



Adopted Policy Directives and Resolutions

2016 NCSL Legislative Summit
Chicago, Illinois

TABLE OF CONTENTS

COMMITTEE: BUDGETS AND REVENUE.....	1
POLICY: PUBLIC PENSIONS, HEALTH INSURANCE AND POST RETIREMENT BENEFITS	1
POLICY: STATE AND FEDERAL BUDGETING: FEDERAL MANDATE RELIEF.....	4
POLICY: STATE AND FEDERAL BUDGETING: PARTNERING TO MAKE POLICY.....	8
POLICY: STATE AND FEDERAL BUDGETING: PRINCIPLES FOR FUNDAMENTAL TAX REFORM	12
 COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES & INTERSTATE COMMERCE.....	 17
POLICY: BANKING AND FINANCIAL REGULATIONS OF MARIJUANA	17
POLICY: NCSL SUPPORTS AND URGES ENACTMENT OF THE REMOTE TRANSACTIONS PARITY ACT	20
POLICY: NCSL SUPPORTS PASSAGE OF THE FEDERAL DIGITAL GOODS & SERVICES TAX FAIRNESS ACT	23
POLICY: REMOTE COMMERCE	25
POLICY: STATE SOVEREIGNTY FOR GAMING	26
POLICY: CORPORATE FORMATIONS	29
POLICY: RESOLUTION SUPPORTING INTELLECTUAL PROPERTY (IP) RIGHTS AND PROTECTIONS TO PROMOTE PRODUCTIVITY, COMPETITIVENESS, JOBS, AND PUBLIC HEALTH	31
POLICY: SMALL CELL DEPLOYMENT.....	33

POLICY: SUPPORTING THE DEVELOPMENT OF A BALANCED NATIONAL SPECTRUM POLICY THAT INCLUDES UNLICENSED ACCESS IN THE 5GHZ BAND TO MEET THE DEMAND FOR WIRELESS TECHNOLOGIES	36
POLICY: TWENTY- FIRST CENTURY COMMUNICATIONS	38
COMMITTEE: EDUCATION.....	46
POLICY: IMPLEMENTING THE EVERY STUDENT SUCCEEDS ACT	46
POLICY: THE STATE-FEDERAL PARTNERSHIP IN POSTSECONDARY EDUCATION	48
POLICY: STUDENT DATA PRIVACY	51
POLICY: THE STATE-FEDERAL PARTNERSHIP IN ELEMENTARY AND SECONDARY EDUCATION.....	53
POLICY: FEDERAL FUNDING FOR SPECIAL EDUCATION.....	56
COMMITTEE: HEALTH AND HUMAN SERVICES.....	57
POLICY: ACQUIRED IMMUNE DEFICIENCY SYNDROME/HIV-INFECTION.....	57
POLICY: FEDERAL REGULATION OF INTERSTATE AND INTERNET TOBACCO SALES.....	62
POLICY: FEDERAL FUNDING TO ASSIST STATES TO IMPROVE SERVICES TO UNDERSERVED PEOPLE AND AREAS TO ADDRESS HEALTH PROFESSION SHORTAGES	64
POLICY: NCSL SUPPORTS NATIONAL HEALTH IT WEEK 2016.....	68
POLICY: HEALTH, HUMAN SERVICES AND FOOD AND NUTRITION PROGRAMS: LEGISLATIVE, REGULATORY AND ADMINISTRATIVE INITIATIVES (2016-2017).....	70
POLICY: HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.....	76
POLICY: PRINCIPLES FOR FEDERAL HEALTH INSURANCE REFORM	79
POLICY: PUBLIC HEALTH	81
POLICY: SOCIAL SECURITY DISABILITY INSURANCE	92
POLICY: SOCIAL SERVICES AND SUPPORTS FOR FAMILIES AND INDIVIDUALS	93
POLICY: SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT AND COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT	96
POLICY: VETERAN’S HEALTH	97

COMMITTEE: LABOR AND ECONOMIC DEVELOPMENT	98
POLICY: EB-5 REGIONAL CENTER PROGRAM REAUTHORIZATION	98
POLICY: MILITARY AND VETERANS AFFAIRS	101
POLICY: SERVICE DOGS FOR VETERANS.....	104
POLICY: SUPPORT THE TOXIC EXPOSURE RESEARCH ACT	105
COMMITTEE: LAW, CRIMINAL JUSTICE AND PUBLIC SAFETY	106
POLICY: ELECTION REFORM	106
POLICY: HOMELAND SECURITY	109
POLICY: IMMIGRATION REFORM	114
POLICY: IN SUPPORT OF THE FEDERAL GOVERNMENT ESTABLISHING A FORMAL RECOGNITION COMMITTEE OR COMMISSION TO COMMEMORATE AND CELEBRATE THE 100TH ANNIVERSARY, IN 2020, OF THE PASSAGE OF THE 19TH AMENDMENT AND WOMEN'S VOTING RIGHTS.....	118
POLICY: CRIMINAL JUSTICE.....	120
POLICY: CIVIL JUSTICE.....	128
COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE	130
POLICY: AVIAN FLU RESPONSE	130
POLICY: CLIMATE CHANGE.....	132
POLICY: COVER CROP RESEARCH	136
POLICY: POLLINATOR HEALTH	137
POLICY: WILDFIRE FUNDING	139
POLICY: STATE SOVEREIGNTY IN AIR AMBULANCE REGULATION	141
POLICY: AIR POLICY.....	142
POLICY: ENVIRONMENTAL FEDERALISM.....	150
POLICY: FEDERAL LAND POLICY MANAGEMENT ACT.....	155
POLICY: WATER	159
POLICY: WATERWAYS AND PORTS	169

POLICY: NATIONAL AGRICULTURE.....	173
POLICY: RURAL POLICY	180
POLICY: CRUDE OIL TRAIN SAFETY.....	186
POLICY: ORGANIZED DEPLOYMENT OF UNMANNED AERIAL SYSTEMS.....	187

COMMITTEE: BUDGETS AND REVENUE

POLICY: PUBLIC PENSIONS, HEALTH INSURANCE AND POST RETIREMENT BENEFITS

TYPE: DIRECTIVE

State legislatures authorize and fund public employee pension plans and determine their regulation and oversight. With these plans, state and local governments provide retirement savings vehicles and security to virtually all full-time state and local employees. Any federal regulation of state and local government pension plans should recognize the unique designs and protections inherent in these plans and should only be pursued through consultation with state and local governments. Current federal regulations that impose excessive and unnecessary administrative costs on states and localities should be simplified or eliminated.

Federal Reductions to Social Security Benefits

Under some circumstances, the Social Security Administration reduces benefits to state and local employees who earn government pensions through work not covered by Social Security. Since 1983, the Social Security Administration has reduced worker and spousal benefits through two provisions called the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). There have been numerous proposals before Congress to repeal or to limit the application of the GPO and the WEP. The National Conference of State Legislatures supports efforts by Congress and the Administration to address the inequities and unintended consequences to state and local government retirees caused by federal reductions of Social Security benefits. NCSL urges Congress to enact legislation that will reduce or eliminate the impact of the GPO and WEP on state and local government retirees, particularly those who have earned lower uncovered government pension benefits or partial benefits.

Mandatory Medicare and Social Security Coverage

The National Conference of State Legislatures opposes expansion of mandatory Social Security and Medicare Coverage to public employees of state and local governments

who are not already covered. NCSL believes that state and local governments should be allowed to affiliate their plans with Social Security and Medicare on a voluntary basis.

Taxation and Regulation

NCSL believes that the exemption of state pension and benefits plans from federal taxation is a sound component of federal tax policy that should continue.

All states and many local governments sponsor defined contribution plans that allows employees to defer an additional portion of their salary in anticipation of retirement needs. Federal legislation enacted in 2001 simplified participation in, and the administration of, these supplemental arrangements. NCSL supports further improvements that enhance flexibility, improve existing arrangements, avoid increased federal regulation, maintain or expand the plans' unique features and characteristics and avoid mandates that would replace existing plans with methods designed for the private sector. NCSL opposes any federal encroachment on state authority to regulate state pensions that would supplant rather than supplement current savings, and other efforts that could result in additional cost and complexity for state and local governments and their plan participants.

Reporting Requirements

NCSL strongly opposes any effort by Congress to impose annual federal reporting and funding requirements on state and local governments regarding various aspects of their public employee pension plans and penalties for non-compliance, such as loss of federal tax exempt financing benefits for bonds issued by state or local governments during any noncompliance reporting period.

NCSL believes these actions would be unnecessary, intrusive and coercive. This federal effort would impose new, unfunded costs on states by requiring additional reports and compels the presence of the federal government in issues exclusively managed and legislated by states. States report comprehensive information in proposed federal legislation in their consolidated annual financial reports as recommended by the Governmental Accounting Standards Board.

57 **Health Care Costs**

58 The National Conference of State Legislatures (NCSL) supports federal efforts that
59 allow public sector retirees to deduct health care premium costs and/or additional
60 medical expenses from their taxable income, as well as federal efforts to allow retirees
61 to save for health care costs through tax preferred vehicles.

COMMITTEE: COMMITTEE ON BUDGETS AND REVENUE

**POLICY: STATE AND FEDERAL BUDGETING: FEDERAL
MANDATE RELIEF**

TYPE: DIRECTIVE

It is the policy of the National Conference of State Legislatures to advance and defend a balanced, dynamic partnership among governments at the local, state and federal level. The growth of federal mandates and other costs that the federal government imposes on states and localities is one of the most serious fiscal issues confronting state and local government officials. NCSL applauds the success of the Unfunded Mandates Reform Act of 1995 (UMRA; P.L. 104-4) in bringing attention to the fiscal effects of federal legislation on state and local governments, improving federal accountability and enhancing consultation. However, unfunded and underfunded federal mandates continue to pose an undue burden on state and local governments. NCSL calls upon the federal government to reassess the Unfunded Mandate Reform Act and to broaden its scope and increase its effectiveness.

Specifically, we call on Congress and the President to eliminate and avoid:

- direct federal orders without sufficient funding to pay for their implementation;
- burdensome conditions on grant assistance;
- cross sanctions and redirection penalties that imperil grant funding in order to regulate and preempt the states actions in both related and unrelated programmatic areas;
- amendments to the tax code that impose direct compliance costs on states or restrict state revenues;
- overly prescriptive regulatory procedures that move beyond the scope of congressional intent;

27 • incomplete and vague definitions which cause ambiguity; and

28 • perceived or actual intrusion on state sovereignty.

29 Unfunded mandates result in substantial costs to state and local governments and,
30 collectively, have eroded state legislators' control over their own states' budgets.

31 NCSL continues to demand sufficient federal funding for state-federal partnership
32 programs through the mechanism of mandatory spending. If the federal government is
33 unwilling to provide such funding as an entitlement to the states, states should be
34 absolved of their legal responsibility to provide services to entitled individuals and fulfill
35 other federal mandates. One approach is the “trigger” mechanism that would delay
36 mandated activities in any year in which the federal government does not meet its state
37 funding commitment.

38 Specifically, NCSL encourages the federal government to enact the following:

39 • Expand the definition of an unfunded mandate to include:

40 ○ all open-ended entitlements, such as Medicaid, child support and Title 4E
41 (foster care and adoption assistance);

42 ○ proposals that would put a cap on or enforce a ceiling on the cost of
43 federal participation in any entitlement or mandatory spending program;

44 ○ proposals that would reduce state revenues, especially when changes to
45 the federal tax code are retroactive or otherwise provide states with little or
46 no opportunity to prospectively address the impact of a change in federal
47 law on state revenues;

48 ○ proposals that fail to exceed the statutory threshold only because they do
49 not affect all states; and

50 ○ new conditions of federal funding for existing federal grants and programs,
51 including costs not previously identified, including mandated results.

- 52 • Ensure that any proposal that places a cap or enforces a ceiling on federal
53 funding must be accompanied by statutory offsets that reduce state spending,
54 administrative duties or both;
- 55 • Expand legislation subject to UMRA review;
- 56 • Revise the definitions of mandates, direct costs or other provisions of the law to
57 capture and more accurately reflect the true costs to state governments of
58 particular federal actions;
- 59 • Require that mandate statements accompany appropriations bills;
- 60 • Require federal reimbursement for mandated costs imposed on state and local
61 governments by any new federal mandates;
- 62 • Improve and enforce Title II, including strengthening the consultation process for
63 state and local governments and requiring agencies to prepare and disseminate
64 federalism assessments as to the cost of proposed regulations on state and local
65 governments. State legislatures should be consulted throughout the regulatory
66 process to respond to agency proposals and provide feedback on various options
67 for implementing regulations;
- 68 • Create an office within the Office of Management and Budget that is analogous
69 to the State and Local Government Cost Estimates Unit at the Congressional
70 Budget Office. This should include an annual regulatory statement analyzing the
71 direct and indirect impacts of federal rules on state and local governments to
72 ensure more accountability and information on federal mandates;
- 73 • Enforce executive orders that call for principles of federalism and urge agencies
74 to have an accountable process to ensure for meaningful and timely input by
75 state and local officials in the development of regulatory policies;
- 76 • Avoid preemption of state laws; and

- 77 • Repeal or modify certain existing mandates as recommended by other NCSL
78 resolutions.

1 **COMMITTEE: COMMITTEE ON BUDGETS AND REVENUE**

2 **POLICY: STATE AND FEDERAL BUDGETING: PARTNERING TO**
3 **MAKE POLICY**

4 **TYPE: DIRECTIVE**

5 It is the policy of the National Conference of State Legislatures to advance and defend a
6 balanced, dynamic partnership among local, state and federal level governments.

7 Too often, the federal government has responded to budget pressures by simply shifting
8 costs and exporting deficits to the states. The federal government should resist
9 accomplishing national goals through unfunded mandates on state and local
10 governments.

11 NCSL believes that the federal government must:

- 12 • Maintain its financial commitment to federal programs that rely on state
13 participation for implementation and provide stable and predictable funding for
14 state-federal partnership programs;
 - 15 ○ Maintain its matching rate for federal programs for which it shares
16 responsibility with state governments. Where match rate reductions are
17 proposed for shared programs, there should be a corresponding reduction
18 in the regulatory and administrative burdens imposed on states; and
 - 19 ○ Avoid delaying the release of funds for state-federal programs within a
20 fiscal year.
- 21 • Affirm the role of state legislatures in their appropriation and oversight of federal
22 funds;
 - 23 ○ Streamline the waiver process that states are subject to concerning
24 education, the environment, human services, Medicaid, health and other
25 programs; and

- Limit the federal oversight role of state grant funds to audit and evaluation.
- Avoid unfunded mandates and underfunded national expectations in state-federal partnerships;
 - Avoid increasing federal domestic programs at the expense of funding for state administration or state sharing ratios; and
 - Fully fund the long-term maintenance as well as the short-term startup costs of federal mandates; and
 - Avoid capping federal entitlement spending while retaining the legal entitlement obligation of the states; and
 - Avoid the long-term commitment of funds based on short-term revenue projections.
- Minimize the imposition of state maintenance of effort requirements in existing and future federal fiscal assistance-related legislation;

NCSL believes the federal government should maintain its guaranteed financial commitment to federal-state programs. Any devolution of federal responsibilities to the states should constitute a serious attempt at restoring balance to the state-federal partnership and not result in any reduction of the federal financial commitment to affected programs either in the short or long run. To that end, NCSL has developed a set of principles for any new block grant the federal government considers. Because state legislatures are the bodies that are most involved in the decision-making process with regard to program delivery in the states, we urge Congress and the administration to adhere to the following principles when constructing any new block grant plan or revising any existing block grant program:

- Funding levels for block grants must be adequate to finance mandated programs long-term and to respond to economic changes through countercyclical assistance.

- 52 • In the event that Congress imposes "maintenance of current level of services"
53 mandates on funds appropriated for any federal grant program, Congress should
54 provide the funds necessary to maintain and support the current levels of
55 services existing at the time of such mandates. State "maintenance of effort"
56 (MOE) clauses are inappropriate for program consolidations. Requiring states to
57 spend a fixed amount while implementing decreases in federal funding for block
58 grants is equivalent to an unfunded mandate.
- 59 • The consolidation of categorical programs into a single funding stream should not
60 be accompanied by a limitation in the types of services provided or constitute
61 new mandatory categories of services.
- 62 • Language should be included in any block grant legislation that allows federal
63 block grant funds to be distributed or expended "according to state law." Federal
64 law must allow each state to choose the manner of appropriation of federal block
65 grants. States should be authorized to determine the agency within state
66 government that is responsible for carrying out public participation requirements.
- 67 • Maximum flexibility in terms of program implementation and administration
68 should be maintained.
- 69 • Technical assistance to states by federal agencies during transition to any block
70 grant should be provided.
- 71 • State reporting requirements should not be burdensome or require the use of
72 funds that would otherwise be spent on program delivery.
- 73 • The federal government should not create new entities to oversee the
74 implementation of any block grants to the states.
- 75 • Federal agencies and their administrators should rely on the single audits
76 prepared by the states. The federal government should pay the full costs for
77 performing these audits.

78 Given the interdependency of federal government activities with state and local
79 economies, and recognizing that a federal government shutdown has serious
80 implications for state and local governments, NCSL believes that in the event of a
81 federal government shutdown, the federal government must:

- 82 • Establish a National Incident Management System (NIMS) structure, including an
83 Incident Command System (ICS), to integrate and manage the shutdown and to
84 involve all levels of government in the coordination of the incident;
- 85 • Provide flexible, temporary authority to states that have a federally-approved
86 contingency plan to assume basic-level operations of selected national parks and
87 laboratories; and
- 88 • Reimburse state funding with interest that was spent providing services that
89 otherwise would have been paid for with federal funds.

1 **COMMITTEE: COMMITTEE ON BUDGETS AND REVENUE**

2 **POLICY: STATE AND FEDERAL BUDGETING: PRINCIPLES FOR**
3 **FUNDAMENTAL TAX REFORM**

4 **TYPE: DIRECTIVE**

5 It is the policy of the National Conference of State Legislatures to advance and defend a
6 balanced, dynamic partnership among local, state and federal governments.

7 Tax reform efforts and tax actions at the federal level affect states because:

- 8 • Federal and state tax systems are inextricably linked;
- 9 • Federal programs rely on state participation for implementation; and
- 10 • Any federal reform will likely have serious fiscal and administrative ramifications
11 on the states.

12 Therefore, NCSL urges that all federal tax reform and other actions be guided by the
13 following principles:

14 **General**

- 15 • Preserve the fiscal viability and sovereignty of state governments;
- 16 • Encourage work, savings, equity and simplicity;
- 17 • Promote efficiency and predictability;
- 18 • Avoid further intrusion upon the state excise tax base;
- 19 • Preserve states' ability and discretion to tax certain revenue sources; and
- 20 • Preserve the ability of state and local government to adopt fair and effective tax
21 systems. This includes authorizing states with sales and use taxes to require
22 interstate sellers to collect and remit those taxes and preserving the state and

23 local income tax, sales tax and property tax deductions for federal income tax
24 purposes.

- 25 • Continue tax policies that reward work, specifically the Earned Income Tax Credit
26 (EITC) and Individual Development Accounts (IDAs).

27 **Transition**

- 28 • Provide states with adequate transition time to implement and respond to new
29 tax systems, preferably up to three or more years.
- 30 • Avoid the negative state impact of retroactive application of tax changes.
- 31 • Provide technical expertise to states to ease any transition of administrative
32 responsibilities to the states resulting from federal tax reform.
- 33 • Provide adequate federal administrative funds for any federal tax reform that
34 involves modified or increased collection responsibilities for the states.
- 35 • Ensure that federal tax changes are made in a manner that preserves federal
36 data collection used by the states.

37 **Do No Harm**

- 38 • Provide flexibility and strengthen states' ability to finance and administer
39 programs for which they are traditionally responsible or have gained through
40 devolution.
- 41 • Recognize that federal tax reductions should not compromise funding for existing
42 and future commitments to mandated state-federal partnership programs.
- 43 • To the extent that a national sales, consumption, or value-added tax is
44 considered as part of ongoing deficit reduction efforts, the historic role of such
45 taxes as a major revenue source for state and local governments must be
46 protected and all deliberations concerning such taxes must include

representatives of the federal government's partners in the nation's cities and states.

Tax-Exempt Financing/Bonds

- Preserve tax-exempt financing for infrastructure and capital projects, including the use of public-private partnerships.
- Maintain the tax-exempt status of state and local government bonds and lift existing restrictions on state and local government use of tax-exempt bonds.
- Avoid provisions that weaken the fiscal integrity of state and local governments. This includes: the arbitrage rebate provisions, which essentially are a one-hundred percent tax on the interest income of state and local governments; the alternative minimum tax, which now taxes interest from otherwise tax-exempt bonds; volume caps, which have unduly restricted the use of bonds for projects that have increasingly become governmental responsibilities; and restrictions on advance refunding which increases the cost of government.
- Support the Mortgage Revenue Bond (MRB) program and the low-income housing tax credit.

Enforcement

- Increase enforcement efforts of the federal income tax laws so individual and business taxpayers are not bearing the burden of those who fail to pay owed taxes.
- Continue to take into account states' reliance on federal tax rates and federal collection efforts.

Payment in Lieu of Taxes

The National Conference of State Legislatures supports federal efforts to:

- Continue, but reform the Payment in Lieu of Tax Program (PILT) program; to create a more predictable, fair and flexible system that accurately reflects the fiscal effects of federal lands on state and local governments; and
- Provide full funding for the PILT program, provided that this goal is accomplished in a manner consistent with long-term federal debt management and deficit reduction; and
- Provide a more flexible payment system through authorization for the transfer of land of equivalent value from the federal government to states or counties in lieu of monetary payment, consistent with state statutes and practice.

State Legislators' Tax Issues

The National Conference of State Legislatures supports the standard deduction allowed state legislators under section 162 (h) of the Internal Revenue Code. Regulation, interpretation, or other statutes should not undermine the section. Regulations implementing this code section should reflect the intent of Congress and should include the following recommendations:

- A "session day" should mean a day in session as defined by the laws or rules of the state of residence of the legislator.
- A "committee" of the legislature should mean 1) a committee of one or more legislators conducting the business of [or reporting to] the legislature, or 2) a committee created by state or federal statute, resolution, order or rule on which the legislator serves in his or her capacity as a legislator. This definition of "committee" should include caucuses that conduct the business of the legislature.
- "State legislator" should include newly-elected legislators who attend official organizational meetings prior to administration of their oath of office.

Other

- Prohibit further preemption of state courts by refusing to give federal courts jurisdiction to establish the valuation of property for state and local tax purposes or by refusing to give selected classes of state and local taxpayers procedural and substantive privileges unavailable to most taxpayers.
- NCSL also encourages Congress and the administration to review the Railroad Revitalization and Regulatory Reform Act (4-R Act) to determine if the courts have expanded the 4-R Act beyond the original intent of Congress and reject federal legislation that would extend to other industries 4-R type benefits.
- NCSL requests the federal government to respect the sovereignty of states to allow or prohibit games of chance or skill. Any effort by Congress or the administration to reform this regulation preempts states and diminishes the flexibility of state legislatures to use this mechanism as a revenue-related tool to meet the unique needs of residents of each state.

COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES & INTERSTATE COMMERCE

POLICY: BANKING AND FINANCIAL REGULATIONS OF MARIJUANA

TYPE: RESOLUTION

WHEREAS, twenty-five states and Washington, D.C., have legalized certain forms of cannabis usage; and

WHEREAS, a number of states are poised to legalize certain forms of cannabis this upcoming general election; and

WHEREAS, Alaska, Colorado, Oregon, and Washington are creating substantial regulatory regimes with respect to the cannabis industry to ensure compliance with laws related to the growth, sale and usage of cannabis; and

WHEREAS, these new regulatory schemes relating to cannabis have created a significant expansion of the cannabis industry authorized under state law; and

WHEREAS, business enterprises need access to financial institutions that provide capital, security, efficiency, and record keeping; and

WHEREAS, cannabis remains illegal at the federal level as a Schedule I drug under the federal Controlled Substances Act; and

WHEREAS, the federal Bank Secrecy Act and its implementing regulations impose substantial administrative and operational burdens, compliance risk and regulatory risk that serve as a barrier to banks and credit unions providing banking services to businesses and individuals involved in the cannabis industry; and

WHEREAS, providing banking services to cannabis related businesses entails additional risk to banks and credit unions arising from the fact that cannabis is a Schedule I drug under the Controlled Substances Act, substantially increasing risk of civil or criminal liability; and

27 **WHEREAS**, the majority of financial institutions have determined that there has been
28 insufficient federal guidance for providing banking services to cannabis related
29 businesses; and

30 **WHEREAS**, federal guidance for the banking industry in working with cannabis related
31 businesses is inadequate to create a regulatory environment as it does not change
32 applicable federal laws, imposes significant compliance burdens and is subject to
33 change at any time; and

34 **WHEREAS**, without banking options, cannabis related businesses are forced to operate
35 exclusively in cash; and

36 **WHEREAS**, a large and growing cash-only industry attracts criminal activity and creates
37 substantial public safety risks; and

38 **WHEREAS**, a cash-only industry reduces transparency in accounting and makes it
39 difficult for the state to implement an effective regulatory regime that ensures
40 compliance; and

41 **WHEREAS**, the inability of cannabis related businesses to pay taxes in a form other
42 than cash, which may only be remitted in person, creates a large burden on state to
43 develop new infrastructure to handle the influx of cash, and on the business owners
44 who may have to travel long distances with large sums of cash; and

45 **WHEREAS**, states have been forced to take expensive security measures to mitigate
46 public safety risks to taxpayers utilizing the system, state employees and the public at
47 large; and

48 **WHEREAS**, states do not have any control over the enforcement of federal laws and
49 cannot enact legislation that provides banks and credit unions with protections
50 necessary to overcome federal law; and

51 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State
52 Legislatures believes that the Controlled Substances Act should be amended to remove

53 cannabis from schedule 1 thus enabling financial institutions the ability to provide
54 banking services to cannabis related businesses; and

55 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures
56 acknowledges that each of its members will have differing and sometimes conflicting
57 views of cannabis and how to regulate it, but in allowing each state to craft its own
58 regulations we may increase transparency, public safety, and economic development
59 where it is wanted.

