

**NCSL Standing Committee on COMMUNICATIONS, FINANCIAL  
SERVICES, & INTERSTATE COMMERCE**

**POLICY DIRECTIVES AND RESOLUTIONS**

**2021 Policy Week Review Call  
Sept. 20-24, 2021**

**Table of Contents**

<b>BANKING &amp; FINANCIAL SERVICES .....</b>	<b>2</b>
<b>TWENTY-FIRST CENTURY COMMUNICATIONS.....</b>	<b>13</b>
<b>STUDENT ATHLETE COMPENSATION .....</b>	<b>22</b>

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

3 **POLICY: BANKING & FINANCIAL SERVICES**

4 **TYPE: DIRECTIVE**

### 5 **STATE SOVEREIGNTY IN FINANCIAL SERVICES**

6 The National Conference of State Legislatures (NCSL) is concerned that Congress, the  
7 federal financial services regulators, and the federal courts have sought to nationalize  
8 control of financial services in Washington, D.C. NCSL has consistently and strongly  
9 advocated for state sovereignty in financial services regulation. NCSL has opposed any  
10 federal preemption of state legislative or regulatory authority in financial services. A high  
11 ~~burden of proof~~ (high threshold) that federal action is necessary, such as a national  
12 financial crisis, should be met before any preemption of state financial services laws  
13 and regulations is warranted.

14

### 15 **Preservation of Dual Banking System**

16 NCSL is committed to the preservation of the dual banking system. The dual banking  
17 system enables state governments to apply laws and regulations to banks, ~~and~~ thrifts,  
18 and non-bank financial services, including financial technology entities that serve the  
19 needs of local economies and that respond to the values and concerns of local citizens.

20 In recognition of the advantages of the dual banking system to the public and to the  
21 health of the financial services industry, NCSL opposes any efforts by the federal  
22 government to restrict state authority to charter, supervise, or regulate the powers of

[BACK TO THE TABLE OF CONTENTS](#)

23 ~~state chartered~~state-chartered banks, ~~and~~ thrifts, and non-bank financial services,  
24 including financial technology entities. NCSL opposes any federal attempts to tax state  
25 banks for federal oversight services already performed by the appropriate state banking  
26 agencies and departments. ~~Nonetheless, NCSL recognizes that the states have a duty~~  
27 ~~to use their powers responsibly and in a way that does not endanger the deposit~~  
28 ~~insurance system and thereby the nation's financial stability.~~

29  
30 ~~NCSL acknowledges congressional efforts in the Dodd-Frank Wall Street Reform and~~  
31 ~~Consumer Protection Act (Dodd-Frank) to limit the unchecked preemption efforts by the~~  
32 ~~Office of the Comptroller of the Currency (OCC) of state financial consumer protections.~~  
33 ~~NCSL urges continued congressional vigilance of the OCC and asks the secretary of~~  
34 ~~the Treasury to ensure that the spirit of the Dodd-Frank Act in ensuring the states' role~~  
35 ~~in protecting consumers is not diminished in regulations establishing the new Consumer~~  
36 ~~Financial Protection Bureau.~~

37 NCSL urges Congress to continue close scrutiny of the Office of the Comptroller of the  
38 Currency (OCC) to limit unchecked preemption of state consumer protections.

39

#### 40 **Federal Regulatory Consolidation**

41 NCSL recognizes the need for the federal government to reduce the federal regulatory  
42 burden that can impede the economic vitality of our nation's financial services  
43 industries. In consolidating the federal banking regulators, Congress must ensure that

[BACK TO THE TABLE OF CONTENTS](#)

44 any consolidation does not invalidate the regulatory independence of the dual banking  
45 system.

46

47 NCSL opposes any federal regulatory consolidation plan that would:

- 48     ▪ Preempt, limit, or interfere with the rights of states to regulate ~~state~~  
49     ~~chartered~~ state-chartered banks, thrifts, and non-bank financial services,  
50     including financial technology entities;
- 51     ▪ Require federal reporting requirements and examinations that duplicate state  
52     efforts;
- 53     ▪ Place ~~state-chartered~~ state-chartered banks, thrifts, and non-bank financial  
54     services, including financial technology entities at a competitive disadvantage  
55     with national banks or federal thrifts; and
- 56     ▪ Grant oversight authority for ~~state-chartered~~ state-chartered banks, thrifts, and  
57     non-bank financial services, including financial technology entities to the OCC,  
58     the regulator of national banks.

