Policy Directives and Resolutions for Consideration

2022 Legislative Summit
Denver, Colorado

DEBATE CALENDAR

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WHEREAS, state legislatures have the primary responsibility for funding and governing their state’s K-12 and higher education systems; and

WHEREAS, each state has its own unique system for funding K-12 and higher education; and

WHEREAS, fiscal conditions can vary significantly across states, especially during times of national economic emergencies; and

WHEREAS, education is a significant part of state budgets, other compelling priorities may make demands on state resources while states respond to and recovery from emergencies; and

WHEREAS, Congress has included maintenance of effort provisions for both K-12 and higher education funding from fiscal year 2020 to fiscal year 2023 as a condition of a state receiving funds from the Elementary and Secondary School Emergency Relief (ESSER) Fund; and

WHEREAS, Congress has also included “maintenance of equity” provisions for K-12 funding in fiscal years 2022 and 2023;

NOW, THEREFORE, the Secretary of Education should allow states the opportunity to seek waivers from the maintenance of effort and “maintenance of equity” provisions associated with the Elementary and Secondary School Emergency Relief (ESSER) Fund; and
NOW, THEREFORE, BE IT RESOLVED, the National Conference of State Legislatures believe state fiscal requirements for education relief aid should only ask states to maintain aggregate funding levels or serve as a guide for how states can make cuts to education if facing revenue declines.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State Legislatures believe state fiscal requirements should not be used to compel states to make fiscal or policy decisions beyond the purposes enumerated above, which includes requiring states to increase funding for education or distribute funds to local education agencies by methods other than a state’s statutorily defined school funding formula.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State Legislatures believe unanticipated federal funding for education should not bypass state legislative appropriations processes and should allow state legislatures broad discretion in determining how those funds will best meet local and state education needs.

BE IT FINALLY RESOLVED, that NCSL send a copy of this resolution to Members of Congress and the U.S. Department of Education.
The National Conference of State Legislatures (NCSL) supports efforts to improve the safety, quality, access to and affordability of our nation’s drug supply including actions such as:

- Enhances the safety of the drug supply chain,
- Promoting innovation by drug manufacturers to develop new effective pharmacotherapies; and
- Taking initial steps to address drug shortages.

Federal standards should not create an administrative burden on state regulatory agencies. The FDA should prioritize initiatives that ensure the effectiveness and quality of any drugs sold in the United States.

**Regulation of Internet Pharmacy**

NCSL supports Congressional actions to:

- Establish disclosure standards for internet pharmacies,
- Prohibit dispensing of prescription drugs over the internet to persons who have not been prescribed a drug by a licensed health care prescriber, and
- Authorize state attorneys general to shut down non-complying pharmacy sites by using the federal court system.

NCSL urges the federal government to increase efforts to prosecute organizations in violation of the law.

**Importing Prescription Drugs**

NCSL supports federal efforts to contain costs and expand access to safe and effective pharmaceuticals by exploring the feasibility of importing prescription drugs from other countries.
Personal Use Policy

Although FDA guidance has been issued, the current federal policy on drug importation is still unclear. NCSL urges the FDA to clarify its “personal use” policy and how the policy is to be enforced.

Regulation of Compounding Pharmacy

NCSL urges the FDA to work closely with state legislators, state public health officials, state boards of pharmacy and other important state and local officials, and providers and industry representatives to develop procedures and systems that retain state regulatory authority where appropriate and that will improve the overall safety of the nation’s pharmaceutical supply chain, and the regulation of compounding pharmacies.

State Prescription Drug Monitoring Programs

NCSL supports the five-year reauthorization of the National All Schedules Prescription Electronic Reporting Act (NASPER) adopted in the Comprehensive Addiction and Recovery Act (CARA). NCSL is particularly interested in continued discussions to increase the effectiveness and interoperability of State Prescription Drug Monitoring Programs (PDMPs) and looks forward to working with federal partners to expand and improve the programs.
WHEREAS, the 2020 Families First Coronavirus Response Act provided, retroactive to Jan. 1, 2020, each qualifying state and territory a 6.2 percentage point increase in the Federal Medical Assistance Percentage, through the last day of the calendar quarter in which the public health emergency (PHE) is declared by the Secretary of Health and Human Services;

WHEREAS, it has been reported that state Medicaid agencies project the share of state Medicaid spending will increase in fiscal year 2023 by 14 percent.¹