1 **COMMITTEES: COMMUNICATIONS, FINANCIAL SERVICES &**
2 **INTERSTATE COMMERCE**

3 **BUDGETS AND REVENUE**

4 **TASK FORCE ON STATE AND LOCAL TAXATION**

5 **POLICY: NCSL SUPPORTS AND URGES ENACTMENT OF THE**
6 **REMOTE TRANSACTIONS PARITY ACT**

7 **TYPE: RESOLUTION**

8 **WHEREAS**, the 1967 *Bellas Hess* and the 1992 *Quill* Supreme Court decisions denied
9 states the authority to require the collection of sales and use taxes by out-of-state
10 sellers that have no physical presence in the taxing state; and

11 **WHEREAS**, the combined weight of the inability to collect sales and use taxes due on
12 remote sales through traditional carriers and the tax erosion from electronic commerce
13 threatens the future viability of the sales tax as a stable revenue source for state and
14 local governments; and

15 **WHEREAS**, a report from the National Taxpayers Union has estimated that from 2015
16 to 2025 states will be unable to collect \$340 billion in sales taxes that are owed from
17 out-of-state purchases; and

18 **WHEREAS**, the Remote Transactions Parity Act is bi-partisan legislation that was
19 introduced in the United States House of Representatives which authorizes each
20 member state under the Streamlined Sales and Use Tax Agreement to require all
21 sellers not qualifying for a small-seller exception to collect and remit sales and use
22 taxes with respect to remote sales, and allows a state that is not a member state under
23 the Agreement to require sellers to collect and remit sales and use taxes with respect to
24 remote sales sourced to such state if the state adopts and implements certain minimum
25 simplification requirements; and

26 **WHEREAS**, unlike federal proposals, such as the Online Sales Simplification Act
27 (OSSA), which would determine a product's taxability based on the location of the
28 seller, the Remote Transactions Parity Act does not preempt or impose new
29 requirements on states that choose not to comply with the legislation's requirements
30 and simplifications; and

31 **WHEREAS** unlike federal proposals, such as the Online Sales Simplification Act
32 (OSSA), which would determine a product's taxability based on the location of the
33 seller, the Remote Transactions Parity Act does not: impose new taxes on consumers,
34 fundamentally change how states raise revenue, establish tax havens, or jeopardize the
35 viability of consumption taxes as a revenue source for states; and

36 **WHEREAS**, it has been over three years since the United States Senate overwhelming
37 passed similar legislation, the Marketplace Fairness Act, yet the Remote Transactions
38 Parity Act has not even received a hearing, despite the fact that it has 65 cosponsors
39 and enjoys broad support in the committee of jurisdiction and congress; and

40 **NOW, THEREFORE BE IT RESOLVED THAT**, the National Conference of State
41 Legislatures (NCSL) appreciates the leadership of U. S. Senators Richard Durbin (Ill.),
42 Mike Enzi (Wyo.), Lamar Alexander (Tenn.) and Heidi Heitkamp (N.D.) for championing
43 this issue in the Senate; and

44 **BE IT FURTHER RESOLVED THAT**, the National Conference of State Legislatures
45 appreciates the leadership of Congressman Chaffetz and his colleagues in drafting the
46 Remote Transactions Parity Act and urges Congress to pass the legislation, co-
47 sponsored in the House by Congressman Steve Womack (Ark.), Congressman John
48 Conyers (Mich.), Congresswoman Kristi Noem (S.D.), Congresswoman Jackie Speier
49 (CA.), Congressman Peter Welch (Vt.), and dozens of their colleagues; and

50 **BE IT FURTHER RESOLVED THAT**, the National Conference of State Legislatures
51 opposes federal remote sales tax legislation that preempts the laws of states that
52 choose to not comply with the legislation's requirements; and

53 **BE IT FURTHER RESOLVED THAT**, the National Conference of State Legislatures
54 opposes federal remote sales tax legislation that does not establish parity at the point of
55 purchase, which is necessary to level the playing field between remote sellers and in-
56 state businesses;

57 **BE IT FURTHER RESOLVED THAT**, the National Conference of State Legislatures
58 opposes federal remote sales tax legislation that does not establish a destination
59 sourcing tax regime, and

60 **BE IT FURTHER RESOLVED THAT**, a copy of this resolution be sent to the President
61 of the United States and to all of the members of the 114th Congress.

**COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES AND
INTERSTATE COMMERCE**

BUDGETS AND REVENUE

**EXECUTIVE COMMITTEE TASK FORCE ON STATE
AND LOCAL TAXATION**

**POLICY: NCSL SUPPORTS PASSAGE OF THE FEDERAL DIGITAL
GOODS & SERVICES TAX FAIRNESS ACT**

TYPE: RESOLUTION

WHEREAS, digital goods and services are online purchases that are downloaded directly by, or services that are provided electronically to, consumers that can transcend numerous state and local boundaries across the United States; and

WHEREAS, the exponential growth of digital commerce has demonstrated the importance of digital products to the American economy. In 2009, consumers downloaded 2.5 Billion apps. In 2017, that number is expected to exceed 278 Billion. The revenue from digital commerce was approximately \$18 Billion in 2012 and is expected to grow to \$46 Billion by 2016; and

WHEREAS, state policymakers recognize that the continued deployment of broadband infrastructure and adoption of broadband services is vital to economic growth and participation in the global economy; and

WHEREAS, digital goods and services are a major driver of the rapidly growing 21st Century digital economy and as such, fair and rational tax policies are needed that will not impede the continued growth of this segment of the economy; and

WHEREAS, due to the complex nature of the way digital commerce is transacted, current state and local tax laws governing the taxation of sales transactions are outdated and ill equipped to address many of the issues that surface in taxing today's "borderless" digital economy; and

WHEREAS, as state and local governments continue to seek to modernize their tax base to include various forms of digital commerce, doing so without establishing a national framework could potentially subject consumers to multiple states claiming the right to tax the same transaction or subject such transactions to discriminatory taxation at rates higher than the rates imposed on the in-state sales of similar goods or services; and

WHEREAS, establishing a national framework would clearly identify which state and local jurisdiction can tax a digital transaction, providing much needed certainty to consumers, providers required to collect such taxes and state and local governments seeking to tax such goods and services in a fair, uniform and rational manner; and

WHEREAS, establishing a national framework as set forth in the Digital Goods and Services Tax Fairness Act preserves state sovereignty as the decision to tax digital commerce or not remains solely with the states; and

WHEREAS, the Mobile Telecommunications Sourcing Act (P.L. 106-252) established uniformity in sourcing mobile telecommunications services for state and local tax purposes using similar concepts to those contained in the Digital Goods and Services Tax Fairness Act; and

WHEREAS, NCSL has worked with other state and local organizations as well as members of the Download Fairness Coalition to develop the principles contained in the legislation and is poised to assist states as needed in complying with the federal legislation; and

NOW, THEREFORE BE IT RESOLVED THAT, The National Conference of State Legislatures urges Congress to pass the Digital Goods and Services Tax Fairness Act, in conjunction with or after consideration of the Remote Transactions Parity Act, to establish a national framework providing certainty and uniformity for state and local governments in the taxation of digital goods and services, while protecting consumers from multiple and discriminatory taxation and supporting the continued growth of the digital economy.

COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES & INTERSTATE COMMERCE

POLICY: REMOTE COMMERCE

TYPE: DIRECTIVE

The 1967 *Bellas Hess* and the 1992 *Quill* Supreme Court decisions denied states the authority to collect sales and use taxes by out-of-state sellers that have no physical presence or nexus in the taxing states, holding that legislation by Congress is required to create such authority. One recent report has estimated that states will lose over \$23 Billion in uncollected sales tax revenues in 2012, of which \$11.4 billion is from electronic commerce, and that annual losses will continue to grow as more commerce is conducted online. This disconnect with remote commerce threatens to erode the viability of the sales tax as a revenue source for state and local governments. States have requested Congressional action, but Congress has failed to close this large loophole in the states' sales and use tax system.

NCSL calls on Congress to require all sellers, regardless of location, to collect sales taxes and remit them to the state to which they are due. Further, NCSL supports a small business exception.

Acknowledging that the complexity of multiple tax rates places a significant burden on out-of-state sellers, twenty-four states joined the Streamlined Sales Tax and Use Agreement and passed laws to simplify sales and use tax systems, remove burdens to interstate sellers, and collaborate on the collection of taxes due to them.

NCSL calls on Congress to pass legislation overturning the *Bellas Hess* and *Quill* decisions, affirming the states' sovereign right to enter into such agreements, and granting states the authority denied to them by the Court's decisions.

COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES & INTERSTATE COMMERCE

POLICY: STATE SOVEREIGNTY FOR GAMING

TYPE: DIRECTIVE

The National Conference of State Legislatures (NCSL) believes that the federal government must respect the sovereignty of states to allow or prohibit games of chance and skill within their borders.

Internet Gambling

The National Conference of State Legislatures (NCSL) believes the federal government must respect the sovereignty of states to allow or to prohibit Internet gambling by its residents.

The 2011 ruling by the United States Justice Department on the Federal Wire Act of 1961, 18 U.S.C. §1084, clarifies that intra-state online gambling is lawful. Any effort by Congress or the administration to reverse this ruling is preemptive and diminishes the flexibility of state legislatures to be innovative and responsive to the unique needs of the residents of each state.

NCSL requests Congress to consider the perspective of the states as it examines this issue and asks that it involve state legislators in any federal efforts that seek to reform the regulation of online gaming. NCSL strongly opposes any effort by the federal government to overturn the Justice Department's ruling or consideration of legislation overruling state authority by legalizing or regulating gambling at the federal level. NCSL also requests that federal lawmakers be respectful of state legislatures that prohibit online gaming or other forms of gaming within their state.

Sports Gambling

The National Conference of State Legislatures (NCSL) believes the federal government must recognize the sovereignty of states to allow or to prohibit sports gambling by its residents.

The “Professional and Amateur Sports Protection Act,” 28 U.S.C. §§ 3701-3704 (PASPA), currently prohibits states from “sponsoring, operating, advertising, or promoting sports gambling,” except for a handful of states grandfathered under the law. The federal ban instituted under the PASPA has not prevented the conduct of illegal sports gambling, but has in effect restricted the ability of all but a few states to regulate and collect revenue from sport gambling wagers estimated to be in the billions of dollars each year, to the detriment of state economies.

NCSL requests Congress recognize the sovereignty of states to regulate and tax sports gambling, and repeal the federal ban on sports gambling by enacting legislation that would allow state legislatures to authorize sports gambling by statute. NCSL also requests that federal lawmakers be respectful of state legislatures that prohibit sports gaming or other forms of gaming within their state.

Daily Fantasy Sports

The National Conference of State Legislatures (NCSL) believes the federal government must respect the sovereignty of states to allow or to prohibit daily fantasy sports by its residents.

The Unlawful Internet Gambling Enforcement Act of 2006 specifically excludes a fantasy or simulation sports game that “has an outcome that reflects the relative knowledge of the participants, or their skill at physical reaction or physical manipulation (but not chance), and, in the case of a fantasy or simulation sports game, has an outcome that is determined predominantly by accumulated statistical results of sporting events”. Therefore, NCSL will oppose any effort by Congress or the administration to diminish the flexibility of state legislatures to be innovative and responsive to the unique laws and regulations of each state.

53 NCSL strongly opposes any effort by the federal government that would overrule state
54 authority by regulating daily fantasy sports at the federal level. NCSL believes the
55 federal government must recognize the sovereignty of states to regulate and tax daily
56 fantasy sports. NCSL also requests that federal lawmakers be respectful of state
57 legislatures that prohibit daily fantasy sports within their state.

COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES & INTERSTATE COMMERCE

POLICY: CORPORATE FORMATIONS

TYPE: DIRECTIVE

A corporation is defined as a legal entity or structure created under the authority of a state's laws, consisting of a person or group of persons who become shareholders. The entity's existence is considered separate and distinct from that of its members. A corporation can enter into contracts, sue and be sued, pay taxes separately from its owners, and do the other things necessary to conduct business.

The ability to regulate and set standards for incorporation law had long resided within the individual states. Many states rely on the revenue generated by incorporation fees, corporate taxes and other fees as a way to fund many of their public needs. States determine what the articles of incorporation need to involve and have the ability to both tighten and lift barriers for corporate formation.

One of the key reasons for forming a corporation is the limited liability protection provided to its owners. Because a corporation is considered a separate legal entity, the shareholders have limited liability for the corporation's debts. The personal assets of shareholders are not at risk for satisfying corporate debts or liabilities.

In 2001, after the terrorist attack on the United States, the U.S. Treasury Department was tasked with tracking the funding of terrorists cells and groups. One of the findings of these early studies was the concern that state corporate formation statutes may have allowed terrorists and other criminals in laundering money and hiding assets. In 2002, a number of states were identified by the Treasury Department as having insufficient requirements for the identification of members, managers or the beneficial owners of the corporation or other limited liability entities.

In 2006, the General Accounting Office (GAO) and the Money Laundering Threat Assessment Working Group of the U.S. Treasury Department released studies

28 regarding what they considered the lax corporate formation requirements by states.
29 Almost every state was cited by the GAO report for inadequate corporate formation
30 information requirements.

31 In late 2006, the Permanent Subcommittee on Investigations of the United States
32 Senate Homeland Security and Governmental Affairs held a hearing on the reports and
33 what the Subcommittee claimed was the states failure to respond. In February 2007,
34 some in Congress served noticed that if the states failed to address the findings of the
35 studies, then Congress would set a national standard for corporate formation and
36 registration. In doing so, Congress would preempt most states' corporate formation
37 statutes and seriously impact the revenues of many states.

38 A special Task Force was established by the Executive Committee of the National
39 Conference of State Legislatures to study the federal reports, and the congressional
40 hearing and to determine if the concerns were valid. After a year of meetings and
41 hearings, the NCSL Task Force has found that while some state statutes may lack
42 some of the transparency demanded by the federal agencies, the wholesale preemption
43 of state corporate formation statutes is unwarranted and unnecessary. However, NCSL
44 is committed to working with the National Association of Secretaries of State, American
45 Bar Association, and the National Conference of Commissioners of Uniform State Laws
46 to enhance the transparency of current state corporate formation laws.

47 Therefore, the National Conference of State Legislatures will oppose any unwarranted
48 effort at the federal level to preempt state incorporation laws without proper justification
49 that such laws have led to criminal or terror activities.

**COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES &
INTERSTATE COMMERCE**

**POLICY: RESOLUTION SUPPORTING INTELLECTUAL PROPERTY
(IP) RIGHTS AND PROTECTIONS TO PROMOTE
PRODUCTIVITY, COMPETITIVENESS, JOBS, AND PUBLIC
HEALTH**

TYPE: RESOLUTION

WHEREAS, Intellectual property (IP) rights and innovation are primary drivers of job creation and America's economic growth; and

WHEREAS, over 55 million jobs are directly and indirectly supported by IP-intensive industries as a significant driver of GDP, exports, and wages in every state of the Union; and

WHEREAS, IP-intensive industries are responsible for \$5.8 trillion in private sector output (GDP); and

WHEREAS, in a 2012 economic study by the U.S. Department of Commerce that ties employment and value-added numbers to IP-intensive industries, IP-intensive industries pay workers 42% higher wages than those of non IP-intensive industries; and

WHEREAS, IP-intensive industries drive American exports accounting for approximately \$1 trillion (74% of total U.S. exports in 2011); and

WHEREAS, given the important role that IP plays in sustaining a long-term economic growth, policymakers should give high priority to fostering innovation and protecting intellectual property; and

WHEREAS, protecting and enforcing the IP rights of businesses are critical to advancing global economic recovery, driving competitiveness and export growth, and creating high-quality jobs; and

26 **WHEREAS**, the National Conference of State Legislatures believes that widespread
27 efforts to promote innovation and intellectual property protection are critical to improving
28 the nation's long-term competitiveness in a global market, and to achieving certain
29 socioeconomic improvements in the quality of American life; and

30 **NOW, THEREFORE LET IT BE RESOLVED**, that the National Conference of State
31 Legislatures calls upon all levels of governments to work cooperatively with the private
32 sector, nonprofits, and academia to create, develop and implement robust pro-IP
33 awareness and enforcement; and

34 **BE IT FURTHER RESOLVED**, the National Conference of State Legislatures supports
35 efforts to ensure the IPEC has sufficient staff, budget, and authority to fulfill the
36 obligations and achieve the goals outlined in the PRO-IP Act and the National IP
37 Strategy; and

38 **BE IT FURTHER RESOLVED**, the National Conference of State Legislatures support
39 robust IP protection and enforcement provisions in trade agreements and their
40 implementation; and

41 **BE IT FURTHER RESOLVED THAT**, the National Conference of State Legislatures
42 supports existing efforts to shut down the top illegal rogue websites globally that are
43 willfully selling counterfeit goods and facilitating digital theft; and

44 **BE IT FURTHER RESOLVED THAT**, a copy of this resolution be sent to the President
45 of the United States and all members of the 114th Congress.

COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES & INTERSTATE COMMERCE

POLICY: SMALL CELL DEPLOYMENT

TYPE: RESOLUTION

WHEREAS, wireless communication is a critical part of our everyday lives; and

WHEREAS, there were 378 million U.S. wireless subscriber connections in 2015 representing a wireless penetration rate of 115 percent nationally; and

WHEREAS, demand for wireless service and bandwidth continues to soar as U.S. consumer data usage more than doubled in 2015 with over 9.6 trillion megabytes (MBs) of data used, 2 trillion text messages exchanged, and 2.9 trillion voice minutes used; and

WHEREAS, the U.S. wireless ecosystem continues to be the recognized global leader in the deployment and adoption of 4th Generation (4G) technology; and

WHEREAS, the U.S. wireless industry is preparing for the deployment of 5G technology that will unleash further innovation in the agricultural, education, energy, finance, health care, public safety, and transportation sectors; and

WHEREAS, Ericsson forecasts nearly 28 billion new wireless Internet of Things (IoT) connected devices by 2028, which will ultimately necessitate wireless carrier network upgrades; and

WHEREAS, U.S. cities are looking to use wireless technology to introduce “Smart City” solutions by employing information and communications technology to improve the efficiency of government services, including transportation and traffic management, public safety, lighting and energy usage, and water and waste management; and

24 **WHEREAS**, U.S. wireless carriers continuously strive to buildout their networks to keep
25 pace with the ever-increasing demand for mobile broadband services, including capex
26 spending of over \$32 billion in 2015; and

27 **WHEREAS**, the wireless industry's deployment of network facilities is evolving to meet
28 the demands of the future and therefore includes the use of more small cell or micro-cell
29 equipment; and

30 **WHEREAS**, the deployment of wireless infrastructure using both micro cell and macro
31 cell wireless facilities is contingent upon approval by local governments; and

32 **WHEREAS**, the streamlining of the permitting process for all wireless facilities would
33 greatly enhance the deployment of such facilities; and

34 **WHEREAS**, access to public rights-of-ways for the placement of wireless facilities will
35 enhance broadband deployment and provide additional resources to both state and
36 local governments for a variety of services; and

37 **WHEREAS**, in 2009, the Federal Communications Commission promulgated
38 regulations, subsequently upheld by the U.S. Supreme Court, that defined timeframes
39 for state and local action on wireless facilities siting requests, while preserving the
40 authority of states and localities to make the ultimate determination on local zoning and
41 land use policies; and

42 **WHEREAS**, in 2012, the President of the United States signed the "Middle Class Tax
43 Relief and Job Creation Act," which prohibits state and local governments from denying
44 eligible wireless facilities' requests to modify existing wireless towers or base stations if
45 the modification does not substantially change the dimensions of the facility; and

46 **WHEREAS**, more than 13 states have recently enacted legislation to assist in
47 expediting the placement of wireless facilities including the enforcement of the Federal
48 Communications Commission's application processing timelines;

49 **NOW, THEREFORE BE IT RESOLVED THAT**, in order to avoid federal preemption,
50 NCSL encourages states to provide regulatory certainty for the deployment of wireless

51 facilities, including micro-cell infrastructure, by streamlining local jurisdiction application
52 processes, allowing access to public rights-of-ways, and adopting a fair fee structure;
53 and

54 **BE IT FURTHER RESOLVED THAT,** NCSL encourages wireless carriers to work
55 cooperatively with all levels of government to modernize laws and regulations in order to
56 facilitate the deployment and timely placement of wireless facilities while maintaining
57 proper local authority over the siting of such facilities.

COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES & INTERSTATE COMMERCE

POLICY: SUPPORTING THE DEVELOPMENT OF A BALANCED NATIONAL SPECTRUM POLICY THAT INCLUDES UNLICENSED ACCESS IN THE 5GHZ BAND TO MEET THE DEMAND FOR WIRELESS TECHNOLOGIES

TYPE: RESOLUTION

WHEREAS, we must have policies that preserve and encourage continued private investment to deploy broadband technologies, support small and minority businesses and entrepreneurs participation in the digital economy, and equip minority communities with the skills and education to take advantage of these technologies; and

WHEREAS, Wi-Fi spectrum in the 2.4 GHz band has become highly congested, especially in densely populated urban areas making it difficult for Wi-Fi providers to deliver the kinds and quality of service that consumers have come to expect and will only accelerate as the number of wireless devices continues to grow; and

WHEREAS, the 5 GHz band has enormous potential to support continued growth in unlicensed wireless services, including the next generation of Wi-Fi which will create a platform for technological innovation, investment, and economic growth; and

WHEREAS, the Federal Communications Commission (FCC) acknowledges the critical role that next generation Wi-Fi technologies can have on consumers and has agreed to take a first step in the 5 GHz band by adding over 100 MHz of spectrum for Wi-Fi, making it available for indoor and outdoor use; and

WHEREAS, the internet economy will reach \$4.2 trillion in the G-20 economies and boast 3 billion users globally by 2016 and Wi-Fi is essential to unleashing the enormous economic potential of the internet in communities where broadband adoption lags; and

WHEREAS, while according to a 2013 Pew survey more Americans are gaining access to broadband in their homes, adoption rates for African Americans and Latinos still lag

those of whites by 10 to 20 percentage points respectively and when accounting for income only 54 percent of those with a household income under \$30,000 had high speed broadband or a computer at home increasing the importance of Wi-Fi for these communities; and

WHEREAS, broadband access through Wi-Fi is critical to empowering minority and minority women entrepreneurs to develop, grow and improve productivity of their businesses as well as strengthening U.S. competitiveness nationally and worldwide; and

WHEREAS, unlicensed Wi-Fi is a critical issue that, if left unresolved, will hinder the broadband industry's ability to grow, innovate and compete and limiting access to this important resource will jeopardize consumers ability to access Wi-Fi; and

WHEREAS, NCSL agrees that the proliferation of smartphones, tablets and other mobile devices with Internet access has grown significantly, placing a greater demand on both licensed and unlicensed spectrum, and adding additional capacity is essential to support continued innovation and achieve the potential to transform many different areas of the American economy by providing a platform for innovation and is likely to have a substantial impact on jobs, growth and investment; and

WHEREAS, NCSL strongly believes that ensuring the long-term success of unlicensed services in the 5 GHz band for Wi-Fi will enable the broadband industry to provide reliable and affordable services to broadband customers, particularly given communities of colors' high usage of mobile broadband technology as a primary means of connecting to the Internet with the majority of these connection now being Wi-Fi connections; and

NOW, THEREFORE BE IT RESOLVED, that NCSL supports the Federal Communications Commission's move to allocate additional 5 GHz band spectrum for unlicensed use in order to meet increased demand for wireless technologies; and

BE IT FINALLY RESOLVED, that NCSL send a copy of this resolution to the President of the United States, Members of Congress, the Federal Communications Commission, State Legislatures and Governors.

COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES AND INTERSTATE COMMERCE

POLICY: TWENTY- FIRST CENTURY COMMUNICATIONS

TYPE: DIRECTIVE

As the 21st century progresses, advanced communications services and information technology are the economic forces that are ensuring the continued financial health and stability of our country and our states. Innovation and convergence of existing technologies are rapidly expanding communications services, blurring the distinction between telephone and Internet services; between cable, wireless and satellite; between long distance and local service; and between telephone and other forms of communications. Many of these new technologies are capable of delivering communications services but do not fit within the definitions of the traditional regulatory framework for telecommunications. As a result, similar services can be delivered via networks that are regulated and taxed differently, and for a growing number of technologies, these services are free of regulation and even taxation.

To ensure that government regulation of communications services, when such regulation is necessary to ensure competition, protect the interests of consumers and the needs of law enforcement agencies, is based on an even playing field between competitors of similar services, though possibly delivered by different technologies, the National Conference of State Legislatures calls upon the Congress and the Federal Communications Commission (FCC), in consultation with state legislatures and the providers of communications services, to review the current definitions of telecommunications and information services as defined in the Communications Act of 1934 and the Telecommunications Act of 1996 to ensure that all providers of communications services are treated similarly for purposes of government regulation and taxation. The definition of telecommunications and information services should not be decided in the courtroom but rather by the elected representatives of the people working cooperatively with regulators, industry providers and consumer groups.

NCSL has concerns about a piecemeal approach by Congress in addressing regulatory and taxation issues with regard to a particular developing technology and not similar issues faced by other providers of communications. NCSL supports reconsideration of the 1996 Telecommunications Act to eliminate remaining barriers to competition, modernize outdated regulations that distort the market or results in government favoring one technology over another, and ensure a level playing field for all providers of communications services, while maintaining the basic right of interconnection that is fundamental to a competitive market.

COMMUNICATIONS INFRASTRUCTURE

The United States communications infrastructure is the combined product of a wide range of service providers, including historically regulated common carriers, new entrants and operators of private networks. Government and industry should strive for a communications policy framework that promotes and ensures fair and open competition, removes obsolete barriers that result from outdated burdensome regulation and requirements, ensures similar government regulation for all technologies that provide similar services in markets that are competitive, encourages innovation and investment, and allows consumers and the marketplace to determine winners and losers not government regulation. As competitive markets alone may not be able to provide an advanced communications infrastructure to all citizens, institutions, and businesses, government should continue to encourage the availability of such an infrastructure to all. The federal government must recognize that states have unique priorities that require state and regional specific solutions.

UNIVERSAL SERVICE FUND

In reforming the federal Universal Service Fund (USF), NCSL reminds Congress that the USF is funded primarily by customers of telecommunications services and therefore the Congress needs to evaluate the ever growing burden these increasing fees are becoming to all Americans. Congress, the FCC, state legislatures and state regulators should review and address the requirements and goals for universal service by adopting policies that promote universal mobility and universal competition. As the FCC embarks

to modernize the fund to hasten the deployment of high-speed Internet service nationwide, NCSL cautions that any reform of the federal USF should not impact or hinder innovation at the state level or interfere with the administration of state Universal Service Funds.

ADVANCED COMMUNICATION SERVICES

The future expansion of access to advanced communications and broadband services will depend upon additional private investment. Any regulation of communications and broadband services must be minimal and should not discriminate between communication providers or the technology used in delivering such services.

NCSL urges Congress to work with states in developing an integrated broadband strategy to ensure universal deployment and affordable access to every constituent, regardless of geography or economic status. NCSL supports the creation of a national advisory board, including state, federal and local policymakers, as well consumer and industry representatives, to develop principles to facilitate deployment of advanced broadband communications services.

NCSL urges the FCC, in conjunction with state, federal and local policymakers, to reevaluate the distinction between telecommunication and information services and gather additional information on the state of advanced broadband and communications services in the United States in light of the technological achievements made within the last decade.

MUNICIPAL BROADBAND NETWORKS

As states seek to expand access to broadband and work with the federal government to enhance deployment of broadband, Congress and the FCC must recognize and account for the principles of federalism and numerous decisions by the United States Supreme Court with regard to the relationship between the state and its political subdivisions. NCSL will oppose any effort to authorize or prohibit the establishment of municipal or state created public agencies broadband networks through congressional

or federal regulatory action. Should Congress or the federal government take such action, NCSL will challenge the constitutionality of such action.

WIRELESS COMMUNICATIONS

While the wireless industry through self-regulation has been successful in significantly reducing the number of consumer complaints, NCSL continues to support the ability of state government to protect the interests of wireless consumers. However, in carrying out its consumer protection functions government must acknowledge the interstate nature of the wireless industry. Specifically targeted state government requirements such as type size, language or formats of billing statements that may differ from jurisdiction to jurisdiction, while possibly well meaning, will hinder the seamless provision of these services, resulting in confusion and increased costs for all customers especially for those that are not residents of the state that has taken such action.

NCSL urges state and federal policy makers to work together to ensure that industry targeted consumer protections can be applied within a national framework that ensures the continued ability of the state attorneys general to enforce such consumer protections.

SPECTRUM MANAGEMENT

NCSL supports a periodic examination of current and future radio frequency spectrum needs and uses. In view of the limitations of the radio frequency spectrum, NCSL supports management reforms to improve the current allocation and assignment process. Access needs to be provided to all users of the spectrum.

NCSL recommends delaying proposals that would allow developing technologies to share the same bandwidth presently utilized by state and local governments and public utilities until such time as transmission can sufficiently be assured to avoid signal interference with public users. NCSL opposes any effort to provide additional frequency by means of reallocating what is currently allocated for state, local, public utility uses and transportation direction and safety purposes until the aforementioned concerns are adequately addressed.

NCSL supports providing sufficient spectrum to public safety to meet the requirements for an interoperable nationwide broadband network. Therefore, NCSL will oppose future FCC efforts to auction the D Block spectrum within the 700 MHz band to a commercial provider without a strict guarantee that addresses the unique and critical spectrum needs of public safety for an interoperable nationwide broadband network.

STREAMLINING AND COLLOCATION OF WIRELESS FACILITIES SITES

The federal Communications Act respects the authority of state and local governments over zoning and land use decisions for personal wireless facilities, but limits that authority to ensure that such local decision making does not become a barrier to entry for wireless providers. While the FCC, state and localities have worked cooperatively in the past, efforts to increase wireless facilities sites or to co-locate on existing sites are facing growing roadblocks by some localities. Local jurisdictions are the creation of either state constitutions or statute. Zoning and land use powers that these political subdivisions of the state exercise were granted to them over time by state legislatures. Therefore, any attempt by Congress to preempt current local zoning and rights-of-way authority is a preemption of state sovereignty.