59

60 NCSL supports ~~the~~ continued federal oversight by the FDIC and the Federal Reserve of  
61 ~~state chartered banks. It would be detrimental to the well-being of the dual banking~~  
62 ~~system for Congress to tamper with present oversight cooperation between state~~  
63 ~~banking departments, the FDIC, and the Federal Reserve.~~

## 64 **Federal Preemption**

65 NCSL strongly believes that a high burden of proof must be established before federal

[BACK TO THE TABLE OF CONTENTS](#)

66 preemption of state banking authority is ever justified and that only Congress—and not  
67 federal regulatory agencies—can preempt the actions of elected state leaders. NCSL  
68 supports the “prevent or significantly interfere with” standard established by the  
69 Supreme Court and reiterated in Subtitle D of Title X of the Dodd-Frank Act to govern  
70 federal preemption of state laws as those laws apply to national banks. NCSL strongly  
71 opposes any effort by the OCC to assert its regulatory authority to weaken the standard  
72 of preemption or shield national banks and bank operating subsidiaries from state  
73 consumer protection laws and enforcement. Moreover, NCSL encourages Congress to  
74 eliminate the judicial deference given to the OCC by federal courts in challenges to  
75 state financial services laws and to restrain OCC abuse of its regulatory authority to  
76 preempt state laws.

77

## 78 **Dual Chartering of Credit Unions**

79 NCSL believes that state credit union supervisors have the primary responsibility for  
80 assuring the safety and soundness of credit unions chartered by and operating under  
81 state law and regulation. NCSL supports the authority of state governments to  
82 determine how state financial institutions (**state-chartered financial entities**) must be  
83 insured and opposes any efforts by the federal government to preempt states’ authority  
84 to govern state deposit insurance requirements. ~~NCSL also acknowledges that states~~  
85 ~~have a responsibility to provide a credible regulatory environment where powers can be~~  
86 ~~exercised in a way that does not endanger the financial solvency of the National Credit~~  
87 ~~Union Share Insurance Fund (NCUSIF).~~

[BACK TO THE TABLE OF CONTENTS](#)

88

89 -NCSL additionally acknowledges that federal deposit insurance agencies, like the  
90 National Credit Union Administration (NCUA), have a legitimate role to play if state  
91 authorized powers lead to unreasonable risks for NCUSIF. However, NCUA regulations  
92 and policies should be crafted in a way that minimizes the preemption of state authority.

93 NCSL opposes any effort by the Administration and Congress to erode the dual  
94 chartering system for credit unions by preempting state credit union laws and  
95 regulations that do not adversely impact the financial well-being of ~~state-chartered~~ state-  
96 chartered credit unions and thus the NCUSIF. Any preemption of state credit union laws  
97 or regulatory authority (~~should only occur if an imminent risk to the credit unions' share~~  
98 ~~insurance fund is threatened~~) ~~must be justified only by a clear and certain threat to the~~  
99 ~~credit unions' share insurance fund by those credit unions that are federally insured.~~

100

## 101 **Consumer Protection**

102 ~~State legislatures and Congress must periodically consider legislation~~(There is  
103 ~~overlapping state and federal legislative jurisdiction that ensures consumer~~) access to  
104 basic financial services; to protect the privacy of ~~financial~~ consumers of financial  
105 services and the security of their personal financial information; to provide protection for  
106 consumers from abusive lending practices; to ensure disclosure of information about  
107 credit terms, interest rates, fees, and balances; to regulate branch closing; and to  
108 otherwise protect the ~~consuming~~ public. In recognition that this is an area of overlapping  
109 federal and state jurisdiction, NCSL will ordinarily not oppose such federal consumer

[BACK TO THE TABLE OF CONTENTS](#)

110 protection measures, provided that there is no preemption of complementary state  
111 consumer protection legislation. ~~Federal legislation should not prohibit state legislatures~~  
112 ~~and state regulators from providing additional protections for consumers of financial~~  
113 ~~services. Furthermore, as the Consumer Financial Protection Bureau established in~~  
114 ~~Dodd-Frank commences its role as the federal agency responsible for regulating~~  
115 ~~consumer protection and enforcing applicable federal laws NCSL opposes any action~~  
116 ~~that preempts state consumer protections law or undermines the principles of~~  
117 ~~federalism.~~

118  
119 ~~Finally, as online financial services continue to grow, clear rules must be established as~~  
120 ~~to which jurisdiction's consumer protections apply to a given transaction. NCSL believes~~  
121 ~~that any such rules should be crafted through a partnership between state and federal~~  
122 ~~regulators and should not place **state chartered financial institutions** at a disadvantage~~  
123 ~~in the institution's ability to provide services over the Internet.~~

