

**NCSL STANDING COMMITTEE on COMMUNICATIONS,
FINANCIAL SERVICES, & INTERSTATE COMMERCE
POLICY DIRECTIVES AND RESOLUTIONS**

~~2021 Policy Week Review Call~~ **LEGISLATIVE SUMMIT**
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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 state-chartered
18 banks, ~~and~~ thrifts, and non-bank financial services, including financial technology
19 entities that serve the needs of local economies and that respond to the values and
20 concerns of local citizens. In recognition of the advantages of the dual banking system
21 to the public and to the health of the financial services industry, NCSL opposes any
22 efforts by the federal government to restrict state authority to charter, supervise, or

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23 regulate the powers of ~~state chartered~~state-chartered banks, ~~and~~ thrifts, and non-bank
24 financial services, including financial technology entities. NCSL opposes any federal
25 attempts to tax state banks for federal oversight services already performed by the
26 appropriate state banking agencies and departments. ~~Nonetheless~~, NCSL recognizes
27 that the states have a duty to use their powers responsibly and in a way that does not
28 endanger the deposit 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 federal banking regulators the**
38 **Office of the Comptroller of the Currency (OCC) to limit unchecked preemption of state**
39 **consumer protections.**

40

41 **Federal Regulatory Consolidation**

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

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

47

48 NCSL opposes any federal regulatory consolidation plan that would:

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

60

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

65 **Federal Preemption**

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

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

78

79 **Dual Chartering of Credit Unions**

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

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89
90 NCSL additionally acknowledges that federal deposit insurance agencies, like the
91 National Credit Union Administration (NCUA), have a legitimate role to play if state
92 authorized powers lead to unreasonable risks for NCUSIF. However, NCUA regulations
93 and policies should be crafted in a way that minimizes the preemption of state authority.
94 NCSL opposes any effort by the Administration and Congress to erode the dual
95 chartering system for credit unions by preempting state credit union laws and
96 regulations that do not adversely impact the financial well-being of ~~state chartered~~ [state-](#)
97 [chartered](#) credit unions and thus the NCUSIF. Any preemption of state credit union laws
98 or regulatory authority should only occur if an imminent risk to the credit unions' share
99 insurance fund is threatened ~~must be justified only by a clear and certain threat to the~~
100 ~~credit unions' share insurance fund by those credit unions that are federally insured.~~

101

102 **Consumer Protection**

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

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

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

125 **Financial Services and Economic Development**

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

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

138

139 **Financial Technology**

140

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

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

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

161

162 **Securities Regulation**

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

168

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

175

176 **Mortgage Industry**

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

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

189

190 **FINANCIAL INFORMATION SECURITY**

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

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

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

211

212 **Credit Reporting**

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

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221 **Data Security Breach Disclosure**

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

228

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

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

3 **POLICY: [TWENTY-FIRST CENTURY COMMUNICATIONS](#)**
4 **[TELECOMMUNICATIONS](#)**

5 **TYPE: DIRECTIVE**

6 **Deployment and Adoption**

7 Internet connectivity is essential to the success of families, businesses, and government
8 services. NCSL urges Congress and the administration to invest in universal internet
9 connectivity, provide flexibility to states in federal programs and funding, and initiate
10 proactive, meaningful engagement and consultation with states during the process of
11 program development and implementation. NCSL also encourages prioritization of
12 anchor institutions in federal funding and programs, as these schools, libraries, and
13 hospitals are often cornerstones of community access. NCSL further recognizes the
14 special challenges of middle and last mile deployment and encourages Congress and
15 the administration to provide support to communities working towards universal service.

16 Federal funding and deployment programs should also address affordability and access
17 among rural, unserved, and minority communities. NCSL urges Congress and the
18 administration to provide targeted resources for reducing the digital divide, such as
19 digital inclusion funding, training, and digital literacy. NCSL further encourages funding
20 for tribal connectivity.

21 NCSL urges investment in wireless connectivity and facilities deployment, especially in
22 unserved and underserved communities. NCSL further encourages investment in
23 telecommunications workforce and advanced communications technology education
24 and training.