To avoid federal preemption, state legislatures enacted legislation to streamline the siting process and to enhance the use of collocation on existing wireless facilities. While NCSL rarely advocates the enactment of legislation in state legislatures, NCSL has at times, when states are facing a serious threat of federal preemption, urged state legislatures to take action. NCSL, in order to preserve the states' sovereignty, endorses state action to enhance the use of collocation of cell antenna and the streamlining of the current tower siting process. Collocation of antenna should not be subject to additional zoning, land-use or regulatory approval process above and beyond the initial process for siting the wireless facility. NCSL also believes that government should not levy discriminatory fees for the siting of wireless facilities or the application for collocation. Application fees levied on the siting as well as taxes on the wireless facility must not be higher than fees or taxes applied to other general business.

STATE FEDERAL PARTNERSHIP IN TELECOMMUNICATIONS COMPETITION

State legislatures and state regulators have been at the forefront of deregulation of the telecommunications industry, removing barriers to competition in local markets and advocating the infrastructure for the delivery of advanced telecommunications. State legislators recognize that deregulation and competition are among the means to reach the goals of advanced infrastructure development, universal service, expanded consumer choice, availability of services and cost effectiveness for our constituents.

NCSL, through its policy process, has supported the sovereign rights and responsibilities of states to regulate intrastate telecommunications. This principle has guided NCSL's position with regard to Congressional action to deregulate and provide for competition in telecommunications.

NCSL believes that the Congress and the President, in enacting the Telecommunications Act of 1996, acknowledged the rights and responsibilities of states to regulate intrastate telecommunications, using any and all of the local market entry mechanisms envisioned by Congress in the 1996 Act, including the resale of legacy networks, providing that states use such authority in a competitively neutral manner.

NCSL believes that states and the federal government should continue their joint partnership in sharing regulatory responsibilities which will serve to protect consumers by ensuring the broadest possible consumer choice in each geographic and service market, provide for the appropriate level of universal service, promote effective competition in telecommunications by ensuring similar and minimal regulation for all providers in competitive markets, foster the development of a national infrastructure policy that encourages a positive impact on our nation's economic future.

While NCSL acknowledges the historic role of states as the primary regulator of intrastate telecommunications, state legislators also recognize that the historic distinctions between intrastate and interstate communications is fast becoming irrelevant in today's global marketplace. Some new services, such as Voice over Internet Protocol, involve integrated functionalities that cannot even be characterized as jurisdictional. NCSL calls upon the Congress and the FCC to partner with states in a

national framework for communications policy that ensures minimal regulation but guarantees all Americans with a choice of mediums and service providers.

TAXATION OF COMMUNICATIONS SERVICES

With the blurring of boundaries and increased convergence and competition in telecommunications and other related services, NCSL supports the review, simplification and reform of communications tax policies at all levels of government in order to ensure a level playing field between telecommunications service providers, to enhance economic development, to avoid discrimination between new and existing providers and to relieve the higher burden that discriminatory communications taxes have on low income Americans.

Transaction taxes and fees imposed on communications services should be simplified and modernized to minimize confusion, remove distortion and eliminate discrimination regarding the taxability of telecommunications services. NCSL encourages elected policymakers at all levels of government to work together to simplify reform and modernize communications taxes based upon the following principles:

1. Tax Efficiency: taxes and fees imposed on communications services should be substantially simplified and modernized to minimize confusion and ease the burden of administration on taxpayers and governments.

2. Competitive Neutrality: transaction taxes and fees imposed on communications services should be applied uniformly and in a competitively neutral manner upon all providers of communications and similar services, without regard to the historic classification or regulatory treatment of the entity.

3. Tax Equity: Under a uniform, competitively neutral system, industry-specific communications taxes are no longer justified, except for fees needed for communications services such as 911 and universal service.

State Sovereignty: Other than the prohibition of taxes on internet access, NCSL will continue to oppose any federal action or oversight role which preempts the sovereign

197 and Constitutional right of the states to determine their own tax policies in all areas,
198 including communications services.

1 **COMMITTEE: EDUCATION**

2 **POLICY: IMPLEMENTING THE EVERY STUDENT SUCCEEDS ACT**

3 **TYPE: RESOLUTION**

4 With the passage of the Every Student Succeeds Act (ESSA) in December 2015, the
5 United States Congress fixed issues with the well-intentioned No Child Left Behind law,
6 including the test-and-punish model of accountability and the Adequate Yearly Progress
7 (AYP) proficiency measure. ESSA puts much of the decision-making authority back into
8 the hands of state and local policymakers. The National Conference of State
9 Legislatures (NCSL) believes that the following principles for should be the basis of any
10 federal action on implementation of the new law:

11 **Consultation**

- 12 • Ensure that the “timely and meaningful consultation” process on Title I plans is
13 thorough and ongoing, honoring the constitutional and statutory authority over
14 education policy that rests with state legislatures.
- 15 • Support collaborative discussions on state and local education policy after the
16 initial ESSA Title I plan is developed.

17 **Accountability**

- 18 • Recognize that Congress passed a law that maintains safeguards to protect our
19 most vulnerable students while also giving states and districts the flexibility to
20 innovate and pursue meaningful change in accountability systems.
- 21 • Understand that there is no single path forward on accountability. The federal
22 government should therefore avoid drafting regulations that would restrict or
23 mandate how states design their accountability systems, including by
24 unnecessarily defining terms or assigning weights to indicators.

25

Assessment

- Recognize the desire of states, districts, parents, students, and other stakeholders to lessen the burden of testing, while encouraging high quality assessments that accurately measure the achievement of all students and subgroups of students.
- Promote the innovative assessment pilot program in ESSA with an eye toward possible future expansion of the pilot and by ensuring that lessons learned from pilot states are broadly disseminated.

NCSL therefore calls upon the U.S. Department of Education to refrain from pursuing regulatory action that conflicts with the spirit and letter of the law as written by Congress. For example, the department should write regulations on supplement not supplant requirements that reflects the clear wording of the statute and the intent of Congress. The law seeks to allow states and districts to take charge of their educational systems, and excessive regulation would impede this effort.

NCSL appreciates ongoing communication and technical assistance in place of regulatory action and will continue to work with the U.S. Department of Education to provide insight into the informational needs of state legislators and legislative staff.

NCSL additionally encourages Congress to continue its oversight of ESSA's implementation. We appreciate efforts to ensure that the spirit and letter of the law is followed and that states and districts are given the flexibility that Congress intended.

The nation's legislators and legislative staff remain committed to ensuring that the Every Student Succeeds Act is implemented effectively. As demonstrated by our work with governors, state chiefs, state boards, parents, teachers, principals, superintendents, civil rights advocates, and many others, NCSL believes that a collaborative process can persevere during and beyond implementation and will produce the best results for all of our nation's students.

COMMITTEE: EDUCATION

**POLICY: THE STATE-FEDERAL PARTNERSHIP IN
POSTSECONDARY EDUCATION**

TYPE: DIRECTIVE

The nation's legislators remind our federal partners of the increasingly complex and important role postsecondary education plays in maintaining and fostering a dynamic and productive economy. A strong higher education system supports individual financial success, provides a foundation for healthy state economies and ensures our nation's position in a global economy. When students fall through the cracks, they do not achieve their full potential and neither does our country. The federal government has an important role to play in supporting low-income students, conducting research on innovation and productivity, monitoring national and regional programming efforts, and providing data and technical assistance to help states examine and analyze our institutions.

Accountability

Legislators strongly urge the federal government to defer to the states' leadership in ensuring the quality of postsecondary education, and to facilitate state efforts to emphasize accountability. While the federal government has a role in monitoring national and regional accrediting bodies and loan providers, accountability of state higher education programs and institutions is and should remain a state issue. The federal government should support an interstate compact on delivering academic programming across state lines via the internet. The federal government can also support accountability standards for emerging forms of education delivery, whether provided by public or private not-for-profit institutions or proprietary ones, whether delivered as massive open online courses or other mechanisms. Ensuring students gain skills competency no matter the means used to obtain that competency will help states and the nation increase productivity, improve competitiveness, and prepare future generations of leaders and citizens.

Teacher Preparation

[BACK TO THE TABLE OF CONTENTS](#)

States have taken the lead in advocating for higher standards for teacher preparation and performance, and vigorously acted to improve assessments of quality. The National Conference of State Legislatures (NCSL) encourages the expansion of several programs embodied in the Higher Education Act and other federal legislation that focus on teacher quality. At the same time, NCSL insists that states be allowed to implement their own programs and be given the opportunity to demonstrate their effectiveness. The federal government must refrain from setting national standards.

Helping Students Succeed

Legislators are keenly aware that students benefit from a seamless progression encompassing preschool through postsecondary education. A growing number of states are looking at education as “P-16” rather than separate systems serving early education, K-12 and postsecondary education and updating or amending their statutes to facilitate this change. Important federal-state educational programs supported by the states, such as the Perkins Act programs and the TRIO program, must be better integrated with state postsecondary policy. The federal government has a significant role and responsibility in working with states and supporting state efforts in college readiness and providing research and technical assistance.

States, working with national foundations, institutions, and private partners, are implementing policies that focus on maintaining access to postsecondary education and improving student performance and outcomes. Congress and the administration should follow suit. Our country will remain internationally competitive if more high school age, non-traditional students, and working adults not only enroll in colleges and universities, but complete postsecondary credentials and degrees. Policies that further this ultimate outcome will help states prepare to meet our still-challenging economic situation and grow economically. As states continue to prioritize and address competing public needs, federal policy must acknowledge this reality by noting the difficulties states face in satisfying maintenance of effort requirements for important postsecondary programs. Reauthorization of the Higher Education Act (HEA) offers another opportunity to renew this country’s commitment to accessible and affordable postsecondary education and remove barriers encountered by a changing student population.

Student Aid

Increasingly the burden of higher education costs is borne by students and families. This burden consists of significant educational debt by all students, whether program graduates or drop-outs, whether attending public and private institutions. Crippling educational debt slows any recovery and limits state economic growth. Reauthorization efforts directing federal aid to students who need it most and helping them quickly become productive members in their communities without substantial debt will help local, state, and national economies. If federal aid is limited, there are fiscal impacts for state-funded efforts to support students.

State legislators recognize that the student population is changing. Many students are older and more are part-time. Congress should review Pell Grant award amounts to guarantee that the purchasing value of this important grant does not continue to erode and that it serves the broadest number of students, including adult students enrolled part-time. The federal government should ensure adequate federal funding for the Pell Grant program to help reduce dependency on student loans. For example, moving Pell funding to the mandatory side of the federal budget, resuming “year round” Pell Grants to summer enrollments, and reinstituting a longer eligibility period (which will assist nontraditional college students) are federal actions that can strengthen the program. The federal government must also fundamentally simplify and streamline the process for applying for federal financial aid. In considering the framework for student financial assistance, the nation's legislators urge the Congress to:

- continue to defer to state authority in regulating postsecondary tuition levels;
- support federal programs that complement state efforts to improve student participation in and completion of postsecondary education;
- design college savings incentives at the federal level so as to stimulate and complement, rather than preempt, similar policy initiatives by states and higher education institutions;
- support particular student aid programs that serve state and national economic and workforce priorities; and
- facilitate the exchange of best practices around dual enrollment programs

1 **COMMITTEE: EDUCATION**

2 **POLICY: STUDENT DATA PRIVACY**

3 **TYPE: RESOLUTION**

4 As Congress discusses changes to federal laws that protect student data, the National
5 Conference of State Legislatures (NCSL) recognizes the need to ensure that parents
6 and students can trust that data collected as part of the educational experience is
7 secure. State legislators, however, firmly believe that these efforts must preserve
8 appropriate state and local flexibility. Possible changes to the Federal Educational
9 Rights and Privacy Act (FERPA), as well as other legislation to regulate online providers
10 of educational services, must provide opportunities to support state autonomy and local
11 control in this area. Any federal action should:

- 12 • Support state capacity to safeguard data by providing technical assistance;
- 13 • Align the multiple federal laws that affect student data;
- 14 • Reduce the burden on states in terms of collecting and reporting data;
- 15 • Promote transparency of data collection;
- 16 • Build the capacity of all stakeholders to use data in a way that promotes
17 educational purposes and allows for personalized or adaptive learning, but
18 protects student privacy;
- 19 • Allow state legislative auditors and program evaluators access to student data, in
20 a form determined by each state, in order to carry out their state constitutional
21 and statutory duties to audit and evaluate educational programs; and
- 22 • Promote the building, maintaining and updating of state data infrastructure,
23 including enhancing state longitudinal data systems.

24 The ways that educational data is collected and used could not have been envisioned
25 when existing federal laws were first written in the 1970s. Everyone who has a stake in
26 education should be able to trust that individual student data such as attendance,

- 27 course taking, grades and test scores, are being collected for legitimate purposes and
28 kept safe, secure and private.

1 **COMMITTEE: EDUCATION**

2 **POLICY: THE STATE-FEDERAL PARTNERSHIP IN ELEMENTARY**
3 **AND SECONDARY EDUCATION**

4 **TYPE: DIRECTIVE**

5 Elementary and secondary education policy is defined broadly by state constitutions,
6 specified by state statutes and implemented by state agencies, school boards and local
7 school districts. State legislators believe that the federal role should be as a supportive
8 partner instead of the intrusive and top-down role of recent years. A healthy state-
9 federal partnership in the vital task of educating America's children:

- 10 1. Avoids unfunded and underfunded mandates, and fully funds federal
11 requirements for education programs, activities, and reporting. It is both
12 ineffective and unconstitutional to expect states to accomplish national goals
13 that the federal government is not willing to fully fund.
 - 14 • If a federal education program is not fully funded, the policies and
15 activities should be encouraged but not mandated.
 - 16 • Federal reporting requirements should be reasonable and not require
17 the use of funds that could otherwise be spent on program delivery;
- 18 2. Encourages state innovation. States are inherently more capable than the
19 federal government of moving quickly to initiate or change policies, can be more
20 sensitive to public needs, and can generate broader buy-in for policies changes
21 from local school districts. State flexibility, in addition to being an effective
22 means of making public services more cost effective, provides an opportunity for
23 state legislators to integrate federal, state and local programs into a coordinated
24 system;
- 25 3. Respects state law and avoids inappropriate federal preemption. Creative
26 solutions to public problems can be achieved more readily when state laws are
27 accorded due respect. Any attempt to preempt should be balanced against the

[BACK TO THE TABLE OF CONTENTS](#)

potential loss of accountability, innovation, and responsiveness. Unless a clear and compelling case for national uniformity exists, every effort should be made to allow state governments to respond without federal intervention to local conditions;

4. Recognizes that K-12 education is predominantly a state and local financial and legal responsibility. Federal government spending is less than 10% of the nationwide K-12 budget and should not be used to exercise a disproportionate impact on education policy at the state and local level;
5. Maximizes state flexibility to implement and administer federal programs through a streamlined waiver process. This is critical to ensure that states are not unduly burdened by federal regulation or legislation;
6. Preserves and respects state flexibility in implementing and administering new block grants. If categorical federal education programs are consolidated into block grants, these grants should:
7. Includes legislative language stating that block grant funding should be expended “according to state law”;
8. Does not limit states to the kinds of activities funded under corresponding block grants for past categorical programs; and
9. Provides adequate federal funding to assure the continuation of services;
10. Maintains steady resource streams, such as formula funding, as the primary funding source for state education aid;
11. Distributes competitive grant funds, when appropriate, for targeted purposes, in a transparent and consistent process;
12. Respects state budget processes. Federal funds should be incorporated into state budget processes for open hearings and deliberations. Federal funding

53 going directly to state or sub-state bureaucracies or agencies should not bypass
54 state legislative appropriations and oversight procedures; and

55 13. Takes into consideration state appropriation and legislative calendars. Sufficient
56 time must be allowed for states to implement new federal legislation and
57 regulation.

COMMITTEE: EDUCATION

POLICY: FEDERAL FUNDING FOR SPECIAL EDUCATION

TYPE: DIRECTIVE

The nation's legislators support equal opportunity for all citizens and support the purposes and spirit of the Education for All Handicapped Children Act of 1975. This law and its subsequent amendments mandate that states provide a free and appropriate education (FAPE) and procedural safeguards for all children with disabilities without regard to costs incurred by the states and local school districts.

The original federal special education law and its subsequent amendments include a provision that authorizes the federal government to fund 40 percent of the average per pupil expenditures (APPE) in K-12 nationwide, an estimate at the time of the excess cost for educating a special education student that the federal government would bear. Since its enactment, the federal government has appropriated funds at levels between 8 and 17 percent of APPE. Congress attempted to address this issue in the reauthorization of the Individuals with Disabilities Education Act in 2004 by setting voluntary spending targets in a “glide path” to full funding by 2011. However, Congress failed to appropriate the authorized level of funds, and states received \$57.1 billion less than they would have had if Congress had kept its commitment.

Federal support for special education is critical. State and federal laws and regulation, combined with the extensive and increasingly complex case law that has developed around special education, have made the practice of delivering services to students with disabilities complex and costly for states and communities. In fact, recent reports indicate that actual spending for special education services is 95 percent above APPE – not 40 percent.

Given these circumstances, NCSL strongly urges Congress to appropriate the moneys to fully fund the 40 percent of APPE statutorily authorized in Part B of IDEA. One way for Congress to strengthen its commitment to special education would be to move the Part B allotments for special education from the discretionary to the mandatory side of the federal budget.

[BACK TO THE TABLE OF CONTENTS](#)

COMMITTEE: HEALTH AND HUMAN SERVICES

**POLICY: ACQUIRED IMMUNE DEFICIENCY SYNDROME/HIV-
INFECTION**

TYPE: DIRECTIVE

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 high 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

- 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.
- NCSL supports and encourages the continuation of state flexibility with respect to needle exchange programs and hopes to continue to work with the federal government to develop best practices regarding the prevention of new cases of HIV/AIDS, hepatitis C and other blood borne conditions that arise from

individuals with substance use disorders, mental health conditions and HIV/AIDs and other blood borne disease sharing needles.

Confidentiality and Civil Rights

- NCSL supports federal efforts to sustain the privileged state of personal medical 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 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. 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 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.

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 CARE 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.
- 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.

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.

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.

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 other countries.

- **U.S. President's Emergency Plan for AIDS Relief (PEPFAR)** - The U.S. President's Emergency Plan for AIDS Relief (PEPFAR) is a U.S. government global initiative to control the HIV/AIDS pandemic. It is the largest commitment by any nation toward a single disease. To achieve an AIDS-free generation, PEPFAR works closely with a variety of stakeholders, including partner countries, multilateral organizations, civil society, people living with and affected by HIV, the faith community, and the public and private sectors. PEPFAR is coordinated by the Office of the U.S. Global AIDS Coordinator and Health Diplomacy and implemented by the Departments of State; Labor, Health and Human Services, Labor; Commerce, Defense; the U.S. Agency for International Development and the Peace Corps With a focus on transparency, accountability, and impact, PEPFAR is actively working with partners to control the HIV/AIDS pandemic to help achieve an AIDS-free generation. PEPFAR is committed to supporting activities that are grounded in science and critical to saving lives and preventing new HIV infections.

COMMITTEE: HEALTH AND HUMAN SERVICES

**POLICY: FEDERAL REGULATION OF INTERSTATE AND INTERNET
TOBACCO SALES**

TYPE: DIRECTIVE

Regulation of Interstate and Internet Sales of Tobacco Products

Illegal interstate, tribal and internet sale of tobacco products affects the health and safety of the nation's citizens and has a particularly negative effect on state revenues.

Tobacco sellers that evade state tobacco taxes: (1) use the profits of these sales to finance other illicit activities; (2) undermine state efforts to reduce youth access to tobacco products by making lower cost products available to them through the mail; and (3) reduce state revenue. In addition, many of these sellers fail to comply with the provisions of the Master Tobacco Settlement Agreement, endangering state compliance with the Agreement and reducing state payments under the agreement by illegally gaining market share in cigarette sales by offering lower prices made possible by their failure to pay the appropriate state taxes.

The Prevent All Cigarette Trafficking (PACT) Act became effective in June 2010. NCSL supports the PACT Act and the continuing partnership between the states and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to implement this important law. The law: (1) Imposes improved recordkeeping requirements to implement these recommendations; (2) Prohibits the commercial importation of tobacco products, including smokeless tobacco products, into any state in violation of state or federal law; (3) Increases the penalties for noncompliance with the federal laws regulating interstate and internet sale of tobacco products; (4) Authorizes states to enforce tobacco tax collections through the Jenkins Act; (5) Permits states to collect triple damages in any suit against entities selling tobacco in states in violation of the laws of the state and make debts incurred in the purchase of these products uncollectible through actions in courts; (6) Prohibits interstate tobacco sellers from doing business in a state that is party to the Master Settlement Agreement if the seller is not in full compliance with the

29 Model Statute or the Qualifying Statute enacted by the state; and (7) Preserves existing
30 agreements between states and tribal governments regarding cigarette taxes.

31 **FDA Regulation of Tobacco and Tobacco Products**

32 The Family Smoking Prevention and Tobacco Control Act of 2009 establishes the Food
33 and Drug Administration (FDA) as the agency responsible for the regulation of the
34 manufacturing, marketing and sale of tobacco products. In summary, the law: (1)
35 Restricts the sale and marketing of tobacco products to young people;(2) Authorizes the
36 FDA to restrict tobacco marketing;(3) Requires tobacco manufacturers to disclose
37 information about the ingredients of their products and any changes they make to the
38 ingredients; (4) Authorizes FDA to require changes to tobacco products to protect the
39 public health; (5) Authorizes the FDA to regulate “reduced harm” claims;(6) Requires
40 more prominent health warnings; and (7) Funds FDA regulation of tobacco products
41 through a user fee imposed on tobacco manufacturers. The law does not permit states
42 to regulate the content of tobacco products, tobacco labeling or advertisements. The
43 law does preserve some important state and local government regulatory authority.
44 Specifically, states may adopt laws or regulations related to the sale, distribution,
45 possession or exposure to tobacco products and may restrict the time, place and
46 manner of tobacco product advertising. The law also does not preempt most state-
47 based civil claims. The preservation of state authority permits states to actively support
48 and enhance FDA initiatives.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: FEDERAL FUNDING TO ASSIST STATES TO IMPROVE**
3 **SERVICES TO UNDERSERVED PEOPLE AND AREAS TO**
4 **ADDRESS HEALTH PROFESSION SHORTAGES**

5 **TYPE: DIRECTIVE**

6 **National Health Services Corps**

7 The National Health Services Corps (NHSC) provides medical scholarship and loan
8 repayment assistance to health professionals in exchange for primary care service in
9 underserved rural and urban areas after graduation. In addition to this financial
10 assistance, state offices of rural health are funded through the NHSC and health
11 programs such as community and migrant health centers rely on NHSC to help recruit
12 health care professionals. The National Conference of State Legislatures supports the
13 NHSC program and encourages Congress to continue to make the NHSC a priority
14 program and to appropriate funds necessary to continue its important work.

15 The goal of NHSC is to educate and recruit primary health care professionals for
16 service in communities experiencing critical shortages of health care providers. Many
17 of these communities consist largely of individuals with specific cultural experiences or
18 ethnic backgrounds. These communities can present special challenges in recruiting
19 and retaining health care providers sensitive to the particular needs of the community.
20 The NHSC recognizes the importance of training culturally-competent and responsive
21 primary health care providers. NCSL urges Congress through the NHSC programs to:

- 22 1) develop additional mechanisms to recruit and retain minority participants;
23 2) augment informal efforts to match communities with specific cultural
24 traditions with health care providers with shared cultural experiences, or
25 who are specifically trained in culturally diverse community-based
26 systems of care;
27 3) increase and formalize efforts to recruit and place health professionals

who represent racial and ethnic minorities in communities who request them;

- 4) improve training to encompass cultural competency that considers geographical/regional differences that may affect the health delivery system;
- 5) more directly involve communities in the recruitment, selection and retention of health care professionals through community sponsorships;
- 6) increase the emphasis on public/private partnerships, including faith-based institutions, to enhance community involvement and contractual arrangements with independent health care providers;
- 7) develop programs to assist remote communities, those too small for community health centers, but large enough to need assistance in obtaining primary health care for its citizens; and
- 8) provide technical assistance to states and local communities in implementing NHSC programs and maximizing resources.

The Conrad 30 State J-1 Visa Program

The Conrad State 30 J-1 Visa Waiver program is the most common method of obtaining a J-1 visa waiver for physicians and other health professionals willing to enter into a 3-year employment contract in a designated health professional shortage area (HPSA) or medically underserved area (MUA). The program provides for the approval of up to 30 J-1 visa waivers for each state.

NCSL urges Congress to:

- Permanently authorize the Conrad 30 State J-1 Visa program;
- Make additional waivers in states for academic medical centers;
- Increase the current cap on the number of visa waivers per state;
- Allow physicians who work in underserved areas for five years (three of which could be through the Conrad 30 program) would be eligible for a green card

through the physician National Interest Waiver (NIW) program and exempt from the worldwide cap on employment-based green cards;

- Allow physicians who serve in Conrad 30 "flex" spots to be eligible for the National Interest Waiver (NIW) green card program.
- Allow physicians who enter the country on a J visa to receive graduate medical education or training with the intent to immigrate permanently; and
- Allow spouses and children or physicians on J visas to be exempt from the two-year home country return requirement.

HRSA Health Professions Grants and Cooperative Agreements

The Health Resources and Services Administration (HRSA), through a number of grants and cooperative agreements, supports innovations and targeted expansions in health professions education and training. Most of these programs focus on: (1) increasing the diversity of the health care workforce; (2) preparing health care providers to serve diverse population; and (3) preparing health care providers to practice in the nation's medically underserved communities. NCSL urges Congress to continue to support these important programs.

Community Health Centers, Rural Health Centers and Federally-Qualified Health Centers

Community Health Centers, Rural Health Centers and Federally Qualified Health Centers and similar and related facilities play critical role in the health care safety net. NCSL urges Congress to continue to support these facilities.

Liability Protection for Health Professional Volunteers at Community Health Centers and Rural Health Centers - NCSL urges Congress to adopt legislation that amends the Public Health Service Act to deem a health professional volunteer providing primary health care to an individual at a community health center or rural health center to be an employee of the Public Health Service for purposes of any civil action that may arise from providing services to patients.

1 This protection would apply when:

- 2 1. the service is provided to the individual at a community health center or rural
3 health center through offsite programs or events carried out by the center; and
4 2. the health care practitioner does not receive any compensation for providing
5 the service, except repayment for reasonable expenses.

6 **Rural Health Programs and State Rural Health Offices**

7 Discretionary rural health programs such as the rural health outreach grants, the rural
8 health research program, rural hospital flexibility grants, the telehealth program and
9 related grant programs provide important health service support and resources to rural
10 and remote areas of our nation. NCSL urges Congress to continue to support these
11 programs. The State Office of Rural Health Grant Program, first established in 1991,
12 has spurred the development of 50 state offices by providing matching funds for their
13 creation and by providing forums for exchanging information and strategies among
14 states. Today's state offices provide an institutional framework that links small rural
15 communities with state and federal resources and develops long-term solutions to rural
16 health problems. States have become a major agent for change in rural health policy
17 and service delivery, due in part to the work performed by the state rural health offices.
18 NCSL urges Congress to continue to support this important program.