## 124 **Financial Services and Economic Development**

125 NCSL recognizes that racial, ethnic, or gender discrimination by ~~financial services~~  
126 ~~institutions~~ **(financial services entities)** may have an impact on the ability of residents in  
127 distressed communities to obtain financial assistance. ~~State legislators~~NCSL also  
128 recognizes s the need for financial institutions to make safe, sound, and profitable  
129 investments. ~~NCSL~~, recognizing the responsibility ~~ies~~ that each state has for **(financial**  
130 **regulation, solvency and ensuring fair lending to their constituents)** ~~financial institution~~  
131 ~~regulation and solvency and for providing for fair lending to their constituents,~~ NCSL

[BACK TO THE TABLE OF CONTENTS](#)

132 ~~recognizes~~ ~~believes~~ that each state legislature has the responsibility to address the  
133 unique needs of its state. ~~Likewise, the federal government as regulator of federal~~  
134 ~~financial institutions must make the same determinations and act accordingly. However,~~  
135 Congress must not mandate federal guidelines that impede the states' abilities to  
136 regulate financial services.

137

### 138 **Financial Technology**

139

140 ~~As online financial services products continue to grow, clear rules must be established~~  
141 ~~as to which jurisdiction's consumers protections apply to a given transaction. NCSL~~  
142 ~~believes that any such rules should be crafted through a partnership between state and~~  
143 ~~federal regulators and should not place state-chartered financial institutions at a~~  
144 ~~disadvantage in their ability to provide services over the internet. State banking laws~~  
145 ~~provide thorough consumers protections and NCSL strongly opposes any efforts by~~  
146 ~~Congress or federal regulators to preempt state banking authority in regulating financial~~  
147 ~~technology companies that would limit the financial protections states provide to their~~  
148 ~~citizens.~~

149 ~~NCSL believes that state banking regulators should maintain primary responsibility of~~  
150 ~~chartering and supervising financial technology companies that operate in their state.~~  
151 ~~States have implemented the Nationwide Multistate Licensing System to make the~~  
152 ~~licensing and registration process more uniform and efficient for companies across the~~  
153 ~~country while still providing rigorous protections to consumers. States have also created~~

[BACK TO THE TABLE OF CONTENTS](#)



154 standards to protect the data privacy of citizens and reduce discrimination in financial  
155 services while encouraging innovation. Regulatory sandboxes are often utilized by  
156 states to encourage new technologies and innovation without prohibitive government  
157 regulation so that states can determine the best regulatory framework for the new  
158 technology. These unique solutions should not be infringed upon so that states can  
159 continue to inspire innovation while protecting the public.

160

## 161 **Securities Regulation**

162 NCSL recognizes that the federal government has an interest in efficient and fair capital  
163 markets. NCSL also acknowledges that ~~the states'~~ securities agencies are  
164 indispensable partners with their federal counterparts engaging in the pursuit of fair and  
165 efficient capital markets by protecting local investors, workers, and communities by  
166 ensuring compliance with securities laws.

167

168 NCSL is concerned that the preemption of state securities laws and regulations will  
169 serve only to erode investor trust in the capital markets by further weakening a system  
170 designed to protect investors and putting the financial well-being of hard-working  
171 Americans at risk. NCSL opposes such federal preemption and the creation of self-  
172 regulatory organizations that usurp state authority. Instead, NCSL supports  
173 congressional efforts to expand the restoration of state securities regulators' authority.

174

## 175 **Mortgage Industry**

[BACK TO THE TABLE OF CONTENTS](#)

176 Currently states regulate a significant portion of mortgage lending. ~~Federalizing~~ (Federal  
177 intervention in) this area of supervision will displace the ~~50~~-state regulatory system ~~that~~  
178 ~~has rapidly evolved~~ and could erode, or even eliminate, the current authority the states  
179 have to ~~approve~~, supervise and ~~bar-license~~ mortgage professionals. The local nature of  
180 real estate and consumer protection necessitates direct state authority.

181  
182 States, through the Conference of State Bank Supervisors (CSBS) and the American  
183 Association of Mortgage Regulators (AARMR), developed the Nationwide (Multistate)  
184 Mortgage-Licensing System (NMLS) to improve and coordinate mortgage supervision.  
185 This state system enhances consumer protection and streamlines the licensing process  
186 for regulators and the industry. NCSL supports the NMLS to encourage a more  
187 coordinated system of state and federal supervision.

