STRONG STATES, STRONG NATION

States play a powerful and important role in making our country strong.

By William T. Pound

The premise of NCSL’s 2006 Annual Meeting is that as the states are strong, so is the nation. This has never been so true as it is today.

Not all federal systems balance responsibility and power as we do in the United States—in fact, most do not. Although much tension and stress exist in the state-federal relationship, it remains vital after nearly 230 years. The states are more vigorous, innovative and important to the daily lives of Americans than at any previous time despite trends in various areas toward greater federal preemption of authority and mandating action. In recent years, most innovation in domestic policy has taken place at the state and local levels.

If we do not have strong states, many national programs would be ineffective, because states in many cases deliver them. Without strong and innovative states, the “laboratories of democracy” as described by Justice Louis Brandeis, would not be able to experiment and develop policy initiatives on a smaller and more manageable level. We would lose the freedom and diversity that characterize the United States. While regional differences are harder to find today, they do exist. One-size-fits-all should be a limited prescription for policymaking in this country.

Strong states create a strong nation and provide many outlets for pressure, tension and innovation within our governmental system.

States are tackling environmental challenges, setting tough standards to reduce greenhouse gas emissions and timelines to meet them. Maine’s 2003 law aims to reduce greenhouse gas emissions by 1990 levels by 2010 and 10 percent below 1990 levels by 2020. Connecticut, Maine, Massachusetts, New Jersey, New York, Oregon, Rhode Island, Vermont and Washington are following California’s lead and will phase in tough emissions regulations that require automakers to reduce tailpipe gases by an average of 29 percent starting with the 2009 model year.

It’s the states that are pushing green energy, establishing standards that require a certain percentage of power to come from renewable sources. Twenty-one states and the District of Columbia have some type of standard in place ranging from 1.1 percent in Arizona by 2012 to 25 percent in New York by 2013.

It is also state lawmakers who are pressing for effective ways to handle the millions of units of e-scrap we throw out each year. Legislation aimed at managing e-waste was introduced or considered in 25 states this session. Strong programs are being implemented in California, Maine and Maryland.

Lawmakers are embracing new technologies to better investigate crimes, identify criminals and protect the public. States are building and sharing DNA databases and deploying global positioning technology to keep track of people who might be dangerous to the community.

States are on the cutting edge of telecom policy, too. Texas passed the nation’s first law to create a statewide video franchising system last year. It streamlined a system that was run by local governments and means telephone companies or other entities can quickly get into what used to be called the “cable TV” business. The new law gave consumers more choice and reportedly brought cable prices down by as much as 30 percent in some places. California, Indiana, Kansas, Michigan, New Jersey, Pennsylvania, South Carolina and Virginia are considering similar legislation. And so is the federal government.

Also making the rounds in Congress are bills based on state innovations for preventing identity theft—such as allowing citizens to put freezes on their credit reports and requiring companies to notify consumers of security breaches.

And these aren’t the first time state innovations have made their way into federal law. The No Child Left Behind Act is built on 30 years of state experimentation. As early as 1980, states started measuring what students were actually learning. By the time the federal act was put in place in 2001, nearly every state had already developed its own method for gauging student achievement. Another example is the 1996 State Children’s Health Insurance Program (SCHIP), which is based on work in Florida, New York and Pennsylvania. They were first in pushing health care coverage for poor, uninsured children.

Today, while Washington, D.C., lawmakers are gridlocked on immigration legislation, the states have taken matters into their own hands. State legislators introduced close to 500 immigration bills this session, and they passed 48 of

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them. Some bills sought to give unauthorized immigrants more rights and others aimed to crack down on people in the country illegally. They focus on access to in-state college tuition, voter registration procedures, human trafficking concerns, and access to public benefits and health care. Georgia’s omnibus bill enters new territory by requiring public employers and subcontractors to participate in a work authorization program to ensure that new hires are in the country legally.

The nation’s welfare program is stronger because of state-federal cooperation. The 1996 shift from an entitlement program to the current Temporary Assistance for Needy Families block grant system showed that the feds had faith in the states. This flexibility has made it one of the most successful state-federal partnerships.

States have also engaged in joint efforts to resolve common problems without federal action or interference. The Streamlined Sales Tax effort, which went into effect last October, is a prime example. Joint action by state legislators, executives and the private sector has created a voluntary collection system for sales taxes on electronic commerce. Thirteen states are currently full participating members of the Streamlined Collection Agreement with 28 additional states having taken initial action to join. Not only do the states collect revenues they are owed but had difficulty collecting, businesses also benefit from a greatly simplified system of tax administration.

Coordination of state emergency management efforts has come about through an interstate compact involving all 50 states, Puerto Rico, the Virgin Islands and the District of Columbia. The multi-state response to hurricanes Katrina and Rita was facilitated by this voluntary state coordination effort.

For the states to remain strong they need to be unified to resist the increasing tendency by the federal government to preempt or mandate state action to carry out national programs and reach national goals, both for political and practical reasons. The growing trend to do this poses a great threat to state authority. The states often have superior administrative systems, and the national government lacks the means or the will to finance its own programs. Implementation of the Real ID Act over the next few years provides a real challenge to cooperative federal-state action. The federal government has chosen to utilize a licensing system developed and managed by the states to achieve a national goal—an authenticated identification card. There will be significant record checking and retention requirements on the states. The cost of this system will be considerable and—as of now—largely borne by the states.

Additional challenges to state legislatures include the increasing use of direct democracy—the initiative process—to make state policy often with inconsistent or contradictory results. State revenue systems will also be challenged to provide the resources to meet demands to respond to the problems of a more complex, populous and diverse America. Health care and education—both financing and quality—are prime examples of such challenges.

If America is to remain strong, then it is vital this experimentation continues. In the same spirit that caused state legislators to create NCSL, we continue to lobby Congress and the administration to let the voice of states be heard. We firmly believe that the spirit of America resides with the states and that the future of our country depends on states’ ability to lead the discussion on public policy issues.