COMMITTEE: HEALTH AND HUMAN SERVICES

POLICY: NCSL SUPPORTS NATIONAL HEALTH IT WEEK 2016

TYPE: MEMORIAL

- National Health IT Week 2016 will take place September 26-30. Key public and private healthcare constituents – representing the full spectrum of healthcare interests – will convene in Washington, DC and around the country to address implications for ongoing healthcare reform initiatives and promote understanding.
- Initiated in 2006 by The Healthcare Information and Management Systems Society (HIMSS), National Health IT Week has emerged as a landmark occasion for bringing together diverse national healthcare stakeholders, who partner in developing neutral, common ground for the advancement of health IT adoption with "One Voice, One Vision." This October, nearly 400 public and private sector organizations throughout the nation will participate in the Tenth Annual National Health IT Week.
- The National Conference of State Legislatures (NCSL) has worked closely with HIMSS and other stakeholder organizations to promote understanding among state policymakers of the contributions of health IT to improving the quality and safety of healthcare delivery and containing healthcare costs. National Health IT Week presents an opportunity for NCSL and other stakeholders to recognize the value of information technology and management systems to transform the United States healthcare system, improving the quality and cost efficiency for all Americans.
- NCSL encourages its members to observe "National Health IT Week 2016" in appropriate ways in their respective state capitals as well as in the Nation's Capital. NCSL also encourages its members to urge their respective delegations to the United States Congress to join in recognizing the benefits of health

27 information technology as they act to improve health care for all citizens during
28 National Health Information Technology Week.

COMMITTEE: HEALTH AND HUMAN SERVICES

**POLICY: HEALTH, HUMAN SERVICES AND FOOD AND NUTRITION
PROGRAMS: LEGISLATIVE, REGULATORY AND
ADMINISTRATIVE INITIATIVES (2016-2017)**

TYPE: RESOLUTION

CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)

- NCSL continues to support CHIP and urges the Congress to ensure continued funding and state flexibility in the operation of the program.

MEDICAID

Deficit Reduction

- NCSL supports efforts to put the federal government's budget on solid footing and NCSL anticipates reductions in federal support for some state and local government programs as part of that effort. The reduction of the federal deficit should not be achieved by shifting costs to state governments or by imposing federal funding reductions made without regard for states' determinations of access to necessary services. Elimination or reduction of federal assistance programs and financial assistance must be accompanied by: (1) greater program flexibility; (2) relief from unfunded legislative and regulatory mandates; (3) relief from maintenance of effort requirements; and (4) continued support for safety net programs during economic downturns. The Medicaid program represents a significant portion of states' economies and any changes should avoid further *damaging already weakened economies*.

Provider Tax Limitations

- Extensive changes to the Medicaid Voluntary. Contributions and Provider-Specific Tax amendments of 1991, as amended, were adopted in recent rulemaking. NCSL opposes further restrictions on states' ability to impose provider-related taxes.

[BACK TO THE TABLE OF CONTENTS](#)

Emergency Assistance and Countercyclical Assistance

- NCSL urges the Congress to include a provision establishing emergency and countercyclical assistance to states within the Medicaid statute. The provision would upon some triggering event, such as an economic downturn, natural disaster, act of terrorism, pandemic or other public health emergency, provide additional financial assistance to states through an enhanced federal match or some other mechanism that would revert back to the regular federal-state cost sharing formula when the triggering event has been resolved. This is a complex, but critical component to fiscal security for the Medicaid program. NCSL looks forward to working with Congress and the Administration to identify options and to establish and implement a program.

Medicaid Expansion Options

- NCSL urges the Secretary of the U.S. Department of Health and Human Services to support and to explore a broad range of alternative approaches in addition to the provisions in the Patient Protection and Affordable Care Act (ACA) to provide affordable coverage for low-income people through the Medicaid program.

Program Integrity Initiatives

- NCSL is pleased that the Administration has proposed to coordinate and consolidate some of the existing program integrity programs enacted over the last several years to address duplication of effort and conflicting elements of the programs. NCSL urges the Congress and the Administration to make the necessary legislative and regulatory changes to improve the cost effectiveness of the federal program integrity initiatives, to lessen the administrative burdens associated with them, and ultimately to improve our collective effort to eliminate fraud, waste and abuse in the Medicaid program.

Data Collection Requirements

- Data is important and necessary to assure program integrity and to improve program quality. NCSL urges the Congress and the U.S. Department of Health and Human Services to carefully consider data collection requirements imposed on state and local governments. The costs, both financially and in staff time, must be commensurate with the contribution the collected data will make to overall effort to improve access and quality.

Dual-Eligibles

- Federal Coordinated Health Care Office (Medicare-Medicaid Coordination Office)
 - The establishment of the Federal Coordinated Health Care Office within the Centers for Medicare and Medicaid Services (CMS) is an important first step in improving coordination between Medicaid and Medicare services for people who participate in both programs. NCSL supports the establishment of the office and looks forward to working closely with its staff to improve access, care and services to this important group of Medicaid and Medicare beneficiaries.
- State Demonstrations to Integrate Care for Dual Eligible Individuals - NCSL
 - strong supports the new State Demonstrations to Integrate Care for Dual Eligible Individuals. These projects will help states design and implement new approaches to better coordinate care for dual eligible individuals. The Centers for Medicare and Medicaid Services (CMS) provides funding and technical assistance to states to develop person-centered approaches to coordinate care across primary, acute, behavioral health and long-term supports and services for dual eligible individuals. The goal is to identify and validate delivery system and payment coordination models that can be tested and replicated in other states. CMS is also making technical assistance available to all states interested in improving services for dual eligible individuals. NCSL urges CMS to continue to support these demonstration projects and to provide maximum flexibility to states to explore options that may improve the quality of life and health outcomes for dual eligible individuals.

Technical Assistance

- As states continue to implement the Medicaid-related provisions of the PPACA, technical assistance in the following areas will be extremely important: (1) managed care and other service delivery reforms, particularly for special populations and services and in rural areas; (2) payment reforms; (3) successful initiatives to improve care and reduce costs; (4) workforce recruitment, training and retention initiatives; and (5) strategies for enrolling and serving single, childless adults in Medicaid.

Managing Medicaid Costs

- States should be given flexibility to manage Medicaid costs by modifying certain sections of the Social Security Act, such as: Section 1927 of the Social Security Act that prevents states from using drug formularies to constrain the cost of prescription drugs. The section should be modified to remove the requirement that states cover every drug for which a manufacturer signs a rebate agreement.

Medicaid Managed Care

- NCSL urges the Centers for Medicare and Medicaid Services (CMS) to: (1) work with states as partners and stakeholders in establishing minimum operational and quality standards for managed care entities contracted with states for the delivery of services and benefits to Medicaid and CHIP beneficiaries; (2) to develop a process for technical assistance and guidance to avert the imposition of punitive actions and sanctions that may impact a state federal matching funds, as state begin implementing new requirements; (3) offer states flexibility in administering their managed Medicaid and CHIP programs which meet the unique characteristics and needs of their states and populations; and (4) support state innovation.

TECHNICAL ASSISTANCE TO STATES TO IMPROVE THE PROVISION OF MENTAL HEALTH SERVICES TO CHILDREN

- NCSL urges the U.S. Department of Health and Human Services to provide technical assistance to states to monitor and improve the provision of mental

health services to children and to improve the oversight of the prescribing of psychotropic medications to children.

- NCSL also urges the department to work with the medical community to develop guidance regarding behavior therapies that may replace or be used in concert with medications to reduce the dependence of psychotropic medications as the primary or sole treatment.

REGULATION OF COMPOUNDING PHARMACY

- Congress has enacted legislation to strengthen the regulation and oversight over the pharmaceutical supply chain and to improve the regulation of compounding pharmacies with a particular emphasis on the “non-traditional pharmacy compounding” that has become important to our overall health care system, but has also caused harm to a number of individuals across the country. NCSL urges the Food and Drug Administration to work closely with state legislators, state public health officials, state boards of pharmacy and other important state and local officials, 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.

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.

ACCESS TO AFFORDABLE PRESCRIPTION DRUGS

- **Importing Prescription Drugs** - The National Conference of State Legislatures (NCSL) believes that it should be a national priority to expand access to affordable prescription drugs. More and more people have become interested in

exploring the feasibility of importing prescription drugs from other countries to move toward this goal.

- **Personal Use Policy** - NCSL is opposed to the “criminalization” of drug importation and the effect it may have on individuals with limited options. The current federal policy on drug importation is confusing at best. NCSL urges the Food and Drug Administration (FDA) to clarify its “personal use” policy and how the policy is to be enforced. Ultimately if it is determined that drug importation is not the right approach, NCSL urges Congress ~~will~~ to make it a priority to explore ways to: (1) increase the number of individuals with health insurance, thereby increasing access to prescription drug coverage; and (2) increase the affordability of prescription drugs.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: HEALTH INSURANCE PORTABILITY AND**
3 **ACCOUNTABILITY ACT**

4 **TYPE: DIRECTIVE**

5 Under the provisions of the Health Insurance Portability and Accountability Act of 1996,
6 federal law supersedes state law, except when the Secretary determines that the state
7 law is necessary: (1) to prevent fraud and abuse; (2) to ensure the appropriate state
8 regulation of insurance or health plans; and (3) for addressing controlled substances, or
9 for other purposes. NCSL supports a broad interpretation of this provision that would
10 result in limited preemption of state laws.

11 **Medical Records Privacy**

- 12 • **Scope of Law** - No patient identifiable medical information may be released
13 without written and oral informed consent of the patient, unless otherwise
14 exempted. A federal privacy statute should define a range of health care
15 conditions and services and protect patient identifiable information, including
16 demographic information, collected during the health care process. A federal
17 privacy statute also should define "information" to include records held in
18 whatever form possible -- paper, electronic, or otherwise. Strong protections for
19 individuals from the inappropriate disclosure of their medical records should be
20 established. Anyone who provides or pays for healthcare or who receives health
21 information from a provider, payer, or an individual should be required to conform
22 to the provisions of the law. Health care providers that do not have direct
23 relationships with the patient must also abide by the same standards. A payer
24 should not be required to provide a benefit or commence or continue payment of
25 a claim in the absence of protected health information, as set forth in each state's
26 statutes, to support or deny the benefit or claim.

- 27 • **Consumer Rights** - Individuals should have the right to: (1) Find out what
28 information is in their medical record; and (2) How the information is used.
29 Practices and procedures must be established that would: (1) Require a written
30 explanation from insurers or health care professionals detailing who has access
31 to an individual's information; (2) Require insurers or health care professionals to
32 tell individuals how that information is kept; (3) Inform individuals how they can
33 restrict or limit access to their medical records; (4) Inform individuals how they
34 can authorize disclosures or revoke such authorizations; and (5) Inform
35 individuals of their rights should an improper disclosure occur. In general,
36 individuals should be permitted to inspect and copy information from their
37 medical record. Finally, a process should be developed for patients to seek
38 corrections or amendments to their health information to resolve situations in
39 which coding errors cause patients to be charged for procedures they never
40 receive or to be on record as having conditions or medical histories that are
41 inaccurate.
- 42 • **Accountability/Security** - Severe penalties should be imposed on individuals
43 who knowingly disclose medical records improperly, or who misrepresent
44 themselves to obtain health information. Civil monetary and/or criminal penalties
45 should be imposed on individuals who have a demonstrated pattern or practice of
46 unauthorized disclosure. Any individual whose rights under the federal privacy
47 law have been violated should be permitted to bring a legal action for actual
48 damages and equitable relief. If the violation was done knowingly, attorney's fees
49 and punitive damages should be available. Information should not be used or
50 given out unless either the patient authorizes it or there is a clear legal basis,
51 under state or federal law, for doing so.
- 52 • **Public Health** - Under certain limited circumstances, health care professionals,
53 payers, and those receiving information from them should be permitted to
54 disclose health information without patient authorization to public health
55 authorities for disease reporting, public health investigation, or intervention, as
56 required by state or federal law.

- **Research** - Research protocols and confidentiality standards should be continued and strengthened.
- **Law Enforcement** - Law enforcement representatives should be required to have a court order to obtain information from an individual's medical record.
- **Preemption of State Laws** - Federal legislation should provide every American with a basic set of rights with respect to health information; however, confidentiality protections provided in state and federal law should be cumulative, and the federal legislation should provide a floor, not a ceiling and only preempt state laws that are less protective.

Administrative Simplification

NCSL supports the administrative simplification provisions of the Health Insurance Portability and Accountability Act (HIPAA). These provisions: uniform claims forms, unified transaction and billing codes, guidelines for electronic claims processing and billing, and other related initiatives will result in improvements to our health care system. It is imperative that all affected entities, however; be afforded adequate time to implement these provisions. It is equally important for the federal government to coordinate all the related rules and regulations so that changes will not have to be made after implementation has begun. Federal and state governments should share information; however, confidentiality of medical records and information must be protected.

COMMITTEE: HEALTH AND HUMAN SERVICES

POLICY: PRINCIPLES FOR FEDERAL HEALTH INSURANCE REFORM

TYPE: DIRECTIVE

States should regulate insurance and should continue to set and enforce solvency standards to provide oversight on insurance matters. NCSL opposes any proposals that would expand the preemption of state laws and regulations beyond those already established in the Employee Retirement Income Security Act of 1974 (ERISA) and the Patient Protection and Affordable Care Act (ACA). Federal remedies, that more closely resemble remedies available at the state level, should be adopted for consumers in ERISA plans. Federal health insurance legislation that establishes mandated benefits or uniform standards, should establish a floor, not a ceiling. The federal government should continue to give deference to state, local and tribal governments regarding the regulation of state, local and tribal government employee health plans. Finally, NCSL strongly opposes federal proposals to exempt any insurer, plan or entity from state insurance standards and laws if they are permitted to operate in the state market.

Implementation of Federal Health Insurance Reforms

When federal insurance reforms are adopted, the consumer should easily understand the implementation process and an intensive community education effort must be an integral part of program implementation. The federal government should fund and support federal laws that require state enforcement. Any federal legislation requiring state action to comply with the law must allow a reasonable period of time for state legislatures to adequately debate and enact any necessary state legislation. Where states already have similar legislation in place, a process for declaring "substantial compliance" should be developed. Great deference should be given to states in the application of the "substantial compliance" doctrine.

Federal Demonstration Authority for States to Experiment with Innovative Health Care Reform Initiatives

NCSL supports federal initiatives to provide financial assistance and to authorize states to experiment with innovative approaches to: (1) increase access to health care services to the uninsured, (2) improve the quality and cost-effectiveness of our health care system, to increase access to the broad range of long term care services; especially home and community-based services, to individuals who need them; and (3) explore a broad range of approaches and financing mechanisms to improve our health care system.

COMMITTEE: HEALTH AND HUMAN SERVICES

POLICY: PUBLIC HEALTH

TYPE: DIRECTIVE

The U.S. Department of Health and Human Services (HHS), particularly through the Centers for Disease Control and Prevention (CDC) and the National Institutes of Health (NIH), plays an important role in supporting the state and local public health infrastructure. HHS provides national surveillance of infectious disease, applied research to develop new or improved diagnoses, prevention and control strategies, and helps strengthen state's capacity to respond to outbreaks of new or reemerging disease. The CDC provides a global health perspective and assists states in detecting new and emerging diseases. Federal support through grants and cooperative agreements, research and technical assistance is key to the stabilization and effective operation of the nation's public health system and provides critical support for the state and local public health infrastructure.

NCSL urges Congress to continue to support: (1) grants and cooperative agreements to state and local governments for a broad range of public health activities; and (2) research and technical assistance, which assists states in the development and implementation of effective programs. In addition, NCSL wishes to foster the development of public and private sector partnerships to increase community accessibility to public health information and public health programs.

HEALTH DISPARITIES

The U.S. Department of Health and Human Services and its offices, institutes and centers including the Office of Minority Health, Centers for Disease Control and Prevention, National Institute of Mental Health, Substance Abuse and Mental Health Services Administration should work with NCSL and state policymakers to reduce/eliminate health disparities by: (1) identifying the social determinants of health which lead to disparities; (2) adopting the National Standards for Culturally and

Linguistically Appropriate Services in Health Care (CLAS Standards); and (3) developing standards for the collection and reporting by federally funded health and health care programs of data on race, ethnicity, sex, primary language, disability status, those living in rural and frontier areas and other characteristics identified by the Secretary of Health and Human Services in order to analyze and monitor health disparity trends and develop promising practices and programs to eliminate them based on the data collected.

- **Reporting Requirements** - NCSL believes reporting requirements are important, but should be limited to requirements where there is a reasonable expectation that the data will be used to: (1) analyze trends; (2) improve patient outcomes; (3) improve programs; and (4) eliminate health disparities. In addition, efforts must be made to impose data collection and reporting requirements in the least burdensome way possible.
- **Funding** - NCSL urges the President and Congress to provide increased funding to the Department of Health and Human Services and relevant agencies, including the Centers for Disease Control; Office of Minority Health, the National Institutes of Health to: (1) implement the HHS Office of Minority Health's National Partnership for Action to End Health Disparities (NPA) efforts to mobilize a nationwide, comprehensive, community-driven, and sustained approach to combating health disparities and to move the nation toward achieving health equity; (2) expand funding and other resources to support the Regional Blueprints for Action that will align with the National Stakeholder Strategy to help guide action at the local, state, and regional levels; (3) augment outreach and other efforts targeting populations including racial and ethnic minorities at higher risk of chronic diseases and illnesses; (4) provide quality care and efficiencies; (5) improve health outcomes; (6) increase cost-effectiveness; (7) meet legislative, organizational; and accreditation standards; and (8) develop additional evidence-based prevention and interventions targeting ethnic and racial minorities.

- **Clinical Trials and Research** - NCSL urges the federal government to make every effort to include more women and minorities in clinical trials and other research initiatives to improve health care strategies and programs and to eliminate disparities.

HEALTH PROMOTION AND DISEASE PREVENTION

An informed public is an important component of a healthy society. NCSL urges the Congress to continue to support public health education initiatives that are culturally sensitive, age appropriate and written at the appropriate educational level for the audience. It is imperative that these public health education initiatives integrate healthy lifestyle choices and disease prevention messages and strategies targeted for children, young adults, men, women, the elderly as well as other specifically identified populations within the community who have special healthcare concerns, needs and risks.

- **Healthy and Responsible Lifestyle Choices** - NCSL supports programs that promote healthy lifestyle choices, reducing high-risk behaviors through education, counseling and treatment. NCSL urges the federal government to provide adequate funding for these programs.
- **Preventive Health and Health Services Block Grant** - The Preventive Health and Health Services Block Grant provides funds to states for preventive health and health promotion activities and is the primary federal source of funding to states for health education and risk reduction activities; cholesterol, hypertension, and cancer screenings. States are given maximum flexibility to design and implement programs that meet the needs of their citizens. NCSL urges Congress to continue to support this program.
- **Preventive Health Screenings and Check-Ups** - NCSL urges Congress to increase support for initiatives to promote regularized preventive health screenings and check-ups. NCSL is particularly supportive of efforts that provide information about and promote screening for: cardiovascular disease, dental

disease; obesity, asthma, diabetes, and cancer. We also support efforts to ensure that children receive age appropriate check-ups and screenings that include recommended childhood immunizations; and dental, vision and hearing screenings; and recommended follow-up treatment.

- **Chronic Disease Management** - NCSL urges Congress to continue to support initiatives that promote the management of chronic conditions such as obesity, cardiovascular disease, dental disease, diabetes, asthma, kidney disease, mental health disorders and a wide range of autoimmune diseases. Management of these conditions improves the quality of life of the individuals and their families and is more cost efficient for the health care system. NCSL is particularly supportive of initiatives that provide case management services to children with one or more chronic conditions. Early diagnosis, treatment and management is key to helping children with chronic conditions such as asthma and diabetes to stay on grade level at school and to become healthier adults.

- **Oral Health** - NCSL supports federal initiatives to promote oral health by encouraging individuals to have regular check-ups and to practice good oral hygiene. These initiatives should include educational activities that emphasize the importance of good dental hygiene and care to overall good health. While some of the best dental care in the world is available in the United States of America, many people are unable to access dental care because they lack dental coverage and the means to afford the out-of-pocket cost of care. In addition, many areas both urban and rural have concerns about the distribution of dental professionals. NCSL supports efforts to increase access to quality, affordable dental care, including initiatives to improve public and private sector coverage of dental services, improve oral health literacy within the public, and provide states flexibility to develop innovative Medicaid dental programs to increase access to and the utilization of oral health care services.

- **Health Education for Health Care Professionals** - Health care professionals need to become better informed on health care promotion and disease

prevention strategies so that they can better inform the people they serve. NCSL supports efforts to encourage institutions that train health professionals to include in their curriculum a greater emphasis on culturally competent health promotion and disease prevention information.

- **Access to Health Screenings and Disease Treatment** - NCSL supports efforts to encourage insurers and other third party payers, including Medicare and Medicaid, to cover cancer-screening tests. NCSL supports federal initiatives to improve coverage of cancer screenings, tests and treatments that have been shown on the basis of evidence-based evaluation to be beneficial for the population served.

VACCINES AND IMMUNIZATIONS

- **Childhood Immunizations** - NCSL supports initiatives designed to increase the overall number of children immunized. We are particularly supportive of efforts to increase federal funding for the Section 317 program to more closely match the increasing costs and number of recommended childhood vaccines. NCSL also supports initiatives that would use alternative sites such as schools, community health centers or other community settings to deliver vaccines to children when appropriate, cost effective and convenient. NCSL urges the federal government to continue and to increase public education initiatives designed to provide parents with the most up-to-date information regarding recommended immunizations for children. NCSL also supports continued research to improve the safety and efficacy of childhood immunizations. NCSL urges the Congress and the Administration to work with states to make certain that every child receives the recommended childhood immunizations and to improve immunization funding and policies to help meet that goal. Finally, NCSL urges Congress to continue to allow states to set child vaccine coverage policy.
- **Adult Immunizations** - NCSL urges the Congress to continue efforts to increase the number of adults who receive recommended immunizations. NCSL supports

and encourages continued special efforts to encourage adults, particularly high-risk adults, young adults and older adults to receive all recommended immunizations.

- **Vaccine Supply** - NCSL urges the Congress to appropriate sufficient funds to maintain a reasonable stockpile of pediatric immunizations and vaccine, seasonal influenza vaccine and vaccines that may be used during a flu pandemic so that everyone who needs an immunization can be served.

WORKPLACE SAFETY AND HEALTH CARE WORKERS

- **Occupational Hazards/Workplace Safety** - NCSL urges the federal government to support efforts to increase awareness of occupational hazards and ways to avoid accidents in the workplace. Information must be provided to employers and employees and should be included in the national effort to emphasize health promotion and disease prevention.
- **Health Care Workers** - NCSL supports the decision by the Centers for Disease Control and Prevention (CDC) to continue to permit state and local health officials to 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, engineered safety devices, protective clothing, and 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.

PANDEMIC AND ALL-HAZARDS PREPAREDNESS

State and local governments are the first line of defense against acts of bioterrorism and other public health emergencies. State legislators are committed to enhancing their states' ability to prepare for and respond to these events. A strong partnership between and among the states, the federal government, and other public and private non-profit entities is the best way to accomplish this goal. NCSL urges the federal government to:

- provide states, territories, and the District of Columbia with direct, sufficient and stable funding to enable them to continue to build and maintain an infrastructure to support on-going efforts to respond to bioterrorism and other public health emergencies;
- pass federal funds through the states for distribution to local governments, hospitals and other entities, permitting state officials to take the lead in planning on a regional and statewide basis, utilizing federal funds in the most efficient and effective way;
- require grantees that receive direct funding from the federal government to collaborate with the state and to coordinate all of their activities with the state plan;
- afford states the flexibility necessary to meet their diverse needs and priorities;
- build upon existing national and state efforts;
- ensure that regulations and requirements imposed on states are accompanied by sufficient funding to support implementation, both immediately and in the long term; and
- authorize the appropriate federal official to temporarily waive or modify the application of federal laws that may impede implementation of state plans during a bioterrorist attack or other public health emergency.

PUBLIC HEALTH AND THE ENVIRONMENT

- **Lead Poisoning** - NCSL supports federal efforts to prevent and detect lead poisoning in children. NCSL urges the federal government to continue to assist state and local health officials in addressing this serious health care problem.
- **Vector-Borne Illness** - NCSL supports the efforts of the Centers for Disease Control and Prevention (CDC) to abate vector-borne illness, including-Chikungunya, Eastern equine encephalitis virus (EEEV), Lyme-Disease, Malaria, Rocky Mountain spotted fever, and West Nile Virus, and Zika virus—by providing training and assistance to front-line disease surveillance and response staff, offering clinical education programs, collaborating with state and local health departments, and funding to states to support epidemiology and response activities addressing vector-borne disease.

MATERNAL AND CHILD HEALTH

- **Maternal and Child Health (MCH) Block Grant** - The MCH block grant provides funds to states to meet a broad range of health services for mothers and children. In addition to formula grants to states, the set aside for special projects of regional and national significance (SPRANS) continues to help states to identify and address special needs. NCSL supports the MCH block grant and urges Congress to continue to provide adequate funding. NCSL opposes efforts to transfer program responsibilities to the MCH block grant without the funding to accompany it, thereby reducing the funding available to functions currently funded through the block grant.
- **The Maternal, Infant and Early Childhood Home Visiting Program (MIECHV)**
– The MIECHV program facilitates collaboration and partnership at the federal, state, and community levels to improve the health of at-risk children through evidenced-based home visiting programs. NCSL supports community-based, state-federal partnerships and initiatives that working with parents and caregivers provides a supportive environment to: (1) improve maternal and child health, (2)

promote healthy child development and school readiness; (3) improve parenting skills; and (4) prevent child abuse and neglect. NCSL urges Congress to continue financial support for the MIECHV program and to continue to provide state flexibility in the administration of the program based on needs assessments that identify community and family vulnerabilities.

- **Universal Newborn Hearing** - The Universal Newborn Hearing Screening program provides competitive grants to states for the implementation of a national program of universal newborn hearing screening that consists of: (1) physiologic testing prior to hospital discharge; (2) audiologic evaluation by three months of age; and (3) entry into a program of early intervention by six months of age. NCSL supports this program and urges Congress to continue to provide adequate fund.

- **Teen Pregnancy Prevention** - The federal government offers a range of programs and supports to state governments to help reduce teen pregnancies recognizing that state, tribal and local governments are best situated to determine the best programs for their constituents. NCSL supports the full range of programs available to state, tribal and local governments and researchers, to help prevent unplanned teen pregnancies. NCSL supports continued funding for these critically important programs. Currently, the programs include the:

- **State Personal Responsibility Education Program (PREP)** that awards grants to state agencies to educate young people on both abstinence and contraception. The program specifically targets youth who are homeless, in foster care, living in rural areas or areas with high teen birth rates; and from minority groups, including sexual minorities; and pregnant youth and mothers under age 21.

- **Tribal Personal Responsibility Education Program (PREP)** promotes proven and culturally appropriate methods for reducing adolescent pregnancy, delaying sexual activity among youths and increasing condom use and other contraceptives among sexually active youth in native

[BACK TO THE TABLE OF CONTENTS](#)

communities. Programs follow design guidelines similar to those of the **State PREP**, but are specially designed to honor tribal needs, traditions and cultures. Discretionary grants are available to tribes to combat the disproportionately high rates of teen pregnancy and birth.

- **Personal Responsibility Education Program (PREP) Competitive Grants** under the Affordable Care Act, awards grants to local organizations and entities to educate young people on both abstinence and contraception. With efforts toward preventing pregnancy and sexually transmitted infections. Focuses on the same types of youth as the state program targets.
- **The Title V State Abstinence Education Grant Program (AEGP)** provides funding to states and territories for abstinence education, mentoring, counseling and adult supervision. AEGP promotes abstinence to prevent teen pregnancy in youth aged 10-19, especially for those from minority groups, in foster care or who are homeless. Support services help young people by: (1) strengthening their beliefs supporting abstinence; (2) increasing their skills to negotiate abstinence and resist peer pressure; and (3) educating youths about sexually transmitted infections, such as HIV/AIDS.
- **The Competitive Abstinence Education (CAE)** grant program provides funding for projects that aim to build our knowledge of effective and promising approaches to reducing teen pregnancy and sexually transmitted infections. Projects must be designed to provide medically accurate abstinence education as defined by the Social Security Act.
- **The Personal Responsibility Education Innovative Strategies (PREIS)** program seeks to develop, implement, and test innovative adolescent pregnancy prevention strategies for high-risk, vulnerable, and culturally underrepresented youth populations, to include: (1) youth residing in areas

- with high teen birth rates; (2) youth in foster care; (3) runaway and homeless youth; (4) youth with HIV/AIDS; (5) pregnant and parenting youth who are under 21 years of age and their partners; (6) rural youth; and (7) youth who have been trafficked.