188  
189 **FINANCIAL INFORMATION SECURITY**  
190 NCSL believes that states should continue to play a vital role in protecting the privacy,  
191 confidentiality, and security of sensitive nonpublic personal financial information. States  
192 long have sought to balance the economic value of information sharing with reasonable  
193 safeguards against the unnecessary disclosure and inappropriate acquisition of  
194 sensitive nonpublic personal financial information, such as credit information, account  
195 numbers, account balances, and Social Security numbers. Understanding local and  
196 regional economic situations and the unique needs of consumers within these markets,

[BACK TO THE TABLE OF CONTENTS](#)

197 states consistently have ensured the protection of sensitive nonpublic personal financial  
198 information.

199  
200 ~~State legislatures~~NCSL recognizes that financial information security is an area of  
201 overlapping federal and state jurisdiction. Therefore, NCSL does not oppose federal  
202 baseline standards for the protection of financial information, provided that these  
203 standards generally do not preempt complementary state laws. NCSL believes that  
204 states should have the authority and flexibility to adopt standards for the acquisition,  
205 retention, disclosure, and sharing of financial information by and among financial  
206 institutions and nonaffiliated third parties that address local concerns or respond in a  
207 timely way to incidences of neglect or abuse that may be local or regional in nature.  
208 NCSL specifically believes that Congress should preserve state authority to exceed  
209 federal baseline standards for information sharing among nonaffiliated third parties.

210

## 211 **Credit Reporting**

212 NCSL acknowledges the benefit to the nation's economy of a uniform national credit  
213 reporting system ~~to the nation's economy. and~~Therefore, NCSL does not oppose the  
214 limited areas that were subject to federal preemption by the **1996 Amendments of the**  
215 **Fair Credit Reporting Act and made permanent by the Fair and Accurate Credit**  
216 **Transactions Act. In doing so, NCSL supports the continued exemption of the state laws**  
217 **that were in existence prior to the 1996 Amendments and thus are currently exempted**  
218 **from the preemption provisions.**

[BACK TO THE TABLE OF CONTENTS](#)

219

220 **Data Security Breach Disclosure**

221 Consistent with NCSL’s general policy for safeguarding financial information, NCSL  
222 does not oppose baseline federal data security breach notification standards, provided  
223 that the requirements do not preempt state authority to adopt standards that provide  
224 affected consumers additional protection and notification. NCSL also supports allowing  
225 state financial regulators and attorneys general to enforce any new federal data security  
226 breach notification standards.

227

228 In the event that Congress decides to preempt state law, NCSL urges that the  
229 preemption be narrowly construed to preempt only state laws that are inconsistent with  
230 the federal standard while preserving state laws that apply to entities that may be  
231 excluded from the federal act. Additionally, should Congress decide to preempt state  
232 data security breach notification laws, NCSL would support a strong federal law that  
233 would require notification of the affected consumers when sensitive personally  
234 identifiable information has been, or is reasonably believed to have been, accessed or  
235 acquired. In this instance, exceptions should be made only when it is concluded that  
236 there is no significant risk that the breach has resulted in, or will result in, harm to the  
237 individual whose information has been breached.

[BACK TO THE TABLE OF CONTENTS](#)

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

3 **POLICY: Twenty-First Century Communications**

4 **TYPE: DIRECTIVE**

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

16 To ensure that government regulation of communications services, when such  
17 regulation is necessary to ensure competition, protect the interests of consumers and  
18 the needs of law enforcement agencies, is based on an even playing field between  
19 competitors of similar services, though possibly delivered by different technologies, the  
20 National Conference of State Legislatures calls upon the Congress and the Federal  
21 Communications Commission (FCC), in consultation with state legislatures and the  
22 providers of communications services, to review the current definitions of

[BACK TO THE TABLE OF CONTENTS](#)

23 telecommunications and information services as defined in the Communications Act of  
24 1934 and the Telecommunications Act of 1996 to ensure that all providers of  
25 communications services are treated similarly for purposes of government regulation  
26 and taxation. The definition of telecommunications and information services should not  
27 be decided in the courtroom but rather by the elected representatives of the people  
28 working cooperatively with regulators, industry providers and consumer groups.

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

## 37 **COMMUNICATIONS INFRASTRUCTURE**

38 The United States communications infrastructure is the combined product of a wide  
39 range of service providers, including historically regulated common carriers, new  
40 entrants and operators of private networks. Government and industry should strive for a  
41 communications policy framework that promotes and ensures fair and open competition,  
42 removes obsolete barriers that result from outdated burdensome regulation and  
43 requirements, ensures similar government regulation for all technologies that provide  
44 similar services in markets that are competitive, encourages innovation and investment,

[BACK TO THE TABLE OF CONTENTS](#)

45 and allows consumers and the marketplace to determine winners and losers not  
46 government regulation. As competitive markets alone may not be able to provide an  
47 advanced communications infrastructure to all citizens, institutions, and businesses,  
48 government should continue to encourage the availability of such an infrastructure to all.  
49 The federal government must recognize that states have unique priorities that require  
50 state and regional specific solutions.