25

26 **Mapping and Data Collection**

27 Fair, efficient deployment of internet services is dependent on accurate mapping of
28 speeds, adoption rates, and coverage. NCSL encourages the federal government to
29 ensure readily available data and technical support for accurate mapping. We also urge
30 Congress and the administration to provide sufficient funding for mapping and to
31 continue to provide easy-to-use, free online maps available to states and consumers.
32 NCSL recognizes the importance of protecting states' ability to do their own data
33 collection and ensure accuracy of deployment maps.

34

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35 **Technology and Smart Communities**

36 Telecommunications technologies are constantly evolving, and states are finding
37 increasingly innovative ways to deploy connected devices. NCSL encourages additional
38 federal investment in the development of smart communities. We further urge federal
39 support for emerging telecommunications technologies, including those with
40 applications in telehealth, agriculture, smart infrastructure, and transportation. NCSL
41 also recognizes the need for investment in devices and connectivity equipment for
42 anchor institutions.

43

44 **Federal Funding and Cooperation**

45 The federal government, including Congress, the Federal Communications
46 Commission, National Telecommunications and Information Administration, and the
47 U.S. Department of Agriculture, must work in close partnership with states to reach
48 universal adoption. NCSL recognizes the essential leadership role of state policymakers
49 and regulators as many states have created broadband offices, task forces,
50 commissions, agencies, or frameworks. It is essential that federal regulatory agencies
51 participate in meaningful engagement and consultation with states in the development
52 and implementation of federal programs. NCSL encourages state legislature
53 representation on federal advisory committees and boards that oversee broadband and
54 consumer protection issues.

55 NCSL urges Congress and the administration to provide predictable, stable, and
56 sufficient funding for internet connectivity programs. If Congress enacts financing
57 opportunities, NCSL supports state flexibility in financing options in addition to sufficient
58 program funding. We further emphasize the importance of partnership and
59 communication in funding decisions.

60 NCSL encourages responsible, nimble, and fair federal spectrum management as well
61 as meaningful engagement and consultation with states when determining the best use
62 for spectrum.

63

64 **Taxation**

65 NCSL recognizes that communications tax policies should encourage a level playing
66 field between communications service providers, enhance economic development, and
67 avoid discrimination between new and existing providers. Other than the prohibition of
68 taxes on internet access, NCSL opposes federal action that preempts the ability of
69 states to determine their own tax policies in all areas, including communications
70 services, unless where specifically supported by other NCSL policies.

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~~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~~

94 ~~be decided in the courtroom but rather by the elected representatives of the people~~
95 ~~working cooperatively with regulators, industry providers and consumer groups.~~

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

104 **COMMUNICATIONS INFRASTRUCTURE**

105 ~~The United States communications infrastructure is the combined product of a wide~~
106 ~~range of service providers, including historically regulated common carriers, new~~
107 ~~entrants and operators of private networks. Government and industry should strive for a~~
108 ~~communications policy framework that promotes and ensures fair and open competition,~~
109 ~~removes obsolete barriers that result from outdated burdensome regulation and~~
110 ~~requirements, ensures similar government regulation for all technologies that provide~~
111 ~~similar services in markets that are competitive, encourages innovation and investment,~~
112 ~~and allows consumers and the marketplace to determine winners and losers not~~
113 ~~government regulation. As competitive markets alone may not be able to provide an~~
114 ~~advanced communications infrastructure to all citizens, institutions, and businesses,~~
115 ~~government should continue to encourage the availability of such an infrastructure to all.~~

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116 The federal government must recognize that states have unique priorities that require
117 state and regional specific solutions.

118 **UNIVERSAL SERVICE FUND**

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

129 **ADVANCED COMMUNICATION SERVICES**

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

134 NCSL urges Congress to work with states in developing an integrated broadband
135 strategy to ensure universal deployment and affordable access to every constituent,
136 regardless of geography or economic status. NCSL supports the creation of a national

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137 ~~advisory board, including state, federal and local policymakers, as well consumer and~~
138 ~~industry representatives, to develop principles to facilitate deployment of advanced~~
139 ~~broadband communications services.~~

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

145 **~~MUNICIPAL BROADBAND NETWORKS~~**

146 ~~As states seek to expand access to broadband and work with the federal government to~~
147 ~~enhance deployment of broadband, Congress and the FCC must recognize and~~
148 ~~account for the principles of federalism and numerous decisions by the United States~~
149 ~~Supreme Court with regard to the relationship between the state and its political~~
150 ~~subdivisions. NCSL will oppose any effort to authorize or prohibit the establishment of~~
151 ~~municipal or state created public agencies broadband networks through congressional~~
152 ~~or federal regulatory action. Should Congress or the federal government take such~~
153 ~~action, NCSL will challenge the constitutionality of such action.~~