YOUTH VIOLENCE AND PUBLIC HEALTH

Youth violence is a serious public health problem. According to the Centers for Disease Control and Prevention (CDC), a public health approach that includes multiple, evidence-based prevention strategies can result in community-wide and sustained reductions in youth violence. NCSL supports the establishment of a nationwide trauma-informed educational initiative by the federal government to address this critical issues. NCSL supports a strong state/federal partnership to increase education in violence prevention and post-traumatic stress disorder (PTSD) awareness. NCSL supports universal school-based violence prevention programs that help reduce violence and aggressive behavior.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: SOCIAL SECURITY DISABILITY INSURANCE**

3 **TYPE: DIRECTIVE**

4 The National Conference of State Legislatures (NCSL) continues to support the Social
5 Security Disability Insurance (SSDI) program which provides needed income and
6 medical support for disabled Americans. NCSL is particularly supportive of: (1)
7 initiatives to accelerate the disability determination and appeals process and to assure
8 that people with intellectual disabilities have effective access to the appeals process; (2)
9 the Compassionate Allowance process that identifies conditions that are almost certain
10 to qualify an individual for SSDI coverage, shortening the eligibility process; and (3)
11 continued improvements to the Ticket to Work program.

12 With only a few exceptions, individuals who become eligible for SSDI due to a severe
13 disability must wait two years before they become eligible for Medicare. These are very
14 sick people with almost no health care coverage options. The provisions of the Patient
15 Protection and Affordable Care Act that become effective in 2014 may help some SSDI
16 beneficiaries receive Medicare coverage, but coverage gaps are likely to continue for
17 many. NCSL recommends that the Congress consider waiving the waiting period in
18 some cases.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: SOCIAL SERVICES AND SUPPORTS FOR FAMILIES AND**
3 **INDIVIDUALS**

4 **TYPE: DIRECTIVE**

5 **Social Services Block Grant (SSBG)**

6 The federal Social Services Block Grant (SSBG) funds are a vital part of the delivery of
7 community and home-based services to the most vulnerable segments of society
8 including the disabled, elderly, and children in need of protective services the states.

9 NCSL urges the federal government to:

10 (1) fund the SSBG at the level agreed to as part of the enactment of the 1996
11 welfare reform act, \$2.8 billion. In addition, it is critical that the amount states can
12 transfer from their TANF grants to the SSBG remains at least 10% and is not
13 reduced. SSBG funds programs that complement TANF's goal of self-sufficiency.
14 States use their SSBG funds to provide protective services for children and
15 adults, adult day care, meal preparation and delivery for the elderly, counseling
16 services, and serve the disabled in their homes, rather than in institutions, and
17 provide child care for low-income working families. Further reductions in funding
18 for this grant would mean programmatic losses and service reductions. NCSL
19 opposes earmarking SSBG for any of the populations served by the block grant;
20 and

21 (2) avoid imposing federal earmarks or set-asides within the SSBG.

22 Finally, if Congressional proposals to substantially reduce or eliminate funding for SSBG
23 are enacted, state maintenance of effort requirements related to expected expenditures
24 from SSBG, must be removed or modified.

25 **Community Services Block Grant**

26 The National Conference of State Legislatures supports full funding and reauthorization
27 of the Community Services Block Grant Act. NCSL also supports efforts to improve
28 program effectiveness and to measure program performance and effectiveness.

29 **Low Income Home Energy Assistance Program**

30 The cost of energy fuels makes it difficult for low income households to adequately heat
31 or cool their homes without assistance from federal, state, and local governments. This
32 program helps foster coordination and cooperation on the part of all levels of
33 government and the private sector to assist low-income individuals and families meet
34 critical heating and cooling needs.

35 The federal energy assistance program should have two major components:

36 (1) a cash assistance program to help low income households meet their
37 immediate financial obligations to their energy supplier; and

38 (2) a weatherization assistance and conservation education program to help low
39 income households to lower energy consumption and costs.

40 NCSL also supports the use of interest subsidized loans to assist households to
41 weatherize their homes.

42 It is critically important that the Low Income Home Energy Assistance Program
43 (LIHEAP):

44 (1) includes all states in the funding allocation formula;

45 (2) affords states the flexibility to shape the program in a way which best suits the
46 needs of its citizens and maintains strong state oversight of such programs;

47 (3) targets assistance to households with the lowest incomes and to households
48 with infant, elderly, and/or disabled members;

- 49 (4) authorizes states to draw down program funds on an as needed basis; and
- 50 (5) prohibits counting energy assistance payments as income for the purpose of
- 51 determining eligibility and/or benefit levels in other public assistance programs.
- 52 NCSL supports funding at the highest authorized level for this program.

1 **COMMITTEE: HEALTH & HUMAN SERVICES**

2 **POLICY: SUBSTANCE ABUSE PREVENTION AND TREATMENT**
3 **BLOCK GRANT AND COMMUNITY MENTAL HEALTH**
4 **SERVICES BLOCK GRANT**

5 **TYPE: DIRECTIVE**

6 The Substance Abuse Prevention and Treatment Block Grant and the Community
7 Mental Health Services Block grant provide critical assistance to state governments to
8 help address alcohol, substance abuse, and behavior health issues using a broad range
9 of strategies and services. The National Conference of State Legislatures continues to
10 support these important programs.

11 NCSL supports full funding for these programs as they will play an integral part in our
12 nation's strategy to expand access to mental health and substance use disorders
13 services to more Americans.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: VETERAN'S HEALTH**

3 **TYPE: DIRECTIVE**

4 NCSL supports federal initiatives to improve the accessibility and quality of health care
5 services to U.S. veterans and their families. NCSL is particularly supportive of efforts to:

- 6 • increase access to health care services to veterans and their families;
- 7 • improve and expand mental health services;
- 8 • provide assistance to veterans and their families regarding the range of health
9 care services available to them and the appropriate means of accessing the
10 services;
- 11 • expand and improve services to veterans who are amputees, who have traumatic
12 brain injuries or other conditions or injuries sustained during active duty. NCSL
13 urges the Department of Defense and the Department of Veterans Affairs to work
14 closely with state and local governments to when they can assist in the
15 implementation of these initiatives, including sharing information with state
16 Veteran's Departments regarding the status of veterans residing in the state;
- 17 • improve the operation of the Veterans Health Administration.

18 **Extension of TRICARE Prime to Veterans in the U.S. Commonwealths and**
19 **Territories** - NCSL supports the extension of TRICARE prime to American Samoa,
20 Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of
21 Puerto Rico and the Virgin Islands and urges the Congress to move forward on efforts
22 to determine the feasibility and costs associated with this important extension of health
23 care benefit.

COMMITTEE: LABOR AND ECONOMIC DEVELOPMENT

**POLICY: EB-5 REGIONAL CENTER PROGRAM
REAUTHORIZATION**

TYPE: RESOLUTION

WHEREAS, EB-5 is the designation for the fifth employment-based preference immigrant visa category established by Congress in 1990; and

WHEREAS, Congress established the Immigrant Investor Pilot Program in 1992 to create regional centers which aid foreign investors, by directing and professionally managing their investments while concentrating pooled investments in defined distressed economic zones; and

WHEREAS, EB-5 allocates 10,000 visas annually to foreign investors and their families who invest at least \$1 million (or \$500,000 in a targeted employment area) which must generate at least 10 jobs; and

WHEREAS, EB-5 has become a vital source of regional economic development funds; and

WHEREAS, from FY1992 to present, the EB-5 visa has generated more than \$16.2 billion in investments; and

WHEREAS, that investment has supported over 171,000 American jobs; and

WHEREAS, as of February 2016, there were 796 approved regional centers across the United States; and

WHEREAS, at the end of Q1 FY2016 there were about 22,000 pending applications for EB-5 related visas, representing nearly \$11 billion in potential direct investment and 220,000 American jobs; and

WHEREAS, the EB-5 Program had record-breaking capital formation in FY2015 and Q1 FY2016 with over \$4.3 billion and \$628.5 million in foreign direct investment respectively in public and private infrastructure; and

WHEREAS, in 2015 Congress passed legislation to reauthorize the EB-5 regional center program through September 30, 2016; and

WHEREAS, states and localities are working with private parties to use EB-5 foreign direct investment to finance job creating projects; and

WHEREAS, any effort to extend or make permanent the EB-5 regional center program must balance investment in urban centers and rural areas in recognition of the potential benefits of the program in both; and

WHEREAS, the rationale behind the EB-5 Program is to create jobs, so those jobs should be direct jobs, including construction jobs lasting less than two years, indirect and/or induced jobs, and they should meet or exceed local wage, benefit and health and safety standards and help strengthen the communities deemed to be in need of economic stimulus and workforce development; and

WHEREAS, the law allows for a state level input in designating targeted employment areas for EB-5 development, it may allow for state oversight of specific projects within those targeted employment areas would help ensure compliance with community and industry labor standards; and

WHEREAS, the EB-5 Program is in need of reform to increase accountability and transparency and enhance program integrity; and

WHEREAS, without Congressional action the EB-5 regional center program will sunset on September 30, 2016.

NOW, THEREFORE, BE IT RESOLVED, that The National Conference of State Legislatures urges Congress to reauthorize the EB-5 regional center program through legislation to include additional visa capacity, ensuring any reform of the EB-5 regional center program maintains the ability to deliver job-creating capital and infrastructure to

51 American communities, including mechanisms to ensure the creation of quality jobs,
52 permanent authorization of the regional center program, avoid retroactive application of
53 new law on matters already filed, allow for economic impact models to be used in
54 measuring job creation, improved processing systems to address backlogged petitions,
55 streamlined approvals for all applications, and enhanced program integrity measures
56 through improved reporting requirements and oversight that is not unduly burdensome.

COMMITTEE: LABOR AND ECONOMIC DEVELOPMENT

BUDGETS AND REVENUE

POLICY: MILITARY AND VETERANS AFFAIRS

TYPE: RESOLUTION

Veterans Affairs

NCSL recognizes that the U.S. Department of Veterans Affairs (VA) provides benefits and services to veterans of America's armed forces, including a number of specialized programs for disabled, minority, homeless, and women veterans. NCSL supports and urges Congress and the President to protect VA funding of benefits for veterans from budget cuts.

NCSL further urges Congress to provide funding to streamline the VA processes for securing all benefits in a timely manner for those veterans coming home from deployment, including appropriate health care for physical injuries and psychological wounds.

Federal Impact Aid

NCSL recognizes that School districts with military installations are potentially disadvantaged because of their inability to levy taxes against the federal government. NCSL recognizes the importance of Federal Impact Aid to help offset the loss of tax revenue and supports continued funding of the program.

Federal Funding Cuts and Base Realignment and Closing (BRAC)

When closing or considering property transfers in a BRAC, NCSL supports federal grant incentives for community involvement during the re-development of bases.

23 **Employment of Veterans**

24 Regarding matters of labor and employment for veterans, the federal government
25 should continue its partnership with states to assist veterans in their transition from
26 military service to the civilian workforce. NCSL supports programs of the Small
27 Business Administration (SBA) that help veteran-owned businesses. NCSL also
28 supports and encourages federal assistance, including training and tax credits, for
29 employers who hire veterans into their workforce.

30 **Educational Assistance and GI Bill**

31 NCSL urges Congress to fund, as authorized, all programs associated with educational
32 opportunities for returning veterans to have those benefits equivalent to the GI Bill of
33 previous years.

34 **Preserve the Army National Guard and the Air National Guard**

35 The National Conference of State Legislatures (NCSL) recognizes that the Army
36 National Guard (ARNG) and the Air National Guard (ANG) are vital tools for helping
37 states manage and respond to emergencies and natural disasters at home and
38 abroad. With congressional reauthorization pending, a strong ARNG ensures an
39 operational resource and a strategic reserve for our active duty military branches in
40 combat roles overseas, as well as adapting to complex missions domestically.

41 NCSL urges the federal government to maintain current funding levels for the ARNG in
42 order to preserve their highly regarded capabilities and to ensure that they are always
43 prepared for duties in the states and abroad in service to our country.

44 NCSL recognizes that any effort to reduce our nation's federal deficit requires
45 reductions across all federal agencies. However, reductions should not be made
46 without a thorough review of the overall Army force structure across the active, Guard
47 and Reserve components.

48 NCSL further urges that any congressional or Department of Defense review of the
49 Army structure, including the role of the ARNG, includes appropriate input from state
50 policy makers.

51 NCSL also opposes any effort to preempt domestic control of the ARNG from state
52 authority.

53 Services being provided to our veterans should also include members of the ARNG to
54 help them transition into society and have equal access to job training and other
55 benefits.

56 Furthermore, NCSL supports equipment return, replacement, and upgrade to address
57 destroyed material left abroad during deployment.

1 **COMMITTEE: LABOR AND ECONOMIC DEVELOPMENT**

2 **POLICY: SERVICE DOGS FOR VETERANS**

3 **TYPE: RESOLUTION**

4 U.S. servicemembers deployed into combat zones often face physical, mental, and
5 emotional challenges as they make their return home. One of the tools being used to
6 successfully support these veterans and mitigate the difficulties they face is service
7 dogs. They not only assist in daily tasks for those with physical impairments – their use
8 as support animals for soldiers with conditions such as post-traumatic stress disorder is
9 growing as well.

10 NCSL recognizes the need to ensure that the use of these canine companions is
11 supported and expanded across the country for our returning veterans, including
12 members of the states' National Guard. For this reason, NCSL supports federal policies
13 that promote the use of these service animals. Specifically, NCSL commends the work
14 being done on H.R. 2493, the Wounded Warrior Service Dog Act, introduced by Rep.
15 McGovern (MA). This bill supports the study and use of service dogs for veterans – and
16 NCSL urges its passage.

17 NCSL further calls upon Congress to enact legislation that would permit the Veterans
18 Administration to consider certain costs associated with a certified service dog as a
19 reimbursable medical expense.

1 **COMMITTEE: LABOR AND ECONOMIC DEVELOPMENT**

2 **POLICY: SUPPORT THE TOXIC EXPOSURE RESEARCH ACT**

3 **TYPE: RESOLUTION**

4 NCSL recognizes the unique challenges faced by members of our military, including
5 members of the states' National Guard, both during deployment and upon their
6 return. For many years and throughout many conflicts, American servicemembers have
7 been exposed to harmful chemicals and other substances – from Agent Orange to
8 mustard gas. While many of the effects of these toxic substances cannot be reversed in
9 those exposed to them directly, the medical and military communities should seek to
10 learn more about the impacts of these substances on the descendants of veterans to
11 prevent the misdiagnosis of symptoms.

12 For this reason, NCSL supports S. 901/H.R. 1769, the Toxic Exposure Research Act, of
13 the 114th Congress and urges their passage. NCSL commends Senators Jerry Moran
14 (KS) and Rep. Dan Benishek (MI) for their leadership on introducing these companion
15 bill.

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

2 **POLICY: ELECTION REFORM**

3 **TYPE: DIRECTIVE**

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

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

22 NCSL acknowledges that public confidence in the election process is of utmost
23 importance to state legislators. Therefore, NCSL opposes any federally mandated
24 elections standards that are either not accompanied by sufficient federal funding or are
25 preemptive of sound, constitutional state policies and procedures. NCSL believes that
26 such funding should be based on broad principles, and supports a federal grant formula
27 which awards money to states for broad-based purposes dealing with election reform,

and opposes any funding mechanism, which seeks to mandate specific requirements on the states.

NCSL supports federal formula grant funding to states for the following broad purposes:

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

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

Continuity of Congress

NCSL acknowledges the possibility that a catastrophic national emergency may render the U.S. House of Representatives unable to conduct the business of the country due to the death or permanent incapacitation of more than 100 of its members. Periodically, Congress introduces legislation that proposes a national uniform special elections process containing federal mandates for the timing of such elections without taking into account state laws and procedures for conducting special elections. Special elections have traditionally been a state responsibility that does not warrant federal intervention and all states have a special elections process in place that is procedurally best for that state. Therefore, NCSL supports federal legislation that allows for state flexibility with

- 54 respect to the timing of and other rules governing special elections and opposes federal
- 55 legislation that would preempt state laws governing special elections outright.

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

2 **POLICY: HOMELAND SECURITY**

3 **TYPE: DIRECTIVE**

4 NCSL maintains that response to natural disasters and terrorist attacks begins at the
5 local level where the event occurs, and involves state and federal response as local,
6 then state, resources are overwhelmed by the magnitude of the event The National
7 Conference of State Legislatures, urges Congress and the Administration to partner
8 with NCSL and other organizations representing state and local government to prepare
9 our nation for national disasters and threats to homeland security. NCSL urges
10 Congress and the administration to:

- 11 • Continue to channel funding directly to the states to ensure compliance with
12 statewide strategies for maximum coordination and require that such funds be
13 subject to the state legislative oversight or the state appropriation process;
- 14 • Recognize the roles of state legislatures in the development of future guidance
15 frameworks and Congressional legislation;
- 16 • Provide state flexibility among grant program categories for spending-planning,
17 training, equipment, and exercises allowing transfer of funds across categories;
- 18 • Continue to provide a minimum grant in states that appear to have low risk,
19 vulnerability, and criticality factors, in order to sustain the basic response
20 infrastructure for public safety and public health emergencies;
- 21 • Consult with NCSL and state legislatures regarding each state's cost for the
22 development and implementation of performance standards and other
23 accountability measurements related to grant programs; and

24 • Ensure that funding for any new grant programs complements, and DOES NOT
25 replace, existing funding sources for other key programs such as first responder
26 programs.

27 • Permit citizen rescue and aid efforts to assist in disaster recovery pursuant to
28 state Good Samaritan laws without fear of federal penalties.

29 Congress must also recognize the strain on personnel, equipment, and other resources
30 that activation of the National Guard for federal services poses for state and local ability
31 to secure the homeland from terrorism and natural disasters; and must work with state
32 legislatures to develop programs to ensure adequate resources to maintain domestic
33 security. NCSL strongly opposes any effort to preempt domestic control of the National
34 Guard from state authority.

35 NCSL urges the Department of Homeland Security and the Federal Emergency
36 Management Agency to develop a centralized grant application process for homeland
37 security and emergency preparedness activities; utilize an all-hazards approach
38 including terrorism, natural and man-made disasters, and public health emergencies;
39 and avoid adding new compliance requirements to existing grant programs.

40 NCSL supports the funding of the Emergency Management Planning Grants (EMPG) at
41 a level that meets current needs, and supports funding for the Emergency Management
42 Assistance Compact (EMAC).

43 The Department of Homeland Security (DHS) should work closely with NCSL, individual
44 state legislatures, state emergency management and public safety leaders to meet the
45 goal of fully funded and fully operating Fusion Centers that blend relevant law
46 enforcement and intelligence information analysis and coordinate security measures to
47 reduce threats in their communities and to continue to improve the quality and quantity
48 of analytical intelligence products that are provided to state and local governments.

Cybersecurity

NCSL recognizes that attacks on the nation's information infrastructure are rapidly becoming one of the most serious threats our country has ever encountered. In order to combat this increasing threat, it is essential that all levels of government work together to develop proper solutions. NCSL urges Congress and the Administration to:

- View state and local governments as critical stakeholders;
- Avoid unfunded federal mandates and preemptions on state and local partners;
- Collaborate with state and local governments to invest in securing state networks
- Maintain the civil liberties and privacy of all citizens while sustaining the safety and stability of the internet and electronic communications; and
- Identify and share actionable information based on specific threats so as to allow states to respond effectively to known threats. Facilitate the communication of these threats from federal to state and state to state; and
- Provide timely and effective information sharing with the states as an essential tool for collaboration on emerging threats.

Border Security and Enforcement

Securing all of America's borders, ports, and airports is essential to preserving our national security and maintaining the safety of all Americans. NCSL urges the federal government to fulfill its responsibilities with regard to border security and encourages a renewed state-federal cooperation in countering human trafficking, weapons and drug smuggling. NCSL calls on the federal government to increase its enforcement of these crimes and encourages countries of origin to provide reentry facilities, transition services and transportation for returned inmates.

NCSL supports full, federal funding for increases in Department of Homeland Security border enforcement personnel where they are most needed and necessary improvements in facilities, technology and infrastructure.

Presidential Disaster Declaration

Upon the issuance of a Presidential Disaster Declaration (PDD), the Federal Emergency Management Agency (FEMA) calculates federal aid to states based on a per capita equation tied to state or local population pursuant to 44 C.F.R. Section 206.4. FEMA uses this per capita figure as one of several contributing factors when deciding whether to grant public assistance to a state NCSL urges FEMA to exercise caution when determining whether to alter this existing formula. While NCSL appreciates FEMA's goals of reducing disaster costs overall and incentivizing pre-disaster planning and mitigation, any changes in the current statutory scheme must be constitutional, and must not contain burdensome cost shifts to states, or unwarranted preemption of state law. NCSL urges FEMA to engage in extensive consultation with state legislators in order to alleviate any intergovernmental issues that could aggravate the federal-state-local relationship. NCSL would oppose changes to the existing disaster declaration framework that would slow down the distribution of federal funds that contribute to state recovery from natural disasters.

The National Conference of State Legislatures calls upon the Administration to consult with states and requests transparency in their review and reform standards, policies, and procedures. When determining aid per capita for states, individual designations of localities should be recognized and respected within states. NCSL opposes federal action that would discourage Good Samaritan aid or inhibit liability protections for voluntary civilian aid at the state level. NCSL also requests that FEMA exercises the greatest level of flexibility possible in granting public assistance disaster relief funds that respect the distinctiveness of different states.

Countering Violent Extremism

The threat of domestic radicalization in local communities requires tailored community based strategies to address such threats within the homeland. NCSL believes that states and local communities are best equipped to implement countering violent extremism (CVE) programs. Law enforcement have the knowledge of local dynamics and can build relationships within their communities through community policing and other outreach mechanisms.

NCSL calls on the federal government to acknowledge states as leaders in counter extremism efforts. NCSL supports the role of the federal government in providing states with financial in support of state and local law enforcement engagement in countering violent extremism programs. This includes education about the identification of radicalization triggers and community outreach methods, as well as other technical assistance for community engagement efforts to help break the cycle of radicalization where possible. NCSL also calls on the federal government to provide timely and effective information sharing with the states as an essential tool for collaboration on emerging threats. Federal involvement should be confined to providing grants and technical assistance to states that facilitate effective CVE; and the federal government should not attach mandates to the receipt of related federal funds, but should encourage states to implement effective policies and techniques for addressing domestic radicalization.

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

2 **POLICY: IMMIGRATION REFORM**

3 **TYPE: DIRECTIVE**

4 The National Conference of State Legislatures (NCSL) recognizes the challenges facing
5 our country in matters related to immigration. Federal immigration policy must strike a
6 balance among core principles of our democracy: preserving the safety and security of our
7 nation, encouraging the economic strength of our states and communities, and recognizing
8 our history as a nation of immigrants. The impact of the federal government's immigration
9 policy decisions are directly felt by the states who not only implement programs required
10 by federal law but also encourage the integration of immigrants into the economic, social
11 and civic life of their adopted communities. States bear the costs of immigration in many
12 areas including education, health and law enforcement systems, with limited federal
13 reimbursement.

14 **Immigration Reform**

15 State legislators call on Congress and the Administration to enact immigration reform that
16 enhances our border security and addresses the imbalance in the state-federal
17 relationship. Immigration reform and implementation requires true collaboration between
18 state and federal leaders. Our nation's immigration laws must not contain unfunded
19 mandates nor preempt areas of existing state authority. Federal immigration reform will not
20 be comprehensive unless it addresses the fiscal and economic impact of immigration on
21 the states.

22 **SECURITY AND LAW ENFORCEMENT**

23 **Border Security & Enforcement**

24 Securing all of America's borders, ports, and airports is essential to preserving our national
25 security and maintaining the safety of all Americans. NCSL urges the federal government
26 to fulfill its responsibilities with regard to border security and encourages a renewed state-

27 federal cooperation in countering human trafficking, weapons and drug smuggling. NCSL
28 urges the federal government to increase its enforcement of these crimes.

29 NCSL supports full, federal funding for increases in Department of Homeland Security
30 border enforcement personnel where they are most needed and necessary improvements
31 in facilities, technology and infrastructure.

32 **The Role of State and Local Law Enforcement**

33 NCSL is strongly opposed to any efforts to shift enforcement of civil immigration law to
34 state and local law enforcement agencies. State legislators believe that enforcement of
35 federal civil immigration law is a federal responsibility and that state involvement in
36 immigration enforcement activities should only be a state option.

37 NCSL opposes efforts to criminalize violations of civil federal immigration law in an effort to
38 shift federal enforcement responsibilities to state and local law officers. State and local
39 government law enforcement and public safety personnel must already incarcerate, detain
40 and transport illegal immigrants who have committed crimes, without adequate federal
41 funding. NCSL strongly supports full reimbursement to states for the State Criminal Alien
42 Assistance Program (SCAAP). The current SCAAP program only provides 17%
43 reimbursement of current costs, according to a recent General Accountability Office study.
44 NCSL also opposes any effort to coerce state participation in enforcement of federal
45 immigration law by withholding SCAAP program funds.

46 **EMPLOYMENT VERIFICATION**

47 **Worksite Enforcement**

48 NCSL believes that employment verification is a critical component of enforcement
49 requiring federal reforms. NCSL opposes federal efforts to treat state governments
50 differently from the private sector in meeting federal employment verification requirements.

51 **Enforcement Activities**

52 NCSL believes that federal enforcement activities – at the worksite or in communities -
53 must be coordinated with state and local government. NCSL urges the federal government

[BACK TO THE TABLE OF CONTENTS](#)

54 to be mindful that the states bear the primary responsibility for the children who are
55 separated from their families as a result of federal enforcement activities. NCSL supports
56 federal coordination with child welfare and law enforcement agencies to guarantee that
57 children are not endangered and that their best interests are protected.

58 **ELIMINATING COST-SHIFTS TO THE STATES**

59 **State Impact Assistance**

60 Immigration reform must address the fiscal impact on states. A critical component for
61 NCSL support is state impact grants, a reliable, guaranteed funding sources to ameliorate
62 the costs states and localities bear in health, including public health, and education,
63 including English language acquisition, to immigrant populations. State impact grants must
64 require state legislative appropriation, providing needed flexibility and accountability.

65 **PERMANENT, TEMPORARY IMMIGRANTS AND REFUGEES**

66 **Temporary Worker Program**

67 NCSL supports comprehensive immigration reform that includes a temporary worker
68 program and the creation of an earned legalization program for immigrants currently in the
69 country without authorization. NCSL opposes amnesty. Earned legalization should include
70 appropriate fines and penalties that are proportional to the violation. NCSL opposes
71 federal efforts to deny benefits to legal immigrants and to citizens who are foreign born.

72 **Refugee Assistance**

73 NCSL supports federal efforts to assist individuals and families forced to flee their native
74 land in fear for their personal safety. The problem of political refugees is an international
75 one, and consequently demands the cooperative efforts of many countries.

76 Federal support for refugees and integration services to states must not shift costs to states
77 and must provide: income and medical assistance, social services, education, employment
78 and training and other services as needed NCSL believes that funding should be more
79 flexible to allow states to respond to changing needs.

80 The federal government should provide English and citizenship instruction as well as job
81 training to refugees, where possible, before they arrive in the United States.

82 NCSL strongly urges the federal government to avoid further placements in areas that are
83 already heavily impacted with refugee or Entrant populations, experiencing a shortage of
84 rental housing for low-income households, and experiencing overcrowding in the local
85 school system. NCSL urges the federal government to continue to work with states on the
86 issue of secondary migration.

87 NCSL urges the federal government to continue the health screening that is currently
88 provided to the refugees, where possible, before they arrive in the United States and to
89 improve follow-up such as providing instruction for continued medical care to refugees in
90 the home and increasing outreach to bridge language and cultural differences. State health
91 screening support is critical and should not be eliminated.