WHEREAS, the 2021 non-emergency FMAP rates ranged from a low of 50 percent for 13 states to a high of 77.76 percent, not including the majority of the territories being at 83 percent;  ii

WHEREAS, in 2021 the average non-emergency FMAP rate was 63.88, not including the territories;

THEREFORE, BE IT RESOLVED, NCSL urges Congress to make permanent the 6.2 percentage point increase in the Federal Medical Assistance Percentages to each qualifying state and territory.
The National Conference of State Legislatures (NCSL) maintains that the federal government should respect state decisions to regulate cannabis, including hemp in non-FDA approved cannabis products. NCSL recognizes that its members have differing views on how to treat cannabis in their states and believes that states and localities should be able to set whatever policies work best to improve the public safety, health, and economic development of their communities.

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

Under federal law, cannabis businesses in states that have legalized the sale of cannabis are unable to utilize the country’s banking system, forcing them to operate as primarily cash-only entities. This reliance on cash makes cannabis businesses prime targets for theft, burglary, armed robbery, and other property crimes. NCSL urges Congress to pass legislation allowing financial institutions to provide banking services to legitimate state authorized cannabis-related businesses.
The National Academies of Sciences, Engineering, and Medicine identified challenges and barriers in conducting cannabis research in a 2017 report: *The Health Effects of Cannabis and Cannabinoids*. NCSL urges Congress and the administration to address the challenges and barriers identified in this report. NCSL believes that it is especially important that Congress and the administration provide researchers access to cannabis in the quantity, quality, and type necessary to research the health effects of cannabis use and that adequate funding sources are made available to support cannabis and cannabinoid research that explores the health benefits and risks of cannabis use.
The National Conference of State Legislatures (NCSL) believes that maintaining a strong production agriculture capacity is critical to our nation’s strength and is a matter of national security. NCSL recognizes that decisions affecting American agriculture must reflect a working partnership of the federal government with the states in both the formulation and implementation of policy.

Agricultural Fiscal Policy
NCSL urges federal efforts designed to enhance farm income while increasing agricultural exports. Monetary policies must be implemented which promote low interest rates and maintain dollar exchange rates which enhance the potential for sale of this nation's commodities in international markets. The federal government must also maintain a stable financial network capable of supplying adequate amounts of affordable credit to the agricultural industry. The government must also continue to search for innovative financing tools which enhance the ability of agricultural producers to manage risk and stabilize income. In addition, any domestic farm program must work in conjunction with a strong, aggressive export program which protects and expands our export markets.

State legislators should be represented on any working or study group for the purpose of addressing long term agriculture lending and payment needs established by Congress or the executive branch. NCSL urges Congress to review the existing payment limitations for individual farmers and program eligibility requirements to ensure that they provide support to economically efficient farming operations and promote the preservation of the family farm. In addition, the Conference recommends that all federal agricultural adjustment payments, price-support program loans, payments and other benefits not related to soil conservation efforts be limited to citizens of this country or
aliens lawfully admitted for permanent residence.

Secondary Market for Long-Term Loans: NCSL urges the federal government to work with states to assure that the provisions of the Agricultural Credit Act of 1987 continue to be fully implemented.

Bankruptcy law: NCSL supports federal legislation to permanently extend allowing farm operations to declare Chapter 12 bankruptcy.

Farm Credit System (FCS): NCSL encourages farm credit institutions to work with farmer-borrowers to restructure debt. NCSL urges that any disposition of land and assets held by the System or its units be conducted in an orderly fashion so that such disposition does not adversely affect the value of those assets or of other property within the community. NCSL also urges that FCS institutions continue to work with producers to provide necessary financing for changes in payments and crops resulting from adjustments to federal programs.

Commercial Lending Institutions: NCSL believes that as federal financial assistance is provided to member institutions of the FCS, assistance should also be provided to commercial lending institutions that provide credit to agriculture. Furthermore, Federal Deposit Insurance Corporation (FDIC) policies and federal bank regulation procedures must be reviewed to ensure that the maximum assistance is being provided to troubled borrowers, without compromising the safety and soundness of the institution or the assets of the FDIC.

Agricultural Bonds: NCSL supports exempting agricultural bonds from the federal volume cap placed on industrial revenue bonds in each state. Furthermore, NCSL recommends that the President and U.S. Congress amend the federal Internal Revenue Code to make the use of agricultural bonds more attractive to banks and other financial institutions. NCSL also recommends that the federal government permit deductibility for loans financed by issuers that are not necessarily small issuers as defined by the
Internal Revenue Code.