154 **~~WIRELESS COMMUNICATIONS~~**

155 ~~While the wireless industry through self-regulation has been successful in significantly~~
156 ~~reducing the number of consumer complaints, NCSL continues to support the ability of~~
157 ~~state government to protect the interests of wireless consumers. However, in carrying~~

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158 out its consumer protection functions government must acknowledge the interstate
159 nature of the wireless industry. Specifically targeted state government requirements
160 such as type size, language or formats of billing statements that may differ from
161 jurisdiction to jurisdiction, while possibly well meaning, will hinder the seamless
162 provision of these services, resulting in confusion and increased costs for all customers
163 especially for those that are not residents of the state that has taken such action.
164 NCSL urges state and federal policy makers to work together to ensure that industry
165 targeted consumer protections can be applied within a national framework that ensures
166 the continued ability of the state attorneys general to enforce such consumer
167 protections.

168 **SPECTRUM MANAGEMENT**

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

173 NCSL recommends delaying proposals that would allow developing technologies to
174 share the same bandwidth presently utilized by state and local governments and public
175 utilities until such time as transmission can sufficiently be assured to avoid signal
176 interference with public users. NCSL opposes any effort to provide additional frequency
177 by means of reallocating what is currently allocated for state, local, public utility uses

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178 ~~and transportation direction and safety purposes until the aforementioned concerns are~~
179 ~~adequately addressed.~~

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

185 ~~**STREAMLINING AND COLLOCATION OF WIRELESS FACILITIES SITES**~~

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

196 ~~To avoid federal preemption, state legislatures enacted legislation to streamline the~~
197 ~~siting process and to enhance the use of collocation on existing wireless facilities. While~~
198 ~~NCSL rarely advocates the enactment of legislation in state legislatures, NCSL has at~~

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199 times, when states are facing a serious threat of federal preemption, urged state
200 legislatures to take action. NCSL, in order to preserve the states' sovereignty, endorses
201 state action to enhance the use of collocation of cell antenna and the streamlining of the
202 current tower siting process. Collocation of antenna should not be subject to additional
203 zoning, land-use or regulatory approval process above and beyond the initial process
204 for siting the wireless facility. NCSL also believes that government should not levy
205 discriminatory fees for the siting of wireless facilities or the application for collocation.
206 Application fees levied on the siting as well as taxes on the wireless facility must not be
207 higher than fees or taxes applied to other general business.

208 **STATE FEDERAL PARTNERSHIP IN TELECOMMUNICATIONS COMPETITION**

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

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

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

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

231 ~~While NCSL acknowledges the historic role of states as the primary regulator of~~
232 ~~intrastate telecommunications, state legislators also recognize that the historic~~
233 ~~distinctions between intrastate and interstate communications is fast becoming~~
234 ~~irrelevant in today's global marketplace. Some new services, such as Voice over~~
235 ~~Internet Protocol, involve integrated functionalities that cannot even be characterized as~~
236 ~~jurisdictional. NCSL calls upon the Congress and the FCC to partner with states in a~~
237 ~~national framework for communications policy that ensures minimal regulation but~~
238 ~~guarantees all Americans with a choice of mediums and service providers.~~

239 ~~TAXATION OF COMMUNICATIONS SERVICES~~

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

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

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

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

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

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263

State Sovereignty: ~~Other than the prohibition of taxes on internet access, NCSL will~~

264

~~continue to oppose any federal action or oversight role which preempts the sovereign~~

265

~~and Constitutional right of the states to determine their own tax policies in all areas,~~

266

~~including communications services.~~

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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. Over half of the states have taken similar action since then.
10 Numerous bills have been introduced in Congress that would provide a system for how
11 student 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.

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

3 **POLICY: TELECOMMUNICATIONS AMENDMENT**

4 **Competition and Equal Access**

5 Consumer choice and internet connectivity are equally important for consumers in all
6 types of housing. NCSL recognizes the need for broadband competition for all
7 consumers, regardless of housing status. NCSL urges Congress and the FCC to
8 examine the nature and extent of competition issues in rental properties and cooperate
9 with states on potential solutions.