92 NCSL urges the federal government to coordinate and consult with state and local
93 governments is an integral component of a successful placement policy and we urge the
94 federal government to improve its efforts in this area. It is equally important to have the
95 voluntary agencies and organizations representing refugees participate in this coordinated
96 effort. NCSL supports extended protection to victims of trafficking, victims of domestic
97 violence, and unaccompanied minors.

98 **CITIZENSHIP AND INTEGRATION**

99 **Naturalization and Integration**

100 NCSL supports the promotion of citizenship as a national priority. Delays in citizenship
101 applications are unjustified and costly to applicants. The federal government should
102 allocate sufficient resources for more efficient citizenship adjudication and integration
103 processes. The costs of becoming a citizen are excessive and a barrier to those working
104 families who seek citizenship. NCSL strongly urges the federal government to assist the
105 states in their efforts to promote naturalization and to address all barriers to naturalization.

COMMITTEE: LAW, CRIMINAL JUSTICE AND PUBLIC SAFETY

**POLICY: IN SUPPORT OF THE FEDERAL GOVERNMENT
ESTABLISHING A FORMAL RECOGNITION COMMITTEE OR
COMMISSION TO COMMEMORATE AND CELEBRATE THE
100TH ANNIVERSARY, IN 2020, OF THE PASSAGE OF THE
19TH AMENDMENT AND WOMEN'S VOTING RIGHTS.**

TYPE: MEMORIAL RESOLUTION

WHEREAS, 2020 marks the 100th anniversary of most United States women achieving the right to vote through the 19th amendment to the Constitution; and,

WHEREAS, women worked tirelessly for this equal right since the founding of the country, in some cases even sacrificing their lives and health; and,

WHEREAS, women from all over the United States, right in their own communities, were instrumental in achieving women's suffrage through action and advocacy; and,

WHEREAS, every state had outstanding women who were important in achieving final victory; and,

WHEREAS, in the past 100 years, Native American, African American, Asian and other minority women finally achieved full voting rights; and,

WHEREAS, women voters have been a major influence on United States politics and life, exercising their voting rights to achieve justice, equal rights, and good government; and,

WHEREAS, elected women now comprise 20% or more of elective offices* on most levels of government throughout the country; and,

WHEREAS, since 1980, women have consistently outnumbered men among registered voters*; and,

WHEREAS, in recent years, the number of women turning out for elections has equaled or exceeded voter turnout rates for men*; and,

26 **WHEREAS**, the number of female voters has exceeded the number of male voters in
27 every presidential election since 1964*; and,

28 **WHEREAS**, the ratification of the 19th amendment was one of the turning points in
29 American history and should be recognized as one of the great human rights victories of
30 our country and world; and,

31 **WHEREAS**, the 1920 victory was and continues to be a beacon to other countries around
32 the world showing that United States values women, their rights, and their contributions.

33 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State
34 Legislatures (NCSL) urges that the federal government establish a formal recognition
35 committee or commission to commemorate and celebrate the 19th amendment and
36 women's voting rights. NCSL believes that this committee or commission should have,
37 among its various responsibilities, the duty to recognize this great achievement by
38 identifying and appropriately honoring state suffragists and the places and events within
39 the states where women organized for change and equal rights.

40 *Statistics (2016) from Center for American Women and Politics, Eagleton Institute of
41 Politics, Rutgers University

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

2 **POLICY: CRIMINAL JUSTICE**

3 **TYPE: DIRECTIVE**

4 It is the policy of the National Conference of State Legislatures to advance and defend a
5 balanced, dynamic criminal justice partnership between governments at the local, state
6 and federal levels while preserving traditional areas of state authority in this area of the
7 law.

8 NCSL urges Congress and the Administration to avoid federalizing crime policy and
9 substituting national laws for state and local policy decisions affecting criminal and
10 juvenile justice. Federal jurisdiction should be reserved for areas where a national
11 problem has been identified and states are unable to adequately provide solutions due
12 to scope, or is required to protect federal constitutional rights. The federal government
13 should partner with states to examine ways to avoid unnecessary preemption of state
14 laws; and should strive to maintain its current financial commitments to existing state-
15 federal partnership programs.

16 NCSL believes that federal actions must recognize that states and local governments
17 have the predominant responsibility to ensure public safety and the administration of
18 justice, and must adhere to fundamental principles of federalism in all areas of criminal
19 justice, including but not limited to:

20 **Improvement of the Structure of State Criminal Justice Systems**

21 NCSL urges the federal government to include states in the development stages and on
22 the board of any commissions or task forces that work to improve or review state
23 criminal justice structures. NCSL insists that the federal government not infringe on the
24 legitimate rights of the state to determine their own criminal laws, but shall include them
25 in the process of working to create better state criminal justice systems overall. As
26 states strive to improve policies and practices related to criminal justice, NCSL supports
27 direct participation by state policymakers in any federal policy efforts or proposed

legislation to redefine how those relationships should be strengthened.

Federal Financial Assistance

States continue to improve criminal justice systems and policies, and recognize that federal funding is sometimes necessary to implement state reforms in this area. Funding levels for the Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) grant program distributed by the Office of Justice Programs in the U.S. Department of Justice, should be maintained as this is the cornerstone federal justice assistance to states for a variety of law enforcement, criminal justice supervision and crime prevention functions.

NCSL opposes Congressional proposals or federal regulations that would withhold a portion of state Byrne/JAG funds, COPS funds, SCAAP funds, or any other state criminal justice funds as a penalty for noncompliance with federal criminal justice policies. NCSL urges the federal government to respect state criminal justice priorities and advance change through partnerships rather than mandates. Where new federal grant programs to states are created, NCSL maintains that funding should be directed to states rather than pass directly to local governments.

Sex Offender Registration

NCSL opposes federal mandates concerning registration of sex offenders, in particular those contained in the Title I SORNA provisions of the Adam Walsh Child Protection and Safety Act of 2006. The mandates imposed by this Act are not only preemptive, they are inflexible and in some instances not able to be implemented by states. States should be permitted to classify and penalize sex offenders, and establish registration and notification requirements in accordance with their own state laws, particularly with respect to juveniles. States should define and decide which juvenile offenders meet criteria for sex offender registration, and be afforded the flexibility to implement state procedures that best address this population.

The federal government should provide technological support and federal funding assistance to states with regard to sex offender registration and public notice systems, including cooperation with the federal National Sex Offender Public Website (NCOPW).

NCSL supports frequent and meaningful communication between the Department of Justice and state policymakers and implementing agencies so that information on procedures that meet or fail to meet federal guidelines and statutory requirements are effectively conveyed to the states.

NCSL urges the federal government to interpret “substantial compliance” as called for in the SORNA provisions of the Adam Walsh Act to allow state flexibility for matters such as tier systems, retroactivity, and juvenile registration, and allow for substantial implementation as long as a state’s compliance efforts have not frustrated the primary purpose of the Act. NCSL calls upon the federal government to exercise the utmost flexibility in determining whether to penalize states that are working in good faith toward compliance with federal law. States should not be responsible and penalized for absence of compliance by sovereign tribal jurisdictions.

Juvenile Justice

States must preserve authority to determine which juvenile offenders are treated like adults, under what circumstances, and for how long, with regard to sex offender registration and all other matters of juvenile and criminal justice policy.

NCSL supports the goals of the Juvenile Justice and Delinquency Prevention Act, and urges the federal government to provide state flexibility in achieving these objectives. NCSL also supports the role of the federal government in providing states with financial resources to strengthen juvenile justice systems. This includes federal funding for state juvenile justice programs. Federal involvement should be confined to providing grants and technical assistance to states that facilitate effective juvenile justice; and the federal government should not attach mandates to the receipt of related federal funds, but should encourage states to implement effective policies and techniques for addressing juvenile delinquency, crime and justice.

Illicit Drugs

NCSL supports a strong intergovernmental partnership to fight illicit drugs; and asks that development of broad federal drug control strategies seek and include NCSL and other state and local consultation. NCSL maintains that where states have acted in regulating

certain substances, such as marijuana and hemp, the federal government should respect those state decisions. The National Conference of State Legislatures believes that federal laws, including the Controlled Substances Act, should be amended to explicitly allow states to set their own marijuana and hemp policies without federal interference and urges the administration not to undermine state marijuana and hemp policies. The National Conference of State Legislatures recognizes that its members have differing views on how to treat marijuana and hemp in their states and believes that states and localities should be able to set whatever marijuana and hemp policies work best to improve the public safety, health, and economic development of their communities. NCSL supports a balanced federal approach for interdiction, law enforcement, prevention, education and treatment. NCSL encourages the federal government to take a proactive role in securing United States borders against importation of illicit drugs; and in detection and deterrence of interstate drug trafficking, including cooperation with state and local law enforcement. While money for law enforcement is critical, federal dollars also should help support diversion, treatment and prevention efforts, including but not limited to interdisciplinary drug court funding unaccompanied by testing or other mandates.

NCSL supports federal demonstration, funding and training roles that assist states in implementation and use of modern information systems that aid in detection and prevention of drug abuse, and for remediation of sites that have been used in illegal drug manufacture.

NCSL encourages federal leadership and resources that assist state and local governments in other activities that address education, prevention, enforcement, and treatment related to illicit drugs, prescription drug abuse, and emerging drug threats, including but not limited to synthetic drugs. NCSL opposes federal mandates or other preemptive policies with regard to addressing drug abuse and related drug crimes.

Sentencing, Corrections and Recidivism Reduction

Federal jurisdiction for crimes also covered under state law can create competition to escalate punishments and build more prisons. This competition is shortsighted, expensive and unnecessary. The national government should refrain from making federal crimes of state offenses or from enhancing sentences for crimes that are more properly the domain of states. NCSL supports federal leadership and funding for state criminal offender reentry initiatives and criminal justice reinvestment approaches. These initiatives assist states in addressing recidivism and reentry of offenders back into communities in meaningful, cost-effective ways. State and local governments should be afforded maximum flexibility in using federal funds within criminal justice systems, including but not limited to offender needs for drug treatment and mental health services. NCSL opposes any legislation that would restrict state flexibility in sentencing and corrections policy.

NCSL also supports full funding of the Second Chance Act which provides grants to states that are used to promote the safe and successful re-integration of individuals who have been incarcerated. This in turn reduces recidivism, increases public safety and assists states in better responding to the growing numbers of people released from prisons and jails who are returning to the community.

The issues surrounding the creation of sound state policy with respect to the mentally ill who are incarcerated is of growing importance to states. Congress has also become aware of this issue and hopes to address it. NCSL supports federal legislation that would enhance state research and implementation of sound policies that address the issue of mental illness in prisons. NCSL also supports federal legislation that seeks to partner with states as they create policy decisions regarding the mentally ill. NCSL supports federal legislation that seeks to enhance state mental health courts, training for state professionals that work with the mentally ill in prison, and funding that will complement state innovative programs in this area.

Crime Records and Information

NCSL supports the use of the federal Interstate Identification Index (III) for exchange of criminal history record information; and the National Criminal Information Center (NCIC) for crime record and other criminal justice information including fugitives, stolen properties and missing persons. These systems provide means for information sharing under interstate compacts such as the National Crime Prevention and Privacy Compact, the Interstate Compact for Adult Offender Supervision, and the Interstate Compact for Juveniles. NCSL supports such state-federal information systems and sharing partnerships in the states; and asserts that records available via such systems should continue to be predominately state- maintained and that state policies for dissemination of those records should be recognized and adhered to under the systems. NCSL supports federal assistance in improving state criminal history records and related information systems. NCSL opposes any preemption of state authority related to crime records and information.

DNA Records

NCSL supports federal non-preemptive initiatives that use DNA records in crime-solving and the administration of justice, including the Combined DNA Index System (CODIS). Federal funds, including those for DNA analysis backlog elimination, should support the use of DNA as an interstate investigative tool while adhering to state law and placing no mandates on states regarding collection, dissemination or use of records.

Victims

NCSL supports a strong state-federal partnership to assist crime victims; and urges continued federal assistance to states provided for in the Victims of Crime Act (VOCA). NCSL encourages the Congress to preserve this primary means by which the federal government provides support to crime victims and their families, via state crime victims and assistance programs. NCSL opposes arbitrary caps which result in diminished services and assistance for crime victims.

Human Trafficking

NCSL encourages improved interdisciplinary coordination among federal agencies responsible for or involved in the crime of trafficking in persons. Any federal/state partnership should include proper training for law enforcement and other criminal justice personnel who will be in contact with the victims and perpetrators of human trafficking. The federal government must enforce laws that address foreign-born persons brought into the United States via trafficking, smuggling or under false pretenses. This includes providing for effective prosecution and assistance to victims of trafficking, who are in fact, victims of crime, including but not limited to victims who require protection and separation from their traffickers, those who have had documents destroyed or withheld, and specialized assistance for the many victims who are

minors. NCSL also encourages improved federal outreach, consultation, coordination and assistance to states and territories, including state lawmakers, with regard to strengthening trafficking enforcement and assistance to trafficking victims, including minors. Partnering with states to address human trafficking of both foreign born and domestic victims can be achieved without preemption of existing state laws or creation of any unfunded federal mandates. NCSL encourages specialized demonstration and discretionary grant programs that assist states in focusing on the growing intergovernmental concern of human trafficking on U.S. soil.

Law Enforcement

NCSL supports means for enhanced cooperation between state and federal law enforcement. NCSL opposes proposals that blur jurisdictional lines of responsibility and serve to disrupt rather than support efforts of state and local law enforcement. NCSL opposes proposals that seek to remove from states and communities the responsibility for determining disciplinary procedures for state and local law enforcement.

NCSL supports the full funding of the Community Oriented Policing Services (COPS) Act. COPS Hiring Grants have been instrumental in enhancing the effectiveness of community policing in America. Federal funding for the COPS program relieves the strain on state budgets to provide adequate and effective law enforcement personnel.

195 NCSL opposes proposals to shift traditional federal responsibility for civil immigration
196 enforcement to state or local law enforcement agencies and personnel. State and local
197 jurisdictions should have the authority to enter into cooperative, voluntary agreements
198 with the federal government for this or other traditionally federal enforcement matters,
199 but should not be compelled by federal law to do so.

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

2 **POLICY: CIVIL JUSTICE**

3 **TYPE: DIRECTIVE**

4 The National Conference of State Legislatures recognizes the importance of permitting
5 aggrieved parties to seek full and fair redress pursuant to state law in state courts for
6 physical harm done to them due to the negligence of others. NCSL also understands the
7 importance of having clear state rules to govern the means and methods by which people
8 can seek such redress. Our American federalism contemplates diversity among the states
9 in establishing these rules and respects the ability of the states to act in their own best
10 interests in matters pertaining to civil liability due to negligence.

11 NCSL regards the regulation of medical professionals, products, and other civil tort actions
12 as purely state matters, not meriting federal intervention or preemption of state laws. NCSL
13 maintains that no comprehensive evidence exists demonstrating either that state medical
14 malpractice laws, product liability laws or general tort laws have created a problem of such
15 dimension that a federal solution is warranted or that federal legislation would achieve its
16 stated goals. NCSL believes that this type of legislation would create serious new
17 problems in the fields of medical malpractice, product liability, and tort law by dictating a
18 single set of rules controlling the timeliness of claims and the admissibility of evidence. It
19 would conflict with long-standing state laws governing tort liability, workers' compensation
20 and insurance regulations. By doing so, such proposals would place state legislatures and
21 state courts in an untenable position legally. Most states have taken up the issues
22 surrounding medical malpractice, product liability and tort reform and continue to handle
23 the issues surrounding the filing and processing of these cases in ways that are consistent
24 with existing state law, giving due consideration to factors that may be unique to a
25 particular state.

26 NCSL opposes federal efforts to preempt existing state laws or state constitutional
27 provisions in the area of medical malpractice, product liability and tort law specifically
28 federal legislation that would preempt state laws and/or constitutions by:

- 29 • Preempting state laws governing the applicable statute of limitations in such cases;
- 30 • Preempting state laws governing the awarding of damages by mandating a
31 mandatory uniform amount of damages of any kind (compensatory, noneconomic
32 or punitive) at the federal level;
- 33 • Preempting state laws governing the drafting of pleadings and introduction of
34 evidence in such cases;
- 35 • Preempting state laws and/or constitutions governing the awarding of attorney's
36 fees; and
- 37 • Preempting state laws governing a citizen's access to state courts.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: AVIAN FLU RESPONSE**

3 **TYPE: RESOLUTION**

4 A resolution of the National Conference of State Legislatures, expressing support for
5 federal efforts to increase funding for avian flu research and vaccine development efforts.

6 **WHEREAS**, US farmers, poultry processing and food production plants supply a significant
7 portion of poultry products consumed nationally and internationally; and

8 **WHEREAS**, agriculture is a key driver of rural and state economies and the tremendous
9 productivity of United States farmers benefits the national economy and the country's
10 international trade balance; and

11 **WHEREAS**, the highly pathogenic avian influenza (HPAI) H5N1 strain is a new mixed-
12 origin virus that combines the H5 genes from the Asian HPAI H5N1 virus with N genes
13 from native North American avian influenza viruses found in wild birds; and

14 **WHEREAS**, according to the USDA, since December 2014, confirmed cases of HPAI H5
15 have been reported in the Pacific, Central, and Mississippi flyways (or migratory bird
16 paths). The disease has been found in wild birds, as well as in a few backyard and
17 commercial poultry flocks. The Centers for Disease Control and Prevention (CDC)
18 considers the risk to people from these HPAI H5 infections to be low; and

19 **WHEREAS**, 223 detections of HPAI H5 have been reported across 15 states, with the
20 Midwest being hit the hardest, affecting over 48 million birds; and

21 **WHEREAS**, farmers and agriculture related businesses have seen significant losses in
22 revenue and workers have been laid off or subject to reduced work hours; and

23 **WHEREAS**, according to USDA statistics, nationwide, over 11% of the nation's laying
24 hens and over 3% of the nation's annual turkey production have been impacted to date,

25 resulting in a significant threat to United States agriculture and the ability of our farmers to
26 feed a growing world population; and

27 **WHEREAS**, state and federal governments have invested millions of dollars to address the
28 fallout associated with H5N1 and find solutions to the virus; and

29 **WHEREAS**, the USDA Agricultural Research Service (ARS), Southeast Poultry Research
30 Lab (SEPRL) is working to evaluate and develop avian influenza (AI) vaccines; and

31 **WHEREAS**, the National Conference of State Legislatures (NCSL) recognizes the serious
32 threats posed by the HPAI outbreak and the key role that the federal government plays in
33 harnessing resources and providing assistance to farmers and others affected by the virus,

34 **NOW, THEREFORE, BE IT RESOLVED** by the NCSL that it fully supports recent federal
35 efforts to protect poultry production and the nation's food supply by aggressively working to
36 contain and remediate outbreaks when they occur. NCSL also supports federal efforts to
37 serve as technical advisors and the clearinghouse of information for all sectors, and
38 investigating ways to stop the spread of the virus.

39 **BE IT FURTHER RESOLVED**, that the NCSL strongly encourages the federal government
40 to increase the funding necessary for state and federal agencies to continue development
41 of biosecurity containment strategies, time sensitive approaches to sharing information,
42 and more aggressive research into what is causing avian influenza, why some fowl are
43 more susceptible, and prevention measures, including the development of vaccines, that
44 can be taken.

45 **BE IT FURTHER RESOLVED**, federal agencies should work closely with the states to
46 align HPAI efforts and share best practices.

47 **BE IT FURTHER RESOLVED** that NCSL and the states are willing partners in the federal
48 government's HPAI efforts and will closely monitor federal actions and progress on these
49 and related efforts of utmost importance to the states and our nation's food supply, rural
50 agriculture economies, environment, and natural resources.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: CLIMATE CHANGE**

3 **TYPE: RESOLUTION**

4 NCSL urges the federal government to consult with state elected officials, their national
5 representative organizations and existing interstate partnerships in developing a federal
6 program. As Congress and the administration examine proposals for reducing greenhouse
7 gas emissions, the National Conference of State Legislatures encourages the federal
8 government to always take the following principles into account:

- 9 • Federal action should be flexible, allowing for a range of complementary strategies
10 at the state and federal level maintaining a strong role for state, local and tribal
11 government in any federal action.
- 12 • Federal legislation should provide states the authority and flexibility to work within
13 an overall framework; to apply the law effectively to all sources of emissions and
14 ensure achievement of climate change goals in the most cost effective, timely and
15 efficient manner for each state.
- 16 • Federal legislation should not preempt state or local governments from enacting
17 policy options that differ from federal choices or from enacting stricter or stronger
18 measures within their jurisdiction.
- 19 • Federal legislation should afford states the flexibility to form regional cooperatives
20 and implement innovative policies that advance federal efforts to reduce the effects
21 of climate change.
- 22 • Congress must authorize and appropriate sufficient funds for federal, state and local
23 governments to implement any federal legislation. These funds should be newly
24 authorized appropriations, not reprogrammed resources.

- 25 • Federal legislation should ensure state legislative authority in any federal climate
26 change legislation and affirm the active role played by state legislatures in both
27 fiscal and substantive aspects of state policymaking.
- 28 • Federal legislation providing for the allocation of greenhouse gas reduction
29 programs to states should include language making decisions related to such
30 allowances subject to state legislative approval.
- 31 NCSL urges the federal government, should it choose to act on this issue, to take into
32 account the following principles regarding program design components:
- 33 • Any national system must include short, medium and long-term goals and
34 incorporate a rigorous oversight program that provide for ongoing study and
35 analysis of the system to ensure it is achieving intended goals.
- 36 • A new national program should serve to address uncertainties that are hampering
37 investment in generation, transmission and distribution and enhance the likelihood
38 that appropriate technologies will be developed and other solutions implemented so
39 as to achieve the desired reductions in GHG emissions in the most economical
40 manner possible.
- 41 • Federal legislation should be designed appropriately to balance competing criteria,
42 including, but not limited to, equity, economic efficiency and ease of administration.
- 43 • Revenue derived from a greenhouse gas reduction program should be directed to
44 complimentary policies focused on mitigating climate change consumer costs
45 including but not limited to energy research & development, weatherization,
46 conservation and energy efficiency activities.
- 47 • A national program to reduce GHG emissions must also address adaptation issues.
- 48 • Auctioning of allowances may be the most economically efficient mechanism for
49 achieving a GHG emissions reductions goal. However, the allocation of emissions
50 allowances at no cost can serve as an appropriate transition measure necessary to
51 ensure continued reliability, minimize economic dislocation resulting from the

carbon intensity of the existing infrastructure, and allow for development and deployment of needed new technologies and measures to reduce emissions.

- Priority distribution of allowances at no cost should be to those entities in affected sectors where existing regulatory structure provides the necessary oversight to ensure that the value of such allowances is accounted for in establishing price rates for consumers.
- The allocation of greenhouse gas reduction program to states under a federal greenhouse gas reduction program should include language making decisions related to such allowances subject to state legislative approval.
- The establishment of any new federal program should include provisions for transparent reporting and accountability and incorporate the use of third party verification to ensure reported outcomes are verifiable.

Unintended Consequences

NCSL believes that federal legislation regarding the reduction of greenhouse gases should take into account the implications of actions and/or inactions on economic development, energy security, and those most vulnerable citizens. Evaluation should include the life cycle impacts of policy options including ancillary impacts.

NCSL believes that federal legislation should require continuing assessments of the potential impacts to the United States of climate change, by state or region including effects on water resources, agriculture, infrastructure, natural systems, environmental quality, public health, biodiversity and the cultures of our native peoples. Such an assessment will support the development of domestic and international adaptation-mitigation strategies. The Environmental Protection Agency (EPA) should provide funding and assist states in developing assessments and adaptation plans at the state and regional level.

NCSL also urges the federal government to fully consider how legislation will affect low-income households that already struggle to balance needs and expenses. NCSL encourages the federal government to expand and enhance long-term funding for the

80 Department of Energy's Weatherization Assistance Program and to ensure that any new
81 federal program does not undermine existing federal, state and private sector energy
82 assistance and outreach programs that assist our most vulnerable citizens.

83 **Research and Development**

84 NCSL strongly urges the federal government to authorize and appropriate funding and
85 provide other incentives to spur expanded research and development (R&D), as well as
86 advance the demonstration and deployment of new and existing technologies to improve
87 energy efficiency, advance mitigation strategies and reduce greenhouse gas emissions.

88 NCSL urges the federal government:

- 89 • To ensure that legislation not limit the diversity of technologies supported, as future
90 advancements cannot be predicted.
- 91 • To take into account state and regional differences, and not limit or specify the
92 technologies used in each state and ensure sufficient flexibility for each State to
93 determine how to best achieve nationally-set goals.
- 94 • To promote current and future innovations and expand the use of such technology
95 through R&D transfer agreements with other countries.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: COVER CROP RESEARCH**

3 **TYPE: RESOLUTION**

4 **WHEREAS**, growing concerns about water quality, soil fertility, weed control, nematode
5 control, water retention and biodiversity; and

6 **WHEREAS**, farmers need real solutions to solve concerns and maintain yields and profits,

7 **WHEREAS**, cover crops have proven to increase yields in university studies as well as in
8 replicated farm research on real-world field plots; are an increasingly popular way to keep
9 soil healthy; help reduce the need for N and other nutrients, and create a healthier soil
10 environment that resists disease and pests; inhibit weed growth by shading them out, by
11 preventing emergence, and by compounds exuded by the roots; are shown to reduce
12 populations of pathogenic nematodes and encourage populations of beneficial ones; break
13 up soil compaction whether it is naturally occurring or a result of heavy cultivation and
14 tillage; add diversity to the natural biological life in heavily farmed soils, often working in
15 synergy with cash crops for bottom line benefits; add diversity to the natural biological life
16 in heavily farmed soils, often working in synergy with cash crops for bottom line benefits.

17 **RESOLVED**, that the National Conference of State Legislatures supports federal efforts to
18 further the development of and proliferation and use of cover crops.

19 **BE IT FURTHER RESOLVED**, that this resolution be submitted to appropriate federal
20 officials and the U.S. Congress.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: POLLINATOR HEALTH**

3 **TYPE: RESOLUTION**

4 A resolution of the National Conference of State Legislatures Natural Resources and
5 Infrastructure Committee, recognizing the importance of pollinators, stressing the negative
6 ramifications of continued pollinator loss, and expressing support for federal efforts to
7 protect pollinators.

8 **WHEREAS**, farmers depend on pollinator species such as bees, ants, butterflies, birds
9 and bats to successfully produce approximately one third of all United States agricultural
10 output; and

11 **WHEREAS**, in addition to food, pollinators also are vital to the production of fibers, edible
12 oils, medicines, and other products; and

13 **WHEREAS**, urban and rural beekeepers play an important role in state and federal
14 agricultural production; and

15 **WHEREAS**, agriculture is a key driver of rural and state economies and the tremendous
16 productivity of United States farmers benefits the national economy and the country's
17 international trade balance; and

18 **WHEREAS**, pollinator loss poses a significant threat to United States agriculture and the
19 ability of our farmers to feed a growing world population; and

20 **WHEREAS**, pollinators are essential organisms in the ecosystems that provide
21 biodiversity, recreation and enjoyment for people and habitat for wild plants and animals;
22 and

23 **WHEREAS**, the National Conference of State Legislatures (NCSL) recognizes the serious
24 threats posed by pollinator loss and the key roles that the federal government plays as
25 landowner and manager, regulator of pesticide products, and financial and technical
26 assistance provider to farmers and other private landowners; NOW, THEREFORE,

[BACK TO THE TABLE OF CONTENTS](#)

27 **BE IT RESOLVED** by the NCSL Natural Resources and Infrastructure Committee that it
28 fully supports recent federal efforts to: develop best management practices and enhance
29 pollinator habitat on federally owned or managed lands; incorporate pollinator health as a
30 component of all future federal restoration and reclamation projects; revise guidance
31 documents for designed landscapes and public buildings in order to incorporate pollinator-
32 friendly practices; increase both the acreage and forage value of pollinator habitat in the
33 Conservation Reserve Program and other federal conservation programs; provide
34 technical assistance in collaboration with land-grant university-based cooperative
35 extension services to federal departments and agencies, state, local, and tribal
36 governments, and other entities and individuals including farmers and ranchers; assist
37 states and state wildlife organizations, as appropriate, in identifying and implementing
38 projects to conserve pollinators through the revision and implementation of State Wildlife
39 Action Plans; assess the effects of systemic pesticides and parasites on bee and other
40 pollinator health and take corresponding action, as appropriate, to protect pollinators from
41 pesticides and parasites; and take immediate measures to support pollinators with proper
42 habitat and nutrition during the current growing season and thereafter, including planting
43 pollinator-friendly vegetation, increasing flower diversity in plantings, limiting mowing
44 practices, and reduce or avoid, when necessary, the use of pesticides in sensitive
45 pollinator habitats through the use of integrated vegetation, pest and colony management
46 practices.

