

NCSL Standing Committee on Law, Criminal Justice, and Public Safety

POLICY DIRECTIVES AND RESOLUTIONS

**2022 NCSL Legislative Summit
Denver, Colorado**

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1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: ELECTION REFORM**

3 **TYPE: DIRECTIVE**

4 Debate over election policy has intensified and continues to attract national attention.
5 Public confidence in the integrity of our elections is of utmost importance to both state
6 and federal policymakers and is fundamental to our democracy.

7
8 The Constitution of the United States explicitly grants state legislatures the authority to
9 regulate the time, place, and manner of elections. Even minor changes to federal election
10 laws and policy affects states. Consequently, state legislatures must be equal partners
11 with Congress when considering any potential election legislation.

12
13 As the organization representing state legislatures, National Conference of State
14 Legislatures (NCSL) stands ready to partner with federal officials to develop appropriate
15 federal legislation and/or regulations that respect state sovereignty.

16
17 NCSL encourages the fiscally responsible appropriation of federal funds to supplement
18 the resources already allocated by state and local governments for the purposes of:

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20
- Facilitating voter registration, maintenance, and accuracy of voter rolls;
 - Improving ballot design and accessibility;
 - Modernizing election equipment and systems;
 - Providing training and educational opportunities for election personnel;
 - Protecting equal access to the right to vote; and
 - Enhancing the security of election procedures.
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27 NCSL opposes any federal election mandates with insufficient federal funding or that
28 preempt the authority granted to state legislatures by the U.S. Constitution.

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29

30 NCSL acknowledges that a national debate on election reform continues and that any
31 Congressionally mandated changes in election processes necessarily will impact state
32 and local elections. State law controls the processes and the administration of matters
33 pertaining to federal, state, and local elections. It logically follows that NCSL, as the
34 national voice of the various state legislatures, should be at the center of this national
35 debate. NCSL reaffirms its commitment to the Voting Rights Act of 1965 and all other
36 civil rights legislation that ensures a person's right to vote.

37

38 Given the states' responsibility to conduct fair and accurate elections, NCSL maintains
39 that it must be an equal partner with Congress or any federal agency or commission
40 charged with regulating or establishing elections guidelines because even minor
41 changes to federal election laws and policy will impact states in varying degrees. NCSL
42 supports working in partnership with federal officials to ensure that federal election
43 reform efforts do not unnecessarily preempt existing state policy. In this respect, NCSL
44 believes that federal legislation and guidance documents that affect the states should
45 be drafted with substantial input from those who would be responsible for their
46 implementation. Federal legislation or guidance impacting state election policies or
47 procedures should not curtail state innovation and NCSL believes that federal legislation
48 should include reasonable timeframes for implementing state and local programs.

49

50 In light of nation state actors' efforts to probe state elections systems, NCSL urges
51 congress and the administration to partner with states on cybersecurity to ensure
52 elections remain fair, accurate, and free from foreign interference.

53

54 NCSL acknowledges that public confidence in the election process is of utmost
55 importance to state legislators. Therefore, NCSL opposes any federally mandated
56 elections standards that are either not accompanied by sufficient federal funding or are
57 preemptive of sound, constitutional state policies and procedures. NCSL believes that
58 such funding should be based on broad principles and supports a federal grant formula

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59 ~~which awards money to states for broad-based purposes dealing with elections~~
60 ~~including cybersecurity and opposes any funding mechanism, which seeks to mandate~~
61 ~~specific requirements on the states.~~

62
63 ~~In the specific area of cybersecurity, federal support of state actions is now required. In~~
64 ~~2002 when HAVA was enacted, cybersecurity was a virtually unknown concern. Now it~~
65 ~~is paramount, and states do not have the resources or capacity to protect against cyber~~
66 ~~interference in election systems without federal assistance. Federal assistance must~~
67 ~~include accurate and timely communications to states about threats and known cyber~~
68 ~~events as well as sufficient federal funding. Therefore, NCSL supports additional federal~~
69 ~~formula grant funding to states for the following broad purposes:~~

- 70
71 ~~Improving the accuracy and security of election procedures and vote counts;~~
72 ~~Improving election technology, systems and ballot design;~~
73 ~~Facilitating states' processes for voter registration, verification and maintenance of voter~~
74 ~~rolls;~~
75 ~~Educating citizens on representative democracy and election processes and systems;~~
76 ~~Providing greater access to states' voter registration programs and polling places~~
77 ~~especially for rural and disabled voters; and~~
78 ~~Providing training and education opportunities for elections personnel.~~