**Crop Insurance:** NCSL supports a state-federal partnership to develop a fair and affordable crop insurance program that complements other risk management tools available in the marketplace for all crops. NCSL supports an efficient program that promotes informed production and management decisions. NCSL also supports federal efforts to encourage private-sector development of innovative risk management tools. However, any plan for crop insurance must not adversely impact a state's ability to levy premium taxes, regulate the business of private insurance or set solvency standards for private crop insurers.

**Marketing**

NCSL seeks a federal policy that will sustain a vibrant agricultural marketplace and strong farm economy while providing for competition and fair practices. The federal government should cooperate fully with states' efforts to supplement private sector marketing programs by providing comprehensive marketing, promotion and market development activities. These should include, at a minimum, sustained commitments to the provision of data on market trends and consumer demands, technical assistance, financial assistance and public education campaigns.

Special emphasis must be placed upon the development of new markets through the creation of demand for new crops or products or additional sources of demand for existing commodities and products; the improvement of linkages between buyers and sellers; a shift toward the sale of processed, not raw, commodities and high value cash crops; and the identification and analysis of potential markets. All parties, both public and private sector, must work together to develop effective strategies to exploit those opportunities fully and to maintain an ongoing ability to respond to changing consumer demands.

**Direct Marketing Arrangements:** NCSL recommends that Congress review the Packers and Stockyards Act as a mechanism for addressing unfair practices that may
occur under direct marketing arrangements, monitor activities in this area, and enact appropriate and timely legislation to safeguard the welfare of producers. NCSL urges Congress and USDA to strengthen and diligently enforce the provisions of the Packers and Stockyards Act in concert with the clear intent of the Act to curb monopolistic abuses in the concentrated meatpacking sector.

**Competition**

Family farmers ultimately derive their income from the agricultural marketplace. Congress must set rules to improve the competitive environment of agriculture so that farmers are able to retain a greater portion of their income.

**Natural Resource Conservation**

All federal government actions affecting natural resources should be conducted in close cooperation and only after consultation and coordination with the states. A strong commitment to conduct research, in the area of improved methods of natural resource conservation and protection, must be maintained. The federal government should work with state and local governments to develop agricultural land use policies, but should leave the responsibility for establishment of these policies to the state and local governments. NCSL favors a block grant approach that gives states maximum flexibility. NCSL supports the use of science, technology and effective practices to reduce nutrient losses to water, including nitrogen and phosphorus, from point and nonpoint sources.

We encourage significant federal investment in state-supported projects -- with an emphasis on watershed-based public-private partnerships -- that provide for accountability and transparency, as evidenced by the establishment of goals, timelines, milestones, monitoring, measurement and regular public reporting documenting improvements in the quality of water in public waterways. Fundamentally, NCSL believes that states must be given a much stronger voice in ensuring that federal wetlands, endangered species, and land management policies respect the rights of local landowners and states.
Wetlands and Endangered Species

The federal government should delegate authority to states for the development, administration, and enforcement of wetlands protection and endangered species programs. The national government, acting through USDA, should set broad national goals and standards for wetlands protection and preservation of endangered species, but states should have the flexibility to meet those goals. The federal government, furthermore, should provide financial and technical assistance as incentives to encourage states to assume primacy over wetlands and endangered species programs.

Pollinator Health

NCSL recognizes the importance of pollinators and stresses the negative ramifications of continued pollinator loss, while supporting federal efforts to protect pollinators. We also recognize the key roles that the federal government plays as a landowner and manager, regulator of pesticide products, and financial and technical assistance provider to farmers and other private landowners. As such NCSL supports and calls upon the federal government to:

- Develop best management practices and enhance pollinator habitat on federally owned or managed lands.
- Incorporate pollinator health as a component of all future federal restoration and reclamation projects.
- Revise guidance documents for designed landscapes and public buildings in order to incorporate pollinator-friendly practices.
- Increase both the acreage and forage value of pollinator habitat in the Conservation Reserve Program and other federal conservation programs; provide technical assistance in collaboration with land-grant university-based cooperative extension services to federal departments and agencies, state, local, and tribal governments, and other entities and individuals including farmers and ranchers.
- Assist states and state wildlife organizations, as appropriate, in identifying and implementing projects to conserve pollinators through the revision and implementation of State Wildlife Action Plans.
• Assess the effects of systemic pesticides and parasites on bee and other pollinator health and take corresponding action, as appropriate, to protect pollinators from pesticides and parasites;

• Take immediate measures to support pollinators with proper habitat and nutrition during the current growing season and thereafter, including planting pollinator-friendly vegetation, increasing flower diversity in plantings, limiting mowing practices, and reduce or avoid, when necessary, the use of pesticides in sensitive pollinator habitats through the use of integrated vegetation, pest and colony management practices; and

• Work closely with the states to align pollinator protection efforts and share best practices.