47 **BE IT FURTHER RESOLVED** that states work closely with affected individuals and serve
48 as laboratories of innovation in problem solving and policy making. Federal agencies
49 should work closely with the states to align pollinator protection efforts and share best
50 practices.

51 **BE IT FURTHER RESOLVED** that NCSL and the states are willing partners in the federal
52 government's pollinator protection efforts and will closely monitor federal actions and
53 progress on these and related efforts of utmost importance to the states and our nation's
54 food supply, urban and rural agriculture economies, environment, and natural resources.

COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE

POLICY: WILDFIRE FUNDING

TYPE: RESOLUTION

A resolution of the National Conference of State Legislators urging the federal government to address insufficient budget mechanisms for wildfire suppression and expressing support for federal efforts to fund catastrophic fires as natural disasters.

WHEREAS, Wildfire suppression costs have increased dramatically in the last decade;

WHEREAS, In the past two years, the U.S. Forest Service has had to transfer more than \$1 billion from other programs within the agency to pay for fighting wildfires;

WHEREAS, these fire transfers deplete resources from vital fire prevention and mitigation programs, including forest restoration and management activities to reduce future fire risk;

WHEREAS, increased fire activity can have substantially negative impacts on air quality, water quality, greenhouse gas emissions as well as reduce downstream water storage as sediment runoff lowers the effective level of dams and reservoirs;

WHEREAS, reduced restoration and mitigation funding also makes it easier for invasive pests and diseases to infest vulnerable forests;

WHEREAS, anticipated changes in climate will also cause fire risk to escalate in drought-ridden regions, further increasing wildfire suppression costs; and

WHEREAS, federal funding for wildfire suppression is currently allocated using the 10-year average cost for wildfire suppression activities; and

WHEREAS, the National Conference of State Legislators (NCSL) recognizes that wildfires must be managed on a regional basis and that increased risk for wildfires on federal lands ultimately will lead to increased costs for state wildfire programs.

BE IT RESOLVED.... That NCSL urges Congress to address the budget structure of wildland fire accounts. NCSL believes that any federal policy on wildfires should minimize

[BACK TO THE TABLE OF CONTENTS](#)

- 26 the risk of fire transfers from prevention and mitigation programs and support federal
- 27 actions that would fund catastrophic wildfires similar to natural disasters

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**
2 **POLICY: STATE SOVEREIGNTY IN AIR AMBULANCE REGULATION**
3 **TYPE: RESOLUTION**

4 **WHEREAS**, as many rural hospitals have recently closed, air ambulance services have
5 become increasingly necessary and are being used more frequently to transport patients
6 to faraway hospitals in an emergency; and

7 **WHEREAS**, competition among air ambulance services have increased costs; and

8 **WHEREAS**, air ambulance services can cost patients tens of thousands of dollars out-of-
9 pocket when companies do not accept a patient's insurance, and emergency patients
10 rarely have the capacity to choose their own air ambulance company; and

11 **WHEREAS**, some air ambulance companies refuse to reveal actual costs to insurers, and
12 some insurers are unwilling to pay market value for the service; and

13 **WHEREAS**, federal government Medicare reimbursements cover only a small portion of
14 the actual cost of an air ambulance, forcing air ambulance companies to charge patients
15 more; and

16 **WHEREAS**, under the Airline Deregulation Act, states cannot regulate routes, services or
17 prices of air ambulances; and

18 **NOW, THEREFORE BE IT RESOLVED THAT**, NCSL supports state sovereignty in air
19 ambulance regulation in order to protect patients from overwhelming financial burdens for
20 emergency medical services; and

21 **BE IT FURTHER RESOLVED THAT**, NCSL urges Congress to amend the Airline
22 Deregulation Act in order to provide states the authority to enforce insurance regulations
23 on air ambulance providers to protect consumers.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: AIR POLICY**

3 **TYPE: DIRECTIVE**

4 **The Clean Air Act Implementation**

5 The National Conference of State Legislatures (NCSL) fully supports the goals embodied in
6 the Clean Air Act Amendments of 1990 (CAAA) and urges the U.S. Environmental Protection
7 Agency (EPA) to proceed diligently with full implementation of the law to achieve clean air for
8 our citizens. It is essential that Congress and the EPA fulfill their responsibilities to facilitate
9 implementation by the states.

10 NCSL makes the following recommendations:

- 11 • Implementation of the CAAA is the responsibility of the states. NCSL encourages
12 Congress and the EPA to pay particular attention to the voices of that state expertise
13 and experience.
- 14 • Communication with state legislators is of utmost importance because only state
15 legislators can enact enabling legislation for state programs and appropriate state
16 funds. Congress and the EPA should regularly and directly work with state legislators
17 during federal action on air quality issues.
- 18 • EPA should work closely with states to assist them in developing all regulations,
19 technical assistance and funding necessary for compliance. Furthermore, EPA should
20 support any state regulation that enables that state to meet or exceed the CAAA
21 standards.
- 22 • Federal grants authorized under the CAAA provide financial resources to the states for
23 development and implementation of air quality programs and other clean air
24 responsibilities. Congress and the EPA must ensure that states continue to receive
25 adequate funding to cover all costs of program management including monitoring.

- 26 • Because the states have existing air pollution control programs to administer with
27 current federal funding, any new air quality programs or responsibilities mandated by
28 Congress or EPA should be accompanied by additional federal funding.
- 29 • NCSL urges EPA to provide as much administrative flexibility as the law allows in
30 order to achieve clean air goals in the most cost effective and efficient manner.
- 31 • Cost-effectiveness should be permitted as a factor in state selection of transportation
32 control measures and emissions control strategies.
- 33 • NCSL urges EPA to meet all deadlines for publication of documents required under
34 the CAAA. NCSL urges Congress to amend the law to replace statutory deadlines for
35 state action with language that provides a specific time period for state compliance
36 after document publication.
- 37 • NCSL urges EPA to act expeditiously to enact the required regulations necessary to
38 reduce emissions from federally preempted sources. Failure to act to require emission
39 reductions from federally preempted sources can impede a state's ability to achieve
40 attainment in some areas despite any and all actions available to a state in
41 development of their state implementation plans.
- 42 • NCSL urges Congress to develop and implement sustainable management policies
43 which will reduce fuel loadings on federal lands, thereby reducing emissions from
44 catastrophic wildfires and improving carbon sequestration on those lands.
- 45 • EPA should provide training opportunities for states to help develop the skills and
46 understanding needed to properly implement the CAAA. In addition, EPA should
47 provide informational resources to help the public understand its role in achieving
48 CAAA goals.
- 49 • Congress and EPA should take maximum advantage of tools and strategies to reduce
50 emissions from mobile sources including but not limited to promoting alternative fuels
51 and encouraging strict exhaust standards for light duty vehicles.

- Federal highway legislation should be made consistent with CAAA objectives. The EPA and the Department of Transportation (DOT) should work together to ensure coordination of federal policy.
- NCSL urges the adoption of national energy, transportation and other policy that emphasizes energy conservation in order to help achieve the goals of the CAAA. This should include strengthening of emission standards for automobiles as technologies improve, more energy-efficient lighting, buildings, and transportation, and more research and use of alternative forms of energy.
- NCSL urges the federal government to expeditiously apply the same CAAA requirements to federal facilities and motor vehicle fleets that are required for state facilities and fleets.

Multi-Pollutant Legislation

NCSL further believes that national efforts to fully implement the CAAA, to maintain and enhance air quality at the local, state and national level requires Congressional action on multi-pollutant legislation.

NCSL urges Congress to act expeditiously on multi-pollutant legislation to provide certainty in a time of limited federal and state resources and to enhance the impact of this federal program which is implemented at the state level. New legislation enacted by Congress should ensure the ability of all stakeholders to move forward with air pollutant emission reductions, enhance the environment and protect public health while providing a stable planning environment for energy providers and consumers.

NCSL recommends that:

- New federal standards should maintain and renew the commitment to statutory authority for states to enact state environmental standards that are more stringent than their minimum federal counterparts.
- New federal standards should acknowledge the existence of state programs and agreements in accord with these standards and should not preempt their continued implementation.

- New federal standards should be accompanied by adequate federal funding and technical assistance that are essential to state efforts to implement complete and adequate state programs that fully comply with these standards.
- New federal standards should provide states with maximum flexibility to apply the law effectively to all sources of emissions and ensure achievement of clean air goals in the most cost effective, timely and efficient manner for each state.
- New federal standards should allow states to maintain all of the enforcement tools available to states under the CAA to ensure compliance with state implementation of federal regulations.
- New federal standards should permit states to allow sources to trade emissions reductions and protect state authority to restrict which emissions may or may not be traded within a state's borders.
- New federal standards should allow for regional air planning coordination among states whenever they agree to address and act on issues with regional air quality implications.

Sanctions

- States should not be sanctioned for non-compliance if state's failure to comply was the result of EPA's failure to adhere to CAAA deadlines for promulgation of regulations or technical guidance that provide details and requirements of state programs.
- EPA should have the authority to waive sanctions on states that EPA determines are making reasonable good faith efforts to comply with CAAA requirements and deadlines.

New Source Review Program

NCSL urges the EPA to reform the NSR program to achieve improvements that enhance the environment and increase production capacity, while encouraging efficiency, fuel diversity and the use of resources without weakening the requirements intended to reduce emissions from new or modified sources of air pollution. Routine maintenance, repair or replacement activities which are not major modifications should not trigger NSR requirements.

108 **Motor Vehicle Inspection and Maintenance**

109 NCSL believes that:

- 110 • States should be granted flexibility to design inspection and maintenance (I/M)
111 programs that achieve air quality targets and should receive full credit for emissions
112 reductions those programs achieve.
- 113 • Congress and EPA should not require the states to use specific I/M technologies.
114 Such rigid federal requirements may fail to account for technological advances in
115 emissions testing programs and equipment.

116 **Alternative Fuels and Alternatively Fueled Vehicles**

117 NCSL urges the federal government to encourage an increase in the research, development
118 and promotion of alternative fuels derived from domestic sources and alternatively fueled
119 vehicles, including their commercial production and use, and to devote federal funds to
120 evaluate the environmental and economic impacts of alternative fuels and alternatively fueled
121 vehicles. The primary purpose of these efforts should be reducing the level of air pollutants
122 and other emissions, reducing U.S. dependence on foreign oil, and providing a low cost,
123 reliable energy source. NCSL further urges Congress to develop policies to encourage
124 domestic manufacture of the infrastructure and equipment necessary to produce alternative
125 fuels.

126 NCSL recommends the exploration and evaluation of all forms of alternative domestic fuels
127 and alternatively fueled vehicles in order to reduce the incidence of toxic air emissions. NCSL
128 recommends caution in promoting the replacement of traditional fuels with alternative fuels
129 that could result in other pollution problems.

130 NCSL supports a federal Clean Alternative Fuels program that includes but is not necessarily
131 limited to methanol, ethanol, or other alcohols, reformulated gasoline, ultra-low sulfur diesel,
132 biodiesel, natural gas, liquefied petroleum gas, and hydrogen or other power source
133 (including electricity). However, NCSL recommends that this program take into account other
134 uses of source products, i.e. grains, when making recommendations for fuel usage or setting
135 new national standards. Furthermore, NCSL urges Congress to improve the availability of
136 source materials from our federal lands in accordance with multiple use mandates.

137 NCSL is concerned that the further development of alternative domestic fuels, alternatively
138 fueled vehicles and conservation devices will depend, at least in the near future, upon the
139 continued availability of tax credits designed to encourage investment in these technologies.

140 While tax credits and exemptions are important to the creation of an alternative fuels market,
141 NCSL recognizes their negative fiscal impact on the overall federal budget, as well as
142 inequities in the Highway Trust Fund. Consequently, NCSL urges Congress to:

- 143 • Encourage the use of alternative fuels through incentives that will increase the
144 production and development of new vehicles with alternative fuels capability and
145 vehicle conversion, in lieu of alternative fuels tax exemptions.
- 146 • Make federal tax credits available to alternative fuel production facilities should be
147 extended for a limited time.
- 148 • Phase out the tax credits for the research and development of alternative domestic
149 fuels and alternatively fueled vehicles when the technology or changing policies
150 relating to petroleum-based fuels makes the product competitive in the market place.
- 151 • Retain state taxing authority to ensure that alternative fuels are competitively priced in
152 an effort to mitigate the state-specific impact of these and other federal policy
153 changes.

154 NCSL believes that there should be no warranty invalidation incurred by a provider if ASTM
155 standards are met for the fuel and the vehicle is approved for that fuel.

156 In areas required under CAAA to utilize reformulated gas (RFG) or oxygenated fuels,
157 selection of alternative fuel additives should be left to the discretion of the affected state,
158 where costs, safety, and economic and environmental impacts can be considered.

159 With regards to fuel additives, NCSL recommends the following:

- 160 • Prior to approval of fuel additives, U.S. EPA should examine public health benefits and
161 cross-media implications.

- Any fuel requirements should be in the form of performance-based goals. No specific chemicals or other additives should be prescribed in order to maximize state flexibility to achieve the goals.
- Any fuel requirement should be based on anticipated air quality benefits.

Low Emission Vehicles and Zero Emission Vehicles

NCSL believes that:

- EPA should maintain national Low Emission Vehicle (LEV) standards, referred to as the 49-state car, that are stricter than the law requires. States should be allowed, but not required, to adopt Zero Emission Vehicles (ZEV) requirements.

Clean Diesel

NCSL supports the priority given to diesel retrofit projects under the Congestion Mitigation and Air Quality Program. NCSL believes that, due to the cost-effectiveness of diesel retrofit projects, funding should be substantially increased and provided for the Diesel Emissions Reduction Program administered by the EPA and that this funding should not jeopardize the availability of retrofit funding through federal supplemental environmental projects. NCSL further believes that the EPA should maximize efforts to ensure that diesel-fueled vehicles entering the United States from bordering and other foreign countries should meet or exceed U.S. and state environmental standards.

Transportation Conformity with State Air Quality Plans

NCSL supports the principles underlying transportation conformity provisions of the Clean Air Act that requires new or revised state transportation implementation plans (TIPs) to conform to the purpose of state air quality plans, also referred to as state implementation plans (SIPs).

Furthermore, NCSL believes that:

- Adequate funding should be made available to cover the cost of the resource-intensive requirements for development, revision and implementation of conforming TIPs.
- In evaluating the emissions budgets submitted by states, EPA should ensure state flexibility in balancing the burden of reduction among all air pollution sources.

- 189
- 190
- Conformity requirements should be limited to nonattainment areas and areas at risk of becoming nonattainment.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: ENVIRONMENTAL FEDERALISM**

3 **TYPE: DIRECTIVE**

4 The National Conference of State Legislatures (NCSL) urges the federal government to
5 renew its commitment to the state-federal partnership for environmental protection.

6 State governments, acting in partnership with the federal government, play an
7 indispensable role in our mutual effort to protect natural resources and combat
8 environmental degradation and pollution. State implementation of federal law is the
9 cornerstone of our current system of environmental protection. States are particularly
10 dependent upon federal pollution control laws to address the interstate migration and
11 affects of pollutants. Given the increasing trend of delegating more authority to the states,
12 it is essential that the federal government not abandon its commitment to uniform minimum
13 federal standards, the state-federal partnership and the very laws and agencies that
14 guarantee the success of our partnership.

15 In furtherance of the above, the following principles should guide NCSL's federal lobbying
16 efforts with respect to the state-federal environmental partnership:

- 17 • NCSL supports the prevention of pollution at its source and believes that federal
18 legislation and regulation, through delegated authority to the states, should
19 encourage the implementation of activities designed to minimize the generation of
20 hazardous pollution by regulated entities.
- 21 • NCSL further supports federal funding of pollution prevention research and
22 development, training, technical assistance, and regulatory guidance for states.
- 23 • The present level of commitment and funding for natural resource and
24 environmental protection efforts should be enhanced; specifically, the federal
25 government should prevent efforts to further erode its commitment to provide
26 technical support, research and financial assistance to states and avoid further cost
27 shifts to the states.

- The federal government should provide funding to the states in the form of block grants that provide for maximum state flexibility to use federal monies in the manner which they deem proper and in a manner which is consistent with their intended purpose.
- Environmental protection should be based on a holistic comprehensive, flexible and integrated program that addresses environmental issues, the nation's broader economic prosperity, and policies that ensure long-term energy affordability & reliability.
- Uniform minimum federal standards for environmental protection should be preserved and strengthened.
- Statutory authority for states to enact state environmental standards that are more stringent than their minimum federal counterparts should be maintained and renewed.
- Within the framework of uniform minimum federal standards, states should have maximum flexibility in devising approaches and methods for obtaining compliance with such standards. The federal government should adopt performance-based standards which prescribe the end to be accomplished and leave the means of obtaining the end up to individual states. In return for this new level of autonomy, the federal government should adopt a system of performance audits and objectively quantifiable benchmarks that would allow the federal government to certify state performance results in meeting uniform minimum federal standards.
- Implementation schedules established under the framework of uniform minimal federal standards should ensure that the time to deploy emissions control technology reflects normal construction industry experience, technology availability and practices that maximize order and efficiency to avoid wasteful financial expenditures and any risks to energy reliability.
- Within this framework, states should have the flexibility to work with utilities to coordinate the closure and retrofitting of existing power generation stations in a

manner that will ensure the continued supply of electricity and that will allow power generators to upgrade their facilities in a manner that provides reasonable cost while attaining environmental compliance. State flexibility should allow for regulatory options for units that are necessary for grid reliability, that commit to retire or repower and establishing interim progress standards that ensure generation units meet EPA regulations in an orderly, cost-effective manner.

- There should be consistent, uniform and vigorous federal enforcement of environmental laws to deter non-compliant behavior and to reward those who are acting in compliance with such laws. The federal government should continue its present role of overseeing the efficacy of state efforts to enforce uniform minimal federal environmental protection standards.
- In light of the Supreme Court rulings in *Seminole Tribe of Florida v. Florida* and *Alden v. Maine*, which suggest that citizens will no longer be able to sue states in federal court for violations of federal environmental protection laws, the federal government needs to allocate adequate resources to ensure compliance among the states.
- Cost-benefit analysis should be performed in environmental decision making. Sound public policy decision making demands that benefits should be proportionate to costs, after factoring in the totality of the circumstances. However, cost-benefit analysis should not be the only determinative factor in any environmental decision making process. Rather, such an analysis should be one of the many tools that inform decision makers in formulating sound public policy. In the face of uncertainty in devising analytical methods, any default assumptions that are employed should favor enhanced environmental protection.
- In order to finance environmental protection efforts, Congress should create funding mechanisms that consistently generate revenue solely for such uses. All monies from such funds should be fully appropriated for their intended uses.
- NCSL supports a citizen's right to access public information. NCSL supports "right-to-know" laws and other statutory and regulatory mechanisms that readily provide

public access to public information while acknowledging the need to balance this right with security concerns relating to the distribution of sensitive material such as water security information regarding water infrastructure and sources of supply.

- NCSL supports the preservation of state authority to enforce chemical security standards that are more stringent than those established by the federal government.

- NCSL opposes any attempt to preempt or circumvent the authority of state courts and local administrative bodies. Proposed federal legislation that would centralize decision-making in the Federal courts for compensation for land use and other regulatory actions represents a major threat to our Constitutional system of federalism. Improving the efficiency of the state and local judicial process is an issue for state legislatures, not Congress. Land use and regulatory policy must remain a primary responsibility of the states. The authority of state courts must be preserved.

- NCSL opposes federal trade agreements containing mechanisms that undermine state environmental laws and regulations -- or that usurp state authority to set and maintain environmental policy and investments in the public interest -- including tactics such as “regulatory cooperation entities,” “harmonization,” “mutual recognition,” “international standardization,” “reducing trade irritants” or other means by which the Constitutional powers or decisions of the states could be directly or indirectly overridden, modified or preempted.

- In acknowledgement of the unique needs and concerns of the arctic ecosystem that is undergoing rapid environmental change and extensive exploration for natural resources, NCSL urges ratification of the United Nations (UN) Convention on the Law of the Sea, negotiated in 1982, and of the Treaty on Persistent Organic Pollutants, adopted by the U.S. in 2001 but never ratified.

- NCSL believes federal environmental health regulations require more and better data about the unique exposure patterns and sensitivities of children who are uniquely vulnerable to environmental exposures because they are in a dynamic state of growth, with many vital systems not fully developed upon birth.

- 114 • NCSL supports consideration of the sensitivity of children to environmental
115 contamination in all federal environmental policy, legislation, and regulation.
- 116 • NCSL supports federal funding for health research on the effects of exposure of
117 children to environmental toxicants, and consistent reporting and tracking of birth
118 defects, cancer, and other relevant diseases in children.

COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE

POLICY: FEDERAL LAND POLICY MANAGEMENT ACT

TYPE: DIRECTIVE

Federal Land Policy Management Act (FLPMA)

The Federal Land Policy Management Act (FLPMA) provides for perpetual federal retention of public lands unless it is in the national interest to dispose of a particular parcel.

Ninety-three percent of all lands under federal jurisdiction in the United States are located in the West, and over sixty-three percent of the land area in the twelve western states is federally controlled. Further, many federal and non-federal lands are intermingled. This limits the western states' prerogatives in managing the uses of their own land and further limits the potential base of the states' economies. Units of governments whose property tax revenue bases have been reduced by large federal land holdings also require adequate funds to help make up the shortfall. With perpetual federal retention, Congress must assure state payments in lieu of taxes in perpetuity. Federal-state relations regarding federal agency land planning vary widely and suffer from a lack of specificity on how and when cooperation should take place. No meaningful mechanism currently exists in the wilderness review process for the involvement of legislatures as the state policymaking bodies.

The National Conference of State Legislatures (NCSL) urges all federal agencies involved in the management of public lands to incorporate within their policies and regulations provisions for a continuous and cooperative involvement of state governments in public lands policy and public lands management. Furthermore, NCSL supports remedial legislation which will guarantee a state and tribal role in public lands management and establish procedures for designations, disposition, or use of certain public lands found to be excess property.

Federal agencies managing federal land should assure that uses, both on-site and off-site, do not cause adverse environmental impacts on the federal land or other adjacent

lands or waters and provide special protection for wetland resources in light of the goal of no loss of wetlands.

As Congress considers funding for federal agencies with public land management responsibilities, NCSL recommends that Congress assure appropriations sufficient for the full and proper execution of the agencies' legislative mandates to process lease applications properly and expeditiously and protect the environment during increased energy development.

If a federal wilderness designation occurs, state and/or tribal "inholdings" in wilderness areas should be purchased, or exchanged with lands of equal or greater value outside of these areas as designated by FLPMA.

NCSL also urges the establishment of an interagency coordinator or coordination program to facilitate tribal governments, state agencies and communities to address all relevant agencies in a "one stop" manner.

Takings and Land Use Authority

NCSL strongly opposes any federal legislation or regulation that would: 1) attempt to define or categorize compensable "takings" under the Fifth Amendment to the United States Constitution; (2) interfere with a state's or tribe's ability to define and categorize regulatory takings requiring state or tribal compensation; (3) preempt state or tribal eminent domain constitutional provisions or statutes; or (4) infringe on state or tribal sovereignty under the Eleventh Amendment. NCSL supports collaborative examinations of state, tribal and federal use of eminent domain authority.

Readiness and Environmental Protection Initiative

The Department of Defense (DOD) Readiness and Environmental Protection Initiative (REPI) enables DOD to work with partners to protect valuable habitat and avoid land use conflicts in the vicinity of priority installations. Maintaining availability, accessibility and capability for realistic training, live fire testing and other operations is crucial to ensuring a trained and ready force to support the DOD mission to fight and win the nation's wars.

REPI provides significant and long term benefits to the people and the landscape in communities surrounding military installations. It enhances military readiness; protects high value habitat; strengthens military/community relations; and provides the opportunity for partnerships among key stakeholders, such as state, tribal and local governments and the military. NCSL supports REPI and believes there is a limited window of opportunity for REPI partnerships to protect land and habitat in support of military training and testing. In addition, the increasing numbers of willing sellers in the existing real estate market present significant near-term opportunities to leverage REPI funding with state, tribal and local partners.

NCSL applauds the United States Congress for recognizing the critical need to protect DoD bases and the limited window of opportunity to do so, and for continuing its strong bipartisan support for REPI.

State-Federal Partnerships in Land Management Around Federal Facilities

NCSL calls on Congress and the Administration to enable and encourage federal agencies to enter into formal partnerships with state or tribal governments to enable the better management of land in and around military and other federal facilities. Such partnerships will enable states, federally recognized tribes, local communities and the federal facilities, ranges, and training air/sea/land space they serve to work jointly on matters of importance to all stakeholders. The adoption of memorandums of understanding or other agreements between federal agencies, tribal governments, and/or state wildlife, parks, and environment agencies will establish a mechanism for the federal agencies to:

- assist tribal governments and state agencies to acquire landowner agreements around military facilities;
- assist tribal governments, communities and states to be better prepared for the next BRAC round by ensuring mission capabilities at military facilities; and
- identify within the federal agency the person or office to whom tribal governments, state agencies and communities may contact for assistance in

85 coordinating conservation easement/contracts or other appropriate negotiated
86 transaction.

87 In partnering with such agencies as the Department of Defense (DOD), the U.S.
88 Department of Agriculture (USDA), the U.S. Department of Interior (Interior), and the
89 U.S. Army Corps of Engineers (Corps) states, tribal governments and local communities
90 will be able to:

- 91 • protect water resources benefiting tribal governments and local communities and
92 federal facilities ranges, and training air/sea/land space;
- 93 • improve wildlife habitat around federal facilities, ranges, and training air/sea/land
94 space and throughout the state;
- 95 • expand public understanding of how critical tribal and state land conservation
96 actions are to protect the mission and economic welfare of federal entities;
- 97 • expand public support for federal assistance of state efforts to acquire permanent
98 conservation easements, contracts or other appropriate negotiated transactions
99 and long term leases with landowners to protect federal installations from civilian
100 encroachment that will adversely impact mission capabilities and economic
101 benefits to communities, and increase land for contract training;
- 102 • expand state agency, private landowners, and DoD facilities' ability to develop
103 longitudinal training capabilities through partnerships that expand training
104 opportunities in combination with preserving agricultural lands; and that permit
105 federal and national guard training areas to be linked for expanded joint training;
106 and
- 107 • encourage tourism to the conservation lands acquired by state agencies.

COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE

POLICY: WATER

TYPE: DIRECTIVE

Jurisdiction for federal water projects is scattered throughout agencies of the federal government and committees of Congress. The National Conference of State Legislatures sees a need for clearer, more coordinated and more consistent federal policies. These policies, however, should recognize and build upon the constitutions, statutes, policies and programs of the states as the fundamental basis for a truly national effort toward better water resources management. The federal government should recognize that water resources policy can and must be developed at the state level. The appropriate role for the federal government should be to provide technical, research and financial assistance to the states at their request.

NCSL endorses the following principles:

- Primary authority and responsibility for water resources management functions, including planning, development and regulation, rest with the states and their delegated interstate agencies. Water resources management, wetland protection, coastal zone management, and soil conservation projects should be clearly delineated by Congress as the primary responsibility of the states and their delegated interstate agencies, with federal oversight.
- A national water conservation initiative should be undertaken to encourage water conservation at the federal, state and local levels. Functions, such as navigation and flood control and other issues at the prerogative of the state, should continue to be shared with the federal government to the degree appropriate. Federal policy must recognize and respect the rights of the states to administer their individual water laws and to manage their water resources.
- The role of the federal government is four-fold: (1) to establish a framework of national objectives developed in cooperation with the states; (2) to provide assistance to the states in the development of programs to meet state needs within

such a framework; (3) to be consistent with such state programs to the maximum extent possible when undertaking direct federal actions pursuant to the national interest; and (4) to coordinate agency activities through a national coordinating entity reporting directly to the President and with provision for adequate state and public input.