79 ~~NCSL recognizes the functions of the Election Assistance Commission (EAC) are~~
80 ~~important to the development of election equipment standards, dissemination of~~
81 ~~election-related statistics and information, and states benefit from the EAC's skilled~~
82 ~~expertise in these areas. NCSL supports the structure and purpose of the EAC.~~

83
84 **Continuity of Congress**

85 ~~NCSL acknowledges the possibility that a catastrophic national emergency may render~~
86 ~~the U.S. House of Representatives unable to conduct the business of the country due to~~
87 ~~the death or permanent incapacitation of more than 100 of its members. Periodically,~~
88 ~~Congress introduces legislation that proposes a national uniform special elections~~

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89 ~~process containing federal mandates for the timing of such elections without taking into~~
90 ~~account state laws and procedures for conducting special elections. Special elections~~
91 ~~have traditionally been a state responsibility that does not warrant federal intervention~~
92 ~~and all states have a special elections process in place that is procedurally best for that~~
93 ~~state. Therefore, NCSL supports federal legislation that allows for state flexibility with~~
94 ~~respect to the timing of and other rules governing special elections and opposes federal~~
95 ~~legislation that would preempt state laws governing special elections outright.~~

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1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: CRIMINAL JUSTICE AND COURT DATA COLLECTION**

3 **TYPE: DIRECTIVE (NEW)**

4 State legislators recognize that data collection and related infrastructure in the criminal
5 justice field, including the ability to track and understand information about the people
6 who go through state criminal justice systems, is an important component for state
7 legislatures when making policy decisions and allocating state resources to their
8 criminal justice, juvenile justice, and court systems.

9

10 Any efforts undertaken by the federal government to consult on, collect or distribute
11 criminal justice, juvenile justice, or court data should not infringe on state transparency,
12 privacy, and data collection laws, however states could benefit from consultation with
13 the U.S. Department of Justice regarding options for data collection and strategies for
14 streamlining state practices to collect the best and most comprehensive information.
15 Similarly, the federal government can assist states through federal grants that support
16 state data infrastructure and collection.

17

18 The federal government is in the best position to urge collection and distribution of state
19 criminal justice, juvenile justice, and court data that can be used for cross state
20 comparison. States should be able to provide input to the U.S. Department of Justice on
21 the data that is the most useful and ideas on how data collection can be improved and
22 released timely.

23

24 The National Conference of State Legislatures supports efforts by the U.S. Department
25 of Justice for collection of criminal justice, juvenile justice, and court data that is useful
26 for cross-state comparison in the least burdensome manner possible and dissemination
27 of the data in a timely and useful manner. The National Conference of State
28 Legislatures also urges U.S. Department of Justice to provide funding for and technical

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29 assistance to states, localities, criminal and juvenile justice agencies, and courts for
30 data collection and infrastructure.

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1 **COMMITTEE: LAW CRIMINAL JUSTICE AND PUBLIC SAFETY**

2 **POLICY: CANNABIS AND FEDERALISM**

3 **TYPE: DIRECTIVE**

4 The National Conference of State Legislatures (NCSL) maintains that the federal
5 government should respect state decisions to regulate cannabis, including hemp in non-
6 FDA approved cannabis products. NCSL recognizes that its members have differing
7 views on how to treat *cannabis* in their states and believes that states and localities
8 should be able to set whatever policies work best to improve the public safety, health,
9 and economic development of their communities.

10 NCSL believes that federal laws, including the Controlled Substances Act (CSA), should
11 be amended to remove cannabis (marijuana) and cannabis derivatives from the
12 Controlled Substance Schedules and explicitly allow states to set their own cannabis
13 policies without federal interference and urges the administration not to undermine state
14 cannabis policies. Where states have authorized cannabis production, distribution, and
15 possession by establishing an effective regulatory scheme, the administration should
16 direct federal prosecutors to respect state cannabis laws when exercising discretion
17 around enforcement. NCSL maintains that, until cannabis is federally de-scheduled, the
18 administration should prioritize its enforcement actions against criminal enterprises
19 engaged in illicit cannabis production and sale, and not against citizens who are
20 compliant with state cannabis laws. Furthermore, NCSL urges Congress to prohibit the
21 administration from using federal funds to enforce the CSA in a manner inconsistent
22 with these enforcement priorities.

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23 Under federal law, cannabis businesses in states that have legalized the sale of
24 cannabis are unable to utilize the country’s banking system, forcing them to operate as
25 primarily cash-only entities. This reliance on cash makes cannabis businesses prime
26 targets for theft, burglary, armed robbery, and other property crimes. NCSL urges
27 Congress to pass legislation allowing financial institutions to provide banking services to
28 legitimate state authorized cannabis-related businesses.