NCSL and the states identify as willing partners in the federal government’s pollinator protection efforts and will closely monitor federal actions and progress on these, and related efforts of utmost importance to the states and our nation’s food supply, urban and rural agriculture economies, environment and natural resources.

**Land Management**

Devolution of authority to states should also be a goal of federal land management policies. Demonstration projects should be established to determine if state administration of national forests, grasslands, parks and other federal property will result in cost savings to taxpayers and greater sensitivity to the concerns of local citizens and property owners. NCSL, moreover, encourages Congress and federal agencies to hold hearings and public meetings in order to hear the concerns of state and local officials and of ordinary citizens and property holders regarding the impact of federal landownership and regulation.

**Soil Conservation**

NCSL supports an ongoing education program to make certain that producers are fully aware of the need for proper soil conservation practices and of the best methods to use in their implementation. Diligent efforts must be made by the federal government to
ensure that proper soil conservation practices are adopted and that fragile, erodible land
is protected.

NCSL supports requiring that each farm have and follow an approved soil and water
conservation plan in order to obtain government assistance. Benefits may be denied if a
crop is grown in violation of this requirement. Further, NCSL supports continued
extension of the Conservation Reserve Program and federal efforts to protect
pollinators, including those that are vital to American food production.

Cover Crop Research
NCSL supports federal efforts to further the development of and proliferation and use of
cover crops given the growing concerns about water quality, soil fertility, weed control,
nematode control, water retention and biodiversity. NCSL recognizes that cover crops
have proven to increase yields in university studies as well as in replicated farm
research; are an increasingly popular way to keep soil healthy; helps reduce the need
for Nitrogen and other nutrients, and create a healthier soil environment that resists
disease and pests; inhibit weed growth by shading them out, by preventing emergence,
and by compounds exuded by the roots; are shown to reduce populations of pathogenic
nematodes and encourage populations of beneficial ones; break up soil compaction
whether it is naturally occurring or a result of heavy cultivation and tillage; add diversity
to the natural biological life in heavily farmed soils, often working in synergy with cash
crops for bottom line benefits; add diversity to the natural biological life in heavily farmed
soils, often working in synergy with cash crops for bottom line benefits.

Research and Development
NCSL supports the state-federal partnership in agricultural research at state
universities. Furthermore, funds must be made available to support research and
development of innovative products. Funds should also be used for dissemination of
information about research discoveries both domestically and abroad. It is particularly
important that the land grant universities maintain their commitment to agricultural
research and development and that the federal government provide sufficient research
dollars to support this vital effort.

NCSL urges the federal government to maintain a strong research program for the development of adequate, cost-effective and environmentally sound control measures to ensure the eradication of all insect and plant pests and animal diseases, which should be done in close cooperation with the states. Using existing mechanisms and institutions, the federal government should work with the states in providing the basic training and retraining opportunities necessary for the successful operation of an agricultural enterprise and for the continuing adjustment of producers to changing conditions in agriculture.

**Intellectual Property Rights in Publicly Funded Research**

NCSL calls on Congress to review the Bayh-Dole Act of 1980 and subsequent amendments for its impact on encouraging concentration and vertical integration within the agricultural sector, and for its consistency with the mission and purpose of the Land Grant College system. Further, Congress should increase federal support for agricultural research, and retain through grant and contract provisions greater portions of technology arising from such research within the public domain. Congress should also affirm as objectives of the Land Grant Colleges’ agricultural research mission to achieve broad dissemination and producer access to crop technology, and preserve and enhance the income and economic opportunities of producers.

**Beginning Farmer Programs**

NCSL supports a state-federal partnership to confront challenges faced by farmers and beginning farmers, including the use of federal tax incentives to support state-based development and loan programs. NCSL supports changes to the federal Internal Revenue code that reduce borrowing costs for qualifying farmers and strengthen state beginning farmer programs. NCSL is particularly supportive of beginning farmer and other training programs that provide assistance for military veterans and limited-resource farmers. Furthermore, NCSL supports raising the total volume of state bonding authority to free resources for beginner farmer programs if achieved in a manner
consistent with a balanced federal budget.

