NCSL supports federal initiatives that provide needed assistance to state and local governments for the treatment and care of people with AIDS and HIV-infection and considers Acquired Immune Deficiency Syndrome (AIDS) and HIV-related conditions a top priority health concern of the nation. A coordinated and intensive effort to prevent the spread of HIV-infection, develop new treatments, discover a cure, and assist people with AIDS and HIV-infection in receiving needed medical and support services is critical and must be supported by the combined efforts of government, the private and voluntary sectors, business and individuals.

PREVENTION AND EDUCATION

Lowering transmission rates of HIV-infection is the first of many measures that must be taken to address the enormous impact of AIDS and HIV-infection in the United States. Prevention efforts have made a measurable impact on the overall rate of transmission since the early 1990’s, but have not been equally successful across all populations. Education is a critical component of the prevention effort and must be culturally sensitive, age appropriate, and tailored to be effective with a specific audience. Federally funded family life and health education and prevention programs must include accurate information emphasizing responsible sex practices. These programs should include but not be limited to the promotion of safer sex, abstinence before marriage, monogamy after marriage and discourage illegal intravenous drug use. HIV prevention programs should be included in other treatment programs (e.g. substance abuse, mental health) when appropriate.

CONFIDENTIALITY AND CIVIL RIGHTS

NCSL supports federal efforts to sustain the privileged state of personal medial records and is particularly supportive of efforts to protect individuals with AIDS and HIV-infection from experiencing discrimination in employment, housing, insurance coverage and public accommodations. Protecting the rights of people with AIDS and HIV-infection, is first and foremost, however, the rights and legitimate concerns of insurers, health care professionals, and emergency response personnel must be considered in the balance. NCSL opposes federal legislation imposing either a mandate for or a prohibition of state
partner notification requirements or contact disclosure or tracing programs. NCSL also opposes federal legislation that would require states to establish civil and criminal penalties for the knowing transmission of HIV-infection. Provisions of this sort are particularly onerous if the receipt of federal financial assistance is contingent upon their passage. Federal initiatives regarding confidentiality and civil rights should enhance, strengthen, and underscore the states' responsibility for action in these areas and allow state flexibility in such initiatives.

COUNSELING AND TESTING

Individuals with a history of high risk behavior or suspected exposure to HIV-infection, should be encouraged to be tested for HIV-infection. According to CDC, approximate 2.1 million HIV tests are conducted annually in publicly funded counseling, testing and referral (CTR) programs. Unfortunately, many people who are tested never return to receive their test results. NCSL supports the promotion of rapid testing programs. Screening with the rapid testing method facilitates the immediate provision of information and prevention counseling because the individual being tested may receive the test results, accompanied by counseling in one appointment. NCSL also supports the use of rapid testing in non-medical settings when appropriate and when counseling is available and provided on-site. HIV testing is particularly important now that effective treatments are available for asymptomatic individuals with HIV-infection.

NCSL opposes federal legislation that would require states to: impose fees for testing and counseling services; or test certain individuals or groups for HIV-infection. These decisions should be made by state policymakers. If mandatory HIV-testing requirements are enacted, the federal government must provide funding to cover the costs of the testing, counseling, housing, treatment, and hospice care. NCSL supports efforts to encourage obstetricians and gynecologists to urge patients to be tested. This is particularly important to bolster efforts to reduce HIV-infection and AIDS in children. All physicians who serve sexually active men and women should also be enlisted to encourage their patients to be tested and should be prepared to provide educational materials to patients who request them.

While CDC continues to support and emphasize the importance of voluntary testing, in September 2006, CDC revised its recommendations for HIV testing in healthcare
settings. The Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings aims to make HIV testing a routine part of medical care in addition to expanding the gains made in diagnosing HIV infection among pregnant women. CDC now recommends that:

- HIV screening (another term for broad-based testing) for patients ages 13 to 64 in all healthcare settings after the patient is notified that testing will be performed unless the patient declines (opt-out screening).
- HIV testing of people at high risk for HIV infection at least once a year.
- Screening be incorporated into the general consent for medical care; separate written consent is not recommended
- Prevention counseling should not be required with HIV diagnostic testing or as part of HIV screening programs in healthcare settings.

The CDC makes additional recommendations for pregnant women in healthcare settings. CDC recommends that:

- HIV screening should be included in the routine panel of prenatal screening tests for all pregnant women, unless the patient declines (opt-out screening);
- Repeat screening in the third trimester in certain jurisdictions with elevated rates of HIV infection among pregnant women.

HEALTH PROFESSIONALS PROVIDING HIV TREATMENT AND CARE

NCSL supports the decision by the Centers for Disease Control and Prevention (CDC) to continue to permit state and local health officials establish guidelines regarding procedures that health care workers infected with HIV or Hepatitis B should be permitted to perform. NCSL also supports the Blood-Borne Pathogen Standard rule promulgated by the Occupational Safety and Health Administration (OSHA) and the Needlestick Safety and Prevention Act. The Blood-Borne Pathogen Standard rule mandates the use of universal precautions in infection control and requires employers to provide workers with training, protective clothing, engineered safety devices, puncture-proof containers for contaminated needles and medical waste, and vaccination against the Hepatitis B virus. The Needlestick Safety and Prevention Act requires employers to solicit input from employees responsible for direct patient care in the identification,
evaluation, and selection of engineering and work practice controls.