29 The National Academies of Sciences, Engineering, and Medicine identified challenges
30 and barriers in conducting cannabis research in a 2017 report: *The Health Effects of*
31 *Cannabis and Cannabinoids*. NCSL urges Congress and the administration to address
32 the challenges and barriers identified in this report. NCSL believes that it is especially
33 important that Congress and the administration provide researchers access to cannabis
34 in the quantity, quality, and type necessary to research the health effects of cannabis
35 use and that adequate funding sources are made available to support cannabis and
36 cannabinoid research that explores the health benefits and risks of cannabis use.

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1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: DEFERRED ACTION FOR CHILDHOOD ARRIVALS**
3 **PROGRAM CODIFICATION**

4 **TYPE: RESOLUTION (NEW)**

5 **WHEREAS**, the Deferred Action for Childhood Arrivals (DACA) program, established by
6 executive order in 2012, safeguarded individuals who applied for protection under the
7 program from deportation. These individuals entered the country under the age of 16
8 prior to June 15, 2012, have continuously resided in the United States since 2007, have
9 no prior serious criminal history, and have either served in the United States Armed
10 Forces, completed, or are currently enrolled in high school or a GED program; and

11 **WHEREAS**, Dreamers are a broader category of young people who entered the United
12 States as children but have not yet applied for or received DACA program protections.
13 Both Dreamers and DACA recipients are most familiar with and loyal to the United
14 States, not their birth country; and

15 **WHEREAS**, These young immigrants are hardworking and educated individuals who
16 are tax paying members of the American workforce, annually contributing about \$5.7
17 billion in federal taxes and \$3.1 billion in state and local taxes according to the Center
18 for American Progress; and

19 **WHEREAS**, DACA has been subject to near constant litigation in the federal court
20 system regarding the constitutionality of the program. Congress has failed to pass
21 legislation addressing this population causing instability that forces Dreamers and
22 DACA recipients to live in fear of someday being arrested and deported to a country
23 which, in many cases, they do not remember living in; and

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24 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
25 urges Congress to pass a stand-alone piece of legislation that ensures that Dreamers
26 and DACA recipients are allowed to reside in the United States without fear of
27 deportation or persecution.

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1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: HUMANE TREATMENT OF ASYLUM SEEKERS AT**
3 **SOUTHERN BORDER AND PORTS OF ENTRY**

4 **TYPE: RESOLUTION (NEW)**

5 **WHEREAS**, the United States has a vested interest in securing its borders; and

6 **WHEREAS**, promoting legal immigration is paramount to the prosperity of the United
7 States; and

8 **WHEREAS**, the right to seek and enjoy asylum from persecution is a commonly
9 accepted human right in the international community that the United States upholds;
10 and

11 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
12 urges Congress and the Administration to invest in procedural and technological
13 improvements to its ports of entry and judicial system in order to facilitate a safe,
14 efficient, timely, and humane immigration process for asylum seekers.

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1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: INCREASING VISA CAPS AND LEGAL IMMIGRATION**
3 **TO END LABOR SHORTAGE**

4 **TYPE: RESOLUTION (NEW)**

5 **WHEREAS**, there is currently a labor shortage in key U.S. industries and increased
6 cultural and ethnic diversity is a recognized benefit to our society; and

7 **WHEREAS**, the pandemic highlighted the need for a diverse and robust workforce able
8 to withstand shocks and unforeseen circumstances, particularly in industries such as
9 healthcare, manufacturing, agriculture, education, and trade industries that continue to
10 experience shortages, amounting in total to over 10 million unfilled jobs; and

11 **WHEREAS**, immigrants tend to be of optimal working age and eager to find
12 employment; and

13 **WHEREAS**, employment-based visa holders are non-citizen workers that complement
14 U.S. workers and help to fill labor gaps in critical industries; and

15 **WHEREAS**, employment-based visa holders benefit the country not only with their
16 gainful employment but also by contributing to the tax base, as they pay federal, state,
17 Social Security, and Medicare taxes proportional to their wages; and

18 **WHEREAS**, according to the United States Department of State, permanent
19 employment-based immigration is statutorily limited to 140,000 principals and
20 dependents annually. To illustrate the low number of visas available in certain sectors,
21 the number of H-2B visas is statutorily limited to 66,000, and the number of H-1B visas
22 is limited to 65,000 with an additional 20,000 visas available for those with a master's

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23 degree or doctorate. There are countless other industries with statutory visa caps that
24 are not commensurate with workforce needs; and
25 **WHEREAS**, these visa caps are often met within the first few months of each year; and
26 **WHEREAS**, many visa recipients must reapply yearly and these applications can be
27 lengthy and burdensome; and
28 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
29 urges Congress to significantly increase the statutory visa caps and simplify the
30 application and reapplication processes to allow employment-based visa recipients to
31 easily maintain their visa status; and
32 **LET IT BE FURTHER RESOLVED**, the National Conference of State Legislatures
33 urges Congress and the Administration to create legal pathways to immigration and
34 streamline the process for immigration into our country in order to fortify the labor
35 market and achieve economic prosperity.