In collaboration with state governments, as well as public and private local partners, NCSL supports investment in joint research, demonstration and development of food systems that provide opportunity to young and beginning farmers with limited assets, to produce and deliver affordable, healthy, fresh, nutritious food to consumers within the local and regional markets where the producers operate, toward a goal of national food self-sufficiency and optimal health.

**Agriculture Biofuels**

NCSL believes that the U.S. Department of Agriculture (USDA) should be the lead federal agency to examine regulatory issues as they develop for the algaculture (Farming Algae) industry.

**Support State Regulation of Agricultural Biotechnology**

NCSL supports the responsible use of the beneficial qualities of agricultural biotechnology such as in improved crop production techniques, pharmaceuticals, anti-immune disease control, biodegradable plastics, and other potential benefits to people in their states, the nation, the world and the global environment. NCSL supports the continued regulation of agricultural biotechnology through state and territorial governments working in close collaboration and partnership with the Coordinated Framework for Regulation of Biotechnology administered by the U.S. Environmental Protection Agency (EPA), USDA, and U.S. Food and Drug Administration (FDA).

**Industrial Hemp Farming**

NCSL supports federal legislation to define industrial help as a distinct agricultural crop (1% or less THC content) and allow states to regulate commercial hemp farming. Currently 33 states have laws allowing hemp research or farming. NCSL believes that hemp has a long history as a sustainable and a profitable crop, and has great potential as a new crop for American agriculture and industry. According to Vote Hemp, an estimated $687 million worth of hemp products were sold in the U.S. in 2016, including
foods, body care products, clothing, auto parts, building materials, and paper. Most of these products were made from imported hemp due to federal policy that prohibits commercial hemp farming. NCSL believes that federal policies that obstruct industrial hemp farming are outdated and must be changed.

Avian Flu Response

The highly pathogenic avian influenza (HPAI) represents a significant threat to U.S. agriculture and the ability of our farmers to feed a growing world population. The federal government plays a key role in harnessing resources and providing assistance to farmers, states, and others affected by the virus. NCSL fully supports:

- Federal efforts to protect poultry production and the nation’s food supply by aggressively working to contain and remediate outbreaks when they occur.
- Federal efforts to serve as technical advisors and the clearinghouse of information for all sectors and employing time sensitive approaches to sharing information.
- Federal agencies working closely with the states to align HPAI efforts and share best practices.
- Increasing federal funding necessary for state and federal agencies to continue development of biosecurity containment strategies; more aggressive research into the causes of avian influenza; why some fowl are more susceptible; and prevention measures, including the development of vaccines that can be taken.

Wildfire Funding

Due to the significant increases in suppression costs in the last decade, funding transfers have depleted resources from vital fire prevention and mitigation programs. Further, increased fire activity can have substantially negative impacts on air quality, water quality, greenhouse gas emissions as well as the reduction of downstream water storage as sediment runoff lowers the effective level of dams and reservoirs; Additionally, reduced restoration and mitigation funding makes it easier for invasive pests and diseases to infest vulnerable forests; and the anticipated changes in climate will also cause fire risk to escalate in drought-ridden regions, further increasing wildfire
suppression costs. Therefore, NCSL urges the federal government to:

- Maintain budget mechanisms for wildfire suppression in order to fund catastrophic fires as natural disasters adopted as part of the Fiscal Year 2018 budget agreement that minimizes the risk of fire transfers from prevention and mitigation programs.

- Manage wildfires on a regional basis, understanding that increased risk for wildfires on federal lands ultimately will lead to increased costs for state wildfire programs; and

- Support policies that continue to reduce the legislative and regulatory barriers when performing vegetation management, both inside and outside the rights-of-ways (ROWs); developing and deploying new technologies, including from our national labs, that can enhance wildfire detection and response; and address liability concerns for public and private entities.

**Rural Mental Health**

Farmers and ranchers, due to the nature of their work and a shortage of resources for rural mental health, suffer higher rates of depression and suicide than other professions – as described by the American Psychological Association’s Journal of Rural Mental Health. Difficult economic conditions are placing additional strain on our nation’s farmers and ranchers and their families, and the federal government can play a vital role in addressing this crisis by providing the states with additional resources for rural mental health services that are tailored to the unique needs of farmers, ranchers, and their families. The National Conference of State Legislatures urges Congress to include in pending legislation, funding for states to address this urgent need and assist our nation’s farmers, ranchers, and their family members during this time of great financial stress in American agriculture.

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