Federal policy should be directed toward strengthening the capacity of the state to act as the integrator and manager of all programs affecting the water resources of the state. To do so effectively, states need:

- Realistic and dependable financial support to integrate management activities through expansion of provisions for state assistance;
- Full funding of authorized programs consistent with congressional intent;
- A common platform for compiling and accessing data across programs and agencies that is available to local, state, interstate and federal stakeholders; and
- Assurance that direct federal actions will be consistent with state programs, responsive to national policy, and carefully evaluated against mutually agreed upon standards.
- Federal actions, projects and programs must be consistent with adopted state and interstate water and related resources plans and programs.
- Greater flexibility in the entire federal support system for water resource planning and management.
- Federal project evaluation, planning, financing, cost sharing, and cost recovery policies should be reviewed and simplified.
- Project evaluation should promote equal consideration of both structural and non-structural solutions.

53 Many existing water programs create inherent financial biases which favor certain
54 solutions to water problems over others, sometimes resulting in the approval of programs
55 of only marginal utility. Accordingly, NCSL urges that:

- 56 • Cost-sharing policies should be consistent among alternative means for achieving
57 the same purpose.
- 58 • Cost sharing policies should be consistent among federal agencies for the same
59 purposes. There should be no financial grounds for non-federal participants to
60 "shop around" for the best deal.
- 61 • The public participation requirements of project planning and evaluation criteria
62 should be aggressively carried out.

63 **Water Conservation**

64 Water conservation must be a fundamental consideration in all future water management
65 programs.

66 Accordingly, NCSL recommends:

- 67 • A national water conservation initiative implemented by the states as a part of their
68 total water management programs with federal financial and technical assistance
69 including a component for evaluation of the true benefits and costs of conservation;
- 70 • Encouraging comprehensive management of intermittently available freshwater
71 resources to maximize the availability of surface and groundwater supplies;
- 72 • Closely examining the incentives and disincentives for encouraging conservation,
73 recycling and reuse of water;
- 74 • Examining and promoting where feasible the practices of conjunctive use of water
75 supplies; and
- 76 • Congress fund research into the use of saltwater or grey water sources as an
77 alternative to the continued use of scarce freshwater resources.

78 Among water research programs, no specific mechanism exists which focuses the water
79 research establishment on the planning and management concerns of the nation's
80 principal water managers---the states.

81 As such, NCSL recommends that:

- 82 • The research agenda of both the federal agencies and the federally-supported
83 water resources research centers be developed in conjunction with the expressed
84 research needs of the state.
- 85 • Congress should recognize state primacy over all water rights within each state's
86 boundaries and bring to closure the debate on the Federal Reserved Water Rights
87 Policy.
- 88 • Congress should respect and encourage state compacts for sharing and managing
89 water resources.

90 **Wetlands**

91 NCSL supports a wetlands program that is flexible to balance the competing and legitimate
92 demands for conservation and use of the Nation's resources.

93 NCSL urges Congress and the Administration to:

- 94 • Reaffirm the national goal of eliminating the net loss of both wetlands acreage and
95 wetlands habitat values, as a result of any activities, and of increasing both
96 wetlands acreage and wetlands habitat values;
- 97 • Designate a single federal agency to be the lead agency responsible for the overall
98 development, implementation, and enforcement of a national wetlands policy in
99 partnership with the states;
- 100 • Facilitate the delegation of wetlands protection programs to the states and provide
101 technical and financial resources to assist states in developing and operating their
102 programs;

- 103 • Establish a clear preferred sequence of mitigation options that begins with
104 avoidance of adverse effects on wetlands followed by a reduction of unavoidable
105 adverse effects, and allowing compensation by creating, replacing or restoring
106 within the same ecosystem; and
- 107 • Recognize that private landowners have an economic stake in wetlands resources
108 and establish a strong program of economic incentives that encourages and assists
109 the private sector to exercise its management responsibilities in a way that will
110 protect the public values wetlands provide while contributing to a reasonable return
111 on investment.

112 Federal agencies, in conjunction with states, the private sector, and nonprofit groups
113 should expand their educational outreach programs.

114 The U.S. Army Corps of Engineers and the EPA should agree on strategies for effectively
115 and expeditiously monitoring, verifying, and enforcing permits authorizing activities in
116 wetlands. In addition Congress and other regulatory authorities should take any necessary
117 action, including amending existing laws to prevent the willful alteration of wetlands
118 characteristics to circumvent regulatory jurisdictions.

119 **Aquatic Nuisance Species**

120 To combat the threats to biodiversity in the nation's coastal and estuarine habitats as well
121 as inland navigable waters that are associated with aquatic nuisance species and to help
122 prevent their introduction into state waters, NCSL calls on Congress to:

- 123 • Provide for improved means for preventing the introduction of aquatic nuisance
124 species;
- 125 • Increase the support for international, national, and state efforts to control and
126 manage aquatic nuisance species; and
- 127 • Increase research and technical assistance resources available to federal, state,
128 and local officials.

129 **Water Pollution Control**

130 NCSL urges that:

- 131 • Congress fully fund the Sewer Overflow Control State Grants Program;
- 132 • Congress separately appropriate full funding for non-point source pollution and
133 ensure the effectiveness of the provisions of this program to restore and protect our
134 nation's waters;
- 135 • Congress initiate an incentive program to encourage water conservation in the
136 states;
- 137 • Congress authorize and fully fund new grant programs for wastewater and drinking
138 water infrastructure developments;
- 139 • Nutrient pollution be prioritized as a water quality improvement objective in
140 watersheds and where such pollution from pervasive point and non-point sources
141 have been identified to create serious hypoxic conditions in waters of economic,
142 ecological and/or recreational significance;
- 143 • The federal government foster and assist in the financing and support of working
144 groups of state legislators within major watersheds where water pollution is a multi-
145 state responsibility, with such working groups or compacts formed to coordinate the
146 development of strategies, policies, statutes, regulations and spending priorities for
147 the attainment of clean water, including goals, timelines and accountability for
148 performance.
- 149 • EPA strengthen pretreatment pollution prevention requirements to reduce the
150 amount of hazardous waste flowing to waters from wastewater treatment plants and
151 from contaminated sludge; and that
- 152 • Uniform national wastewater monitoring standards and protocols should be required
153 to assure achievement of water quality objectives, fair and uniform enforcement,
154 and full disclosure of contamination.

155 **Drinking Water**

156 NCSL urges Congress and the Administration to increase federal appropriations for safe
157 drinking water programs to necessary levels that also takes into account recent
158 developments across the country regarding lead contamination. A special consideration for
159 financial assistance should be given to those states that have communities and water
160 systems that have limited resources to deal with the requirements of the Safe Drinking
161 Water Act (SDWA). States should receive additional federal financial assistance in order to
162 develop and maintain the administrative and technical capacity needed to implement the
163 program's mandated objectives.

164 Furthermore, NCSL supports the following provisions:

- 165 • States should have the authority to prioritize activities based on state public health
166 needs.
- 167 • States should be able to use federal drinking water funds to consolidate public
168 water systems when it is economically or environmentally beneficial, and/or in the
169 best interest of the public health.
- 170 • Congress should direct EPA to base its standards on scientifically sound principles
171 for protection of human health. The ability of EPA to require water systems to test
172 for additional contaminants must take into account the human health risk posed by
173 the contaminant. Congress should adequately fund EPA's research efforts to
174 develop scientifically sound standards which will assure safe drinking water.
- 175 • EPA should be directed to work closely with primacy states in establishing a
176 comprehensive program of water testing which recognizes the potential of
177 contaminants based upon source, storage and delivery of water. Human health
178 protection should be the basis for establishing any contaminant management
179 program.

180 Disapproval or withdrawal of primacy should not result in a decreased level of public health
181 protection in that state.

182 **State Revolving Funds (SRFs)**

183 With respect to the Clean Water State Revolving Fund (CWSRF) and the Drinking Water
184 State Revolving Fund (DWSRF), NCSL supports the following:

- 185 • Reauthorization of the CWSRF and DWSRF at levels commensurate with state
186 needs.
- 187 • States should be able to extend the life of SRF loans as necessary to accommodate
188 low-income communities provided the loan repayment period does not exceed the
189 useful life of the project.
- 190 • States should be able to use the interest earnings from the SRF monies for grant
191 assistance to low-income communities, or for other related projects as determined
192 by the individual state.
- 193 • States should be allowed to use at least 6-8% of SRF funds for administrative costs.
- 194 • States should be able to use SRF funds to consolidate public water systems when it
195 is economically or environmentally beneficial, and/or in the best interest of the
196 public health.
- 197 • In years when federal funds increase by more than 20%, states may request a
198 waiver of the increased match required, with current state funds used for state
199 drinking water purposes qualifying as the match for that year.
- 200 • Any new requirements applied to the CWSRF or the DWSRF should not be applied
201 retroactively to funding already in the SRF or projects currently in progress.

202 **Stormwater Management**

203 NCSL urges Congress and the Administration to:

- 204 • Commit to and provide full funding and resources for combined sewer overflows
205 (CSOs), sanitary sewer overflows (SSOs) and storm water wet weather discharges.
- 206 • Include a federal cost share of at least 50 percent of the cost of remediation.

- 207 • Establish a zero-interest, or low interest, loan program for homeowners and
208 businesses required to implement storm water management programs.
- 209 • Wet weather management funding should be in addition to, and not replace, other
210 Federal funding programs.

211 NCSL further urges Congress and the Administration to:

- 212 • Authorize state environmental agencies to grant waivers for both municipal and
213 private sector implementation based on economic hardship.
- 214 • Direct the EPA to encourage evidence-based abatement methods and promote
215 compliance using alternative methods of abatement that are least costly to
216 implement.

217 **Groundwater**

218 NCSL believes that the development of groundwater policy should take into account or
219 include the following:

- 220 • State primacy must be assured in the development of groundwater legislation.
- 221 • There needs to be federal assistance available to states in protecting
222 wellhead/recharge areas from contamination.
- 223 • A survey of state data collection and research needs should be completed to
224 assess future needs for financial and technical assistance with respect to aquifer
225 mapping, monitoring and classification.
- 226 • Any policy should recognize the diversity of hydrologic, climatic, economic, legal,
227 and social factors within various states and regions.
- 228 • States' primacy in devising appropriate financing mechanisms for groundwater
229 programs should be continued.

- 230 • Where necessary groundwater conservation programs with appropriate financing
231 should be developed jointly by the federal, state and local governments, but
232 implemented by state and local governments.
- 233 • A comprehensive review of groundwater contamination from pesticides should be
234 undertaken and recommendations based on this review should be implemented.

235 **Publicly Owned Treatment Works**

236 NCSL urges Congress to cooperate with states to eliminate barriers to local government's
237 ability to restructure assets or raise the capital necessary for costly improvements to Public
238 Owned Treatment Works (POTWs). While NCSL takes no position with respect to whether
239 any particular POTW should pursue a public-private partnership, the decision to enter such
240 a partnership should be made by the local unit of government pursuant to state law and
241 local ordinance.

COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE

POLICY: WATERWAYS AND PORTS

TYPE: DIRECTIVE

The National Conference of State Legislatures (NCSL) recognizes the substantial benefits to the nation of the U.S. system of waterways and ports by providing access to the world's markets and the combined efforts of all levels of government and users in sharing the cost of port and waterway development and maintenance. NCSL further acknowledges the distinctive roles played by the states and the federal government in financing waterways and ports. The increase of state and local financial support in recent years should be concomitant with an increased planning authority, which is particularly important for the integration and support of other transportation systems for enhanced waterway and port activity.

Ports

NCSL believes that in order to sustain U.S. leadership in global trade:

- The nation's ports must receive adequate federal funds to improve and maintain federal navigational channels.
- Congress should adequately fund deepening projects to modernize our ports and make full use of the Harbor Maintenance Trust Fund to maintain the nation's harbors.
- NCSL opposes the accumulation of harbor tax receipts at the federal level, as it is a break in faith from the purpose of the Harbor Maintenance Tax and results in the imposition of a competitive burden without providing needed improvements necessary to achieve efficiencies to offset added taxes.

Intermodal Connectors

NCSL calls on Congress to significantly increase federal investment in highway and rail infrastructure and provide states added flexibility to improve intermodal connectors and surface transportation systems near the nation's ports. Where feasible, NCSL also encourages and supports the deployment of ferry crossings.

Maritime Security

NCSL believes that port security is a state-federal partnership, critical to the nation's homeland security strategy and that states need clear federal direction to ensure that resources are focused on the most needed security improvements.

As such, NCSL supports the Department of Homeland Security's Port Security Grant Program, which is vital to ports' abilities to make improvements quickly and comply with the Maritime Transportation Security Act of 2002. Federal assistance should fund federal directives and requirements regarding enhanced security of publicly operated ferries and the inspection of vehicles and freight in order to avoid unfunded federal mandates.

Foreign Imports

NCSL supports:

- Action by the Federal Maritime Commission to restrict foreign cargo shipments from nations that discriminate against U.S. carriers.
- Complying with the requirements, regarding the importation of hazardous materials, of the National Environmental Policy Act to insure proper notification and assessment of environmental impact.

Inland Waterways

NCSL supports the continued predominant federal role in inland waterway capital and operating expenditures due to the interstate commerce nature of this transportation system as well as the implementation of the 2014 Water Resources Reform and

Development Act (WRRDA). NCSL also supports increased investment in the Inland Waterways Trust Fund to repair and modernize the existing infrastructure. The commercial barge and towing companies, joined by a diverse coalition of stakeholders, unanimously and voluntarily requested a 45 percent increase to the per gallon user fee to address the growing backlog of needed lock and dam construction. Congress approved the increase in 2014, and should now increase the federal level of investment to lock and dam infrastructure commensurate with the increasing revenue deposited into the Inland Waterways Trust Fund, to ensure full use of these funds annually, based on industry-endorsed capital investment strategy recommendations on priority projects. NCSL supports the utilization of U.S. Department of Transportation discretionary funds for emergency assistance to states for ports and waterways.

Waterways—General

NCSL believes that:

- The role of the U.S. Coast Guard in directing waterborne traffic should be enhanced. As such, adequate emergency response plans should be developed with a review of existing contingency plans. Additionally, Congress should continue to fund the Coast Guard's Integrated Deepwater Systems program while maintaining existing funding for other transportation programs.
- The user fee method of financing expenses incurred primarily for the user's benefit is an appropriate mechanism. However, the effect of such charges in a competitive worldwide environment should be carefully scrutinized. Any assessed fees should be equitable and nondiscriminatory and should be protected in trust fund accounts with their expenditure limited to the purposes for which they were collected. As such, commercial barge and towing should be directed solely to the Inland Waterways Trust Fund. Recreational boat user fees should be directed solely to boating safety programs. Additionally, user fees should not be assessed on commercial traffic to recover uncompensated benefits to civilian navigation and search and rescue activities.

79 • A comprehensive liability and compensation system on marine environment
80 should be maintained at the federal level to provide vulnerable states with a
81 means of environmental restoration in the event of a shipping accident, or as a
82 result of invasive species.

83 It should be the policy of the United States to require that domestic oil producers and
84 common carriers develop the capability to safely transport crude oil and other liquefied
85 petroleum products and to quickly and effectively contain and clean up oil spills that
86 occur.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: NATIONAL AGRICULTURE**

3 **TYPE: DIRECTIVE**

4 The National Conference of State Legislatures (NCSL) believes that maintaining a
5 strong production agriculture capacity is critical to our nation's strength and is a matter
6 of national security. NCSL recognizes that decisions affecting American agriculture
7 must reflect a working partnership of the federal government with the states in both the
8 formulation and implementation of policy.

9 **Agricultural Fiscal Policy**

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

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

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

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

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

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

48 **Agricultural Bonds:** NCSL supports exempting agricultural bonds from the federal
49 volume cap placed on industrial revenue bonds in each state. Furthermore, NCSL
50 recommends that the President and U.S. Congress amend the federal Internal Revenue
51 Code to make the use of agricultural bonds more attractive to banks and other financial
52 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.

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.

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

139 important that the land grant universities maintain their commitment to agricultural
140 research and development and that the federal government provide sufficient research
141 dollars to support this vital effort.

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

150 **Intellectual Property Rights in Publicly Funded Research:** NCSL calls on Congress
151 to review the Bayh-Dole Act of 1980 and subsequent amendments for its impact on
152 encouraging concentration and vertical integration within the agricultural sector, and for
153 its consistency with the mission and purpose of the Land Grant College system. Further,
154 Congress should increase federal support for agricultural research, and retain through
155 grant and contract provisions greater portions of technology arising from such research
156 within the public domain. Congress should also affirm as objectives of the Land Grant
157 Colleges' agricultural research mission to achieve broad dissemination and producer
158 access to crop technology, and preserve and enhance the income and economic
159 opportunities of producers.

160 **Beginning Farmer Programs**

161 The National Conference of State Legislatures supports a state-federal partnership to
162 confront challenges faced by farmers and beginning farmers, including the use of
163 federal tax incentives to support state-based development and loan programs. NCSL
164 supports changes to the federal Internal Revenue code that reduce borrowing costs for
165 qualifying farmers and strengthen state beginning farmer programs. NCSL is particularly
166 supportive of beginning farmer and other training programs that provide assistance for
167 military veterans and limited-resource farmers. Furthermore, NCSL supports raising the

168 total volume of state bonding authority to free resources for beginner farmer programs if
169 achieved in a manner consistent with a balanced federal budget.

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

176 **Agriculture Biofuels**

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

180 **Support State Regulation of Agricultural Biotechnology**

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

COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE

POLICY: RURAL POLICY

TYPE: DIRECTIVE

A State-Federal Partnership

NCSL believes a vibrant state-federal partnership to strengthen rural America is essential. Therefore, NCSL encourages Congress and the Administration to support programs that:

- Prioritize and institute high speed communications in rural areas.
- Build community capacity by strengthening state and regional programs to enhance the economic competitiveness and social viability of small-town and rural America.
- Leverage technology to overcome the obstacles to economic growth resulting from physical isolation of rural areas.
- Improve infrastructure by strengthening federal programs that support physical development, protect the environment and diversify rural economies.
- Provide job opportunities in small-town and rural America by increasing federal investment in revolving loan funds for small business development, making Small Business Administration loan programs and Economic Development Administration grants more accessible for rural businesses, and expanding programs that encourage the export of agricultural and other rural products.
- Improve rural living conditions by increasing residents' job skills, improving existing housing, encouraging homeownership, protecting the environment, providing human services programs for all ages, and assuring adequate health care for all rural citizens.
- Assist communities in transition by providing federal technical assistance and financial aid to regions impacted by federal government policies that produce

sudden and severe economic dislocation, base closures, natural disasters, emergencies, long term economic and population decline, and inordinate or unanticipated growth.

- Support coordination of programs by encouraging collaboration among all federal, state, and local service providers.

NCSL emphasizes that before any of the above programs can be implemented, high speed communication in rural areas must be prioritized. NCSL believes these goals are best accomplished in the context of an integrated regional framework encouraging innovation and collaboration across economic sectors, political boundaries and program lines. A regional approach recognizes the importance of regions in global competitiveness and of leadership within regions. Federal investments should build on existing regional assets and take into account the diverse economic, demographic, geographic, and cultural realities of different regions.

Principles for Rural Policy

In promoting these goals, Congress and the Administration should recognize the following values as fundamental to achieving success:

Balanced and Sustainable Growth: National policies should recognize and respect the special needs of rural, urban and suburban regions. As such, Federal programs must continue to encourage development in areas of the country that have experienced persistent poverty.

Use of Existing Programs and Institutions: Strengthening and reforming existing programs should take priority over the creation of new ones. NCSL supports the concept of the National Rural Development Partnership, Initiative on Rural America, and other efforts to achieve better coordination and collaboration among federal agencies. NCSL supports efforts to consolidate federal rural development and credit programs and provide states with greater flexibility in program administration. NCSL supports changes to the non-entitlement Community Development Block Grant (CDBG) program to permit broader discretion in the use of CDBG funds.

Strategic Planning: Priority should be given to federal programs, that help build capacity in small-town and rural America by bringing together federal, state, local and private resources for economic development.

Infrastructure Development: Modern infrastructure investments are essential for rural communities to overcome geographic barriers and to spur economic growth in small towns and rural America.

Job Creation and Small Business Assistance: Agriculture and natural resource industries such as mining and forestry must be sustained as essential components of strong rural economies. At the same time, a diversified economic base is the key to the prosperity of small-town and rural America. NCSL believes that locally controlled revolving loan funds have proven over time to be effective ways to bridge the gap between the need and availability of credit for rural entrepreneurs.

Rural, Urban, Suburban Collaboration: NCSL endorses federal support of convenings and initiatives that promote understanding and collaboration between rural, urban, and suburban policymakers and their communities.

National Awareness: NCSL supports the creation of a White House level policy group, which would allow stakeholders to give their input, that coordinates approaches to rural issues across federal departmental lines.

The Federal Role in Rural Economic Development

All levels of government must join together immediately in a comprehensive national effort to stem the tide of decline in rural communities. This objective can be accomplished by continued federal efforts to revitalize the agricultural, mining and forestry industries and by new initiatives to diversify the economies of these rural communities. In seeking to achieve economic diversification, special focus must be placed upon the search for an effective strategy incorporating economic development, market diversification, venture capital, workforce development training, intercity transportation, education, health and housing facilities, technical assistance and infrastructure components, at a minimum.

Maximum flexibility should be given to enable state government officials to maximize program resources by tailoring them to the needs of individual areas and directing them to the areas of highest priority. Whenever possible, federal agency service delivery points should be consolidated to facilitate easy utilization by rural residents.

Furthermore, a critical review of new and existing federal programs must be conducted to determine if statutory or regulatory requirements are placing an unnecessary or costly compliance burden upon rural communities or are contributing to the decline in the quality of life in rural areas. Unjustified, unreimbursed mandates or program requirements should be promptly eliminated.

The Extension Service and agricultural experiment stations are important components in the effort to restore economic vitality to rural America. The National Conference of State Legislatures, therefore, urges Congress and the Administration to support adequate funding for these vital organizations.

State legislators must be full and equal partners in all program development and implementation activities. Furthermore, the sanctity of state programs must be maintained; the federal government must work with the states and local governments to ensure that its investment decisions support state and local development priorities.

To facilitate the development of an effective rural economic development and diversification strategy, the National Conference of State Legislatures calls upon the federal government to join in the creation of:

An agreement on roles and relationships among state and federal agencies and other participants;

- A mechanism for identifying opportunities for joint investments targeted to rural development concerns and priorities;
- A forum for dealing with interagency and intergovernmental obstacles to timely use of resources;
- A vehicle for conducting assessments of rural conditions and progress toward

- 110 accomplishment of rural development goals; and
- 111 • A vehicle for conducting assessments of the impact of federal farm policy on
- 112 rural communities.

113 **Rural Investment Programs**

114 NCSL believes that locally driven approaches for rural investment that incorporate the

115 participation of elected officials, businesses and non-profits, and include regional

116 economic development strategies tailored to local needs and opportunities will best

117 allow rural citizens to chart the future of their communities.

118 **Rural Development Block Grants**

119 NCSL supports efforts to consolidate federal rural development and credit programs

120 and provide states with greater flexibility in program administration.

121 NCSL is committed to working with the federal government to develop carefully crafted

122 programs and policies that promote and fund rural development while protecting rural

123 America's uniqueness.

124 **Payments in Lieu of Taxes (PILT)**

125 The National Conference of State Legislatures recognizes the shared responsibility of

126 states, counties and the federal government for the management of public lands. The

127 PILT program gives counties a small payment per acre of federally managed land,

128 which only partially offsets county costs of supporting federally managed lands in the

129 county. In many cases, payments are inadequate to support the growth of recreation,

130 travel and tourism on federally managed lands. Inadequate payments have strained

131 some county budgets and undermined the intergovernmental partnership between

132 counties, states and the federal government.

133 The NCSL supports federal efforts to:

- 134 • reform the PILT program to create a more predictable, fair and flexible system
- 135 that accurately reflects the fiscal effects of federally managed lands on state and
- 136 local governments;

- 137 • provide full funding for the PILT program; and
- 138 • provide a more flexible payment system.

139 NCSL supports authorization for the transfer of land of equivalent value from the federal
140 government to states or counties in lieu of monetary payment, consistent with state
141 statutes and practice. Clearly, such payments would only be appropriate in cases where
142 the federal government, states and counties have been in close consultation and are in
143 agreement on the terms of transfer.

COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE

POLICY: CRUDE OIL TRAIN SAFETY

TYPE: CONSENT RESOLUTION

WHEREAS, freight railroads have been used to transport crude oil in areas of the country not adequately serviced by other means of transportation;

WHEREAS, terminated carloads of crude oil on Class I railroads in the US surged from 9.344 in 2008 to 540,383 in 2014

WHEREAS, derailments of high hazard flammable trains (HHFT) may contaminate groundwater and soil, pollute waters and wetlands, destroy wildlife habitat, and emit noxious or toxic fumes.

WHEREAS, the USDOT promulgated new rules for HHFT in May 2015 that apply only to trains carrying 20 or more carloads of crude oil or other flammable liquids in a block, or 35 cars in total;

WHEREAS, the Fixing America's Surface Transportation (FAST) Act included provisions that addresses tank car safety through the use of thermal blankets, requiring all tank cars carrying crude oil to be DOT 117s, ordering the development of new rules to ensure rail cargo information is effectively shared with State Emergency Response Commissions (SERCs) and that railroads carrying crude oil have in place oil spill response plans in the event of such an occurrence.

BE IT RESOLVED, that the NCSL supports further Congressional and administrative efforts to strengthen oil and ethanol train safety rules by reducing the number of tank cars required for a train to meet the definition of a "high-hazard flammable train"; further expediting both the phase out and retrofitting of older/substandard tank cars used for the transportation of crude oil; studying the impact of enhancing speed restrictions and studying rerouting options for HHFTs in urban and environmentally sensitive areas.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: ORGANIZED DEPLOYMENT OF UNMANNED AERIAL**
3 **SYSTEMS**

4 **TYPE: RESOLUTION**

5 **WHEREAS**, millions of Unmanned Aerial Systems (UAS) have been purchased by
6 hobbyists for use in airspace of the United States which is regulated by the Federal
7 Aviation Administration (FAA), and

8 **WHEREAS**, the lack of formal rules and regulations pertaining to the use of UAS by
9 hobbyists has resulted in a frontier mentality for use and judgment in that air space and

10 **WHEREAS**, the FAA does not have the preventative enforcement tool for rules or laws
11 when developed that the States have, and

12 **WHEREAS**, as of November 2015, 49 states have considered legislation addressing
13 UAS, with 26 states enacting new laws, and

14 **WHEREAS**, the National Conference of State Legislatures (NCSL) has created a UAS
15 Foundation Partnership to facilitate candid discussions between state policymakers,
16 industry leaders and end-users, to identify options for maximizing the benefits of UAS
17 while also addressing privacy, safety and 4th Amendment concerns, and

18 **WHEREAS**, the FAA works to integrate UAS rules or laws into American airspace, state
19 policymakers and their constituents are working to tap the potential of UAS for public and
20 private applications, and

21 **WHEREAS**, great examples of federal delegation of authority to states such as marine
22 vessel registration with the US Coast Guard developing rules currently exists.

23 **BE IT RESOLVED**, that NCSL constructively engage with the FAA and other parts of the
24 federal government in order to build partnerships with states for the organized deployment
25 of UAS that respects privacy, safety and 4th amendment issues.

26 **BE IT FURTHER RESOLVED**, that should the FAA require registration of all UAS, states
27 be allowed to conduct this registration and enforcement of UAS rules if they so choose and
28 that the federal government should ensure that adequate resources be available to states
29 for proper enforcement.