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1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: PATHWAY TO CITIZENSHIP FOR REFUGEES**

3 **TYPE: RESOLUTION (NEW)**

4 **WHEREAS**, Temporary Protected Status (TPS) is a crucial designation that allows
5 those whose home countries have been ravaged by natural disasters and war to gain
6 lawful entry and temporary residency in the United States; and

7 **WHEREAS**, violence and instability in Afghanistan, Yemen, Ukraine, Myanmar, Syria,
8 and many other regions worldwide have created a global refugee population of over 30
9 million people, half of them being children according to the United Nations High
10 Commissioner for Refugees; and

11 **WHEREAS**, nationals from 13 countries are currently eligible to apply for TPS in the
12 United States through the stringent and thorough application process, consisting of
13 background checks and application fees; and

14 **WHEREAS**, the majority of TPS holders have resided in the country for over a decade;
15 and

16 **WHEREAS**, the Center for Migration Studies reports TPS holders have labor
17 participation rates of over 80% and are thus beneficial to the economy, projected to
18 contribute \$164 billion to the economy over the next decade; and

19 **WHEREAS**, TPS recipients often do not have a clear pathway to citizenship. Those who
20 have resided in the United States for long periods of time and have built a life for
21 themselves in the country would face an uncertain future. Pursuant to *Sanchez v.*
22 *Mayorkas*, the Supreme Court held that TPS recipients who entered the US without

23 inspection must return to their country of origin to have their visa application processed
24 by a consular post. This is a process that would prevent most TPS holders from gaining
25 approval to re-enter the US for multiple years; and

26 **WHEREAS**, the Department of Homeland Security has the authority to designate
27 countries for TPS, leaving TPS protections largely in the hands of the executive branch,
28 which can change drastically in terms of priorities depending on the administration; and

29 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
30 urges Congress to pass legislation granting those in the United States with TPS a
31 pathway to citizenship.

32 **NOW THEREFORE BE IT FURTHER RESOLVED**, the National Conference of State
33 Legislatures urges Congress and the Administration to develop a fair and consistent
34 process to evaluate and approve TPS applications on an expedited basis, without
35 forcing applicants to return to the dangers in their home country while they await the
36 outcome of their application.

1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: ADVOCATING FOR TOUGHER PUNISHMENTS FOR**
3 **INSURRECTIONISTS**

4 **TYPE: RESOLUTION (NEW)**

5
6 **WHEREAS**, on January 6, 2021, thousands of individuals breached the United States

7 Capitol in an orchestrated coup attempt; and

8 **WHEREAS**, these individuals committed treasonous acts against the government of the

9 United States of America; and

10 **WHEREAS**, many of the insurrectionists have not been arrested, nor held accountable

11 in any form under current United States code; and

12 **WHEREAS**, those who have been arrested and/or convicted, have received miniscule

13 penalties and punishments for committing treasonous acts against the government of

14 the United States of America; and

15 **WHEREAS**, many of the insurrectionists were White Americans; and

16 **WHEREAS**, many African Americans and people of color receive far harsher penalties

17 and punishment for far lesser crimes and violations; and

18 **WHEREAS**, this trend has resulted in African Americans and people of color being

19 disproportionately incarcerated or penalized for minor drug offenses or nonviolent

20 crimes, when compared to White Americans; and

21 **WHEREAS**, the government of the United States of America has a vested interest in

22 executing the application of its laws in a fair and just way; and

23 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
24 urges Congress and the Administration to take action to ensure that those individuals
25 who are guilty of treasonous acts against the United States of America, are held
26 accountable to the fullest extent of the laws enacted by Congress and the various state
27 legislatures; and

28 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
29 urges Congress and the Administration to commit to executing the laws of the United
30 States of America in a fair and just manner; and

31 **LET IT BE FURTHER RESOLVED**, the National Conference of State Legislatures
32 urges Congress and the Administration to commit to investing resources into historically
33 marginalized communities that suffered due to the unfair, unjust, and illegal application
34 of the laws of the United States of America for decades.