**RYAN WHITE C.A.R.E. ACT**

Federal grants supporting state efforts to provide care and treatment to people with AIDS should provide maximum flexibility to states to enable them to develop programs that best meet the needs of their citizens. NCSL supports continued and adequate funding for states through the Ryan White C.A.R.E. Act and through cooperative agreements with the CDC. States should be permitted to demonstrate, in their state plan, that they have addressed the needs of all populations within their boundaries, in lieu of federal statutory mandates. Finally, in light of the substantial financial commitment by the states for HIV-related activities, NCSL opposes the imposition of state matching or maintenance of effort requirements in these programs. NCSL urges the federal government to ensure that adequate funding is provided for the AIDS Drug Assistance Program (ADAP). This program has become increasingly important as new drug therapies are developed. It is important that the funding for this program keep pace with the approval and availability of new drug therapies.

**FUNDING ALLOCATIONS BASED ON HIV AND AIDS CASES**

The 2007 reauthorization changed the allocation formula to states and eligible metropolitan areas (EMA) from one based on the relative number of AIDS cases to one that is based on numbers of individuals with HIV-Infection and individuals with AIDS, resulting in significant changes in the distribution of Ryan White funding across the states. NCSL urges the federal government to take actions to mitigate and monitor any adverse impacts to treatment and access to services that may occur.

**ADAP COUNTED TOWARD OUT-OF-POCKET EXPENDITURES FOR DUAL-ELIGIBLES**

Under current law, ADAP expenditures do not count as part of the true out-of-pocket (TrOOP) expenditures for Medicare Part D beneficiaries. NCSL urges Congress to count all or part of ADAP expenditures toward TrOOP.

**TREATMENT AND CARE**

The two-year total disability waiting period in the Medicare program severely limits the ability of Americans with HIV-infection and other debilitating or terminal illness from participating in the program. Under current law, persons suffering from terminal, but relatively brief illness cannot now benefit from this program. NCSL recommends that the
waiting period be waived in these cases. The Social Security Administration (SSA) has promulgated regulations that make it easier for individuals with AIDS and HIV-related conditions to receive Social Security Disability Insurance (SSDI). In addition, SSA has adopted rules that will help ensure that women and children with AIDS and HIV-infection are treated equitably and compassionately. NCSL supports these initiatives. NCSL urges the continuation and expansion of the end of life/palliative care initiative for underserved populations. The program provides a wide range of palliative care services including hospice care and case management services to individuals in urban, suburban and rural areas.

**RESEARCH**

NCSL calls upon the federal government to increase its support for research efforts through both basic and applied biomedical investigations to better understand, to treat and to prevent the disease. The federal government should continue and intensify efforts to develop both preventive and therapeutic vaccines. NCSL supports the Food and Drug Administration's (FDA) efforts to expedite the drug approval process and to increase the number of people participating in clinical trials and other programs designed to test the effectiveness of new drugs and treatments.

**RACIAL AND ETHNIC DISPARITIES**

NCSL is pleased that the Minority AIDS Initiative (MAI), which was established in 2000 to reach out to all minority communities (Hispanic, African-American, Asian-Pacific, Native American, Alaskan Native and other ethnic and racial minorities), was permanently authorized in the 2007 Ryan White CARE Act reauthorization.

NCSL urges the President to provide focused leadership domestically to reduce health disparities, particularly as they relate to HIV/AIDS and requests the Congress to increase funding for state and local grant programs authorized by the Ryan White Comprehensive AIDS Resources Emergency Act, especially to assure funding for faith-based initiatives providing culturally and linguistically competent prevention and treatment programs.

NCSL urges the Congress to provide increased funding to the Department of Health and Human Services and relevant agencies, including the Centers for Disease Control; Prevention and the Human Resources and Services Administration, and the National Institutes of Health to:
implement the Centers for Disease Control and Prevention’s National HIV Prevention Strategic Plan;

expand the Minority AIDS Initiative to provide additional support to minority-serving community-based organizations;

augment outreach and HIV testing efforts targeting populations including racial and ethnic minorities at higher risk of contracting HIV;

develop additional evidence-based HIV prevention interventions targeting ethnic and racial minorities; and

NCSL urges the federal government to make every effort to include more women and minorities in clinical trials and other research initiatives.

INTERNATIONAL INITIATIVES

NCSL supports federal initiatives that recognized the pandemic nature of HIV-infection and AIDS and that focuses on primary prevention of HIV/AIDS, care and treatment of tuberculosis and other opportunistic infections, palliative care and appropriate use of antiretroviral medications, and infrastructure and capacity development in 25 countries.

U.S. PRESIDENT'S EMERGENCY PLAN FOR AIDS RELIEF (PEPFAR)

On July 30, 2008, the Tom Lantos and Henry J Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 was signed into law, authorizing up to $48 billion over the next 5 years to combat global HIV/AIDS, tuberculosis, and malaria. Through FY 2013, PEPFAR in partnership with host nations will support treatment, prevention services and care for millions of people around the world. To meet these goals and build sustainable local capacity, PEPFAR will support training of at least 140,000 new health care workers in HIV/AIDS prevention, treatment and care. NCSL supports these efforts.