by Congress.”

The coalition is made up of attorneys general from Alabama, Alaska, Arkansas, Florida, Idaho, Indiana, Iowa, Kansas, Mississippi, Montana, Nebraska, North

Dakota, Ohio, Oklahoma, Utah, Virginia, South Carolina, South Dakota, West Virginia, and Wyoming as Plaintiffs in the lawsuit.

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Court Filing Attached

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