### 51 **UNIVERSAL SERVICE FUND**

52 In reforming the federal Universal Service Fund (USF), NCSL reminds Congress that  
53 the USF is funded primarily by customers of telecommunications services and therefore  
54 the Congress needs to evaluate the ever growing burden these increasing fees are  
55 becoming to all Americans. Congress, the FCC, state legislatures and state regulators  
56 should review and address the requirements and goals for universal service by adopting  
57 policies that promote universal mobility and universal competition. As the FCC embarks  
58 to modernize the fund to hasten the deployment of high-speed Internet service  
59 nationwide, NCSL cautions that any reform of the federal USF should not impact or  
60 hinder innovation at the state level or interfere with the administration of state Universal  
61 Service Funds.

### 62 **ADVANCED COMMUNICATION SERVICES**

63 The future expansion of access to advanced communications and broadband services  
64 will depend upon additional private investment. Any regulation of communications and

[BACK TO THE TABLE OF CONTENTS](#)

65 broadband services must be minimal and should not discriminate between  
66 communication providers or the technology used in delivering such services.

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

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

## 78 **MUNICIPAL BROADBAND NETWORKS**

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

[BACK TO THE TABLE OF CONTENTS](#)



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

## 87 **WIRELESS COMMUNICATIONS**

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

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

## 101 **SPECTRUM MANAGEMENT**

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

[BACK TO THE TABLE OF CONTENTS](#)

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

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

#### 118 **STREAMLINING AND COLLOCATION OF WIRELESS FACILITIES SITES**

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

[BACK TO THE TABLE OF CONTENTS](#)

127 Therefore, any attempt by Congress to preempt current local zoning and rights-of-way  
128 authority is a preemption of state sovereignty.

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

#### 141 **STATE FEDERAL PARTNERSHIP IN TELECOMMUNICATIONS COMPETITION**

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

[BACK TO THE TABLE OF CONTENTS](#)

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

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

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

164 While NCSL acknowledges the historic role of states as the primary regulator of  
165 intrastate telecommunications, state legislators also recognize that the historic  
166 distinctions between intrastate and interstate communications is fast becoming  
167 irrelevant in today's global marketplace. Some new services, such as Voice over  
168 Internet Protocol, involve integrated functionalities that cannot even be characterized as

[BACK TO THE TABLE OF CONTENTS](#)

169 jurisdictional. NCSL calls upon the Congress and the FCC to partner with states in a  
170 national framework for communications policy that ensures minimal regulation but  
171 guarantees all Americans with a choice of mediums and service providers.

## 172 **TAXATION OF COMMUNICATIONS SERVICES**

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

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

- 185 1. **Tax Efficiency:** taxes and fees imposed on communications services should  
186 be substantially simplified and modernized to minimize confusion and ease the  
187 burden of administration on taxpayers and governments.
- 188 2. **Competitive Neutrality:** transaction taxes and fees imposed on  
189 communications services should be applied uniformly and in a competitively

[BACK TO THE TABLE OF CONTENTS](#)

190 neutral manner upon all providers of communications and similar services,  
191 without regard to the historic classification or regulatory treatment of the entity.

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

195

196 **State Sovereignty:** Other than the prohibition of taxes on internet access, NCSL will  
197 continue to oppose any federal action or oversight role which preempts the sovereign  
198 and Constitutional right of the states to determine their own tax policies in all areas,  
199 including communications services.

[BACK TO THE TABLE OF CONTENTS](#)

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

3 **POLICY: STUDENT ATHLETE COMPENSATION**

4 **TYPE: DIRECTIVE**

5 In 2019, California became the first state to pass legislation that would allow student  
6 athletes compensation for the use of their name, image, or likeness (NIL). The laws  
7 would allow students in varying ways to sign endorsement deals, earn money for public  
8 appearances, sell autographs or other items, and enter deals with companies for  
9 marketing purposes. Half of the states have taken similar action since then. Numerous  
10 bills have been introduced in Congress that would provide a system for how student  
11 athletes can negotiate contracts and otherwise profit off their NIL. NCSL urges  
12 consultation with the states on all these issues.

13 NCSL strongly supports the ability of the states to determine the best system for their  
14 student athletes. NCSL opposes any efforts by Congress to preempt state laws that  
15 provide earning rights to students and believes that any federal legislation should be  
16 complementary to state laws.