

1 COMMITTEE: Agriculture and Energy

2 POLICY: National Energy

3 TYPE OF POLICY: Existing

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5 The National Conference of State Legislatures urges the federal government to develop,
6 implement and maintain an expansive, integrated, environmentally-sensitive and cost-
7 effective national energy policy. NCSL commends Congress and the Administration on the
8 continued attention to these pressing issues which are a priority to the success of the United
9 States. It is imperative that federal, state, local, and tribal governments continue to work
10 cooperatively as our country moves forward.

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12 The primary goals of a national energy policy should be to develop a comprehensive energy
13 conservation strategy, provide for the most efficient use of energy, to promote reliable
14 sources of domestic energy supplies and to develop and promote the use of alternative,
15 renewable energy sources. A national energy policy should ensure adequate supplies of
16 affordably priced energy. A national energy policy should ensure the use of energy in an
17 efficient and environmentally-sound manner so that the needs of our citizens, economy and
18 national security interests are met. Energy independence must be a goal of the United
19 States. A balanced mix of energy sources is essential to the security and the future economic
20 growth of the United States. It is also imperative that a national energy policy must utilize a
21 cost-benefit analysis to determine the effect of each fuel source on the environment.

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23 **Principles**

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25 Those principles which NCSL believes ought to guide the development and implementation
26 of a national energy policy include:

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28 • Promotion of the most efficient and economical use of all energy resources.

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30 • Promotion of energy conservation and efficiency and the development and use of
31 alternative and renewable energy supplies.

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- Promotion and provision of incentives for the development and optimal use of all energy resources and new facility infrastructure.
- Assurance that various domestic energy sources are continually developed, maintained and stored to prevent supply emergencies and to promote energy independence.
- Consideration and assessment of environmental costs and benefits for all energy resources, fuels and technologies in rendering legislative, regulatory and market decisions regarding energy production and use.
- Provision of an affordable and reliable energy supply for all citizens.
- Examine the feasibility of and where feasible promote state-wide or regional minimum storage level requirements for heating oil for states dependent on this fuel.
- Specification and balancing of clear lines of local, state and federal regulatory authority.
- Development of both short - and long-term strategies to provide adequate energy supplies, efficient utilization of those supplies and optimum cost effectiveness.
- Promotion of the education of school-age children regarding energy resources, consumption, conservation, and production and regarding environmental protection, safety and risks in energy production.
- Assurance of expanded energy research and development and broadening of the citizenry's access to energy-related information.
- Assurance of participation of state and local officials in the development and implementation of a national energy plan and strategy.

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- Avoidance of mandates, particularly unfunded mandates, upon state and local governments in developing a national energy policy.
- Avoidance of pre-emptive federal laws.
- Transmission.

Implementation

NCSL believes development of a national energy strategy should have at least these seven components:

- an assessment and forecast of our nation’s energy future and its impacts;
- an evaluation and ranking of short and long-term energy options available to the nation;
- an evaluation of possible energy futures which provide greater benefits to our citizens;
- development of recommendations for energy options and energy futures that the nation should pursue, with the establishment of national targets or goals;
- evaluation and recommendation of implementation mechanisms including, but not limited to, incentives, technical assistance, educational programs, regulatory standards or guidelines to achieve the targets or goals;
- coordination of federal and state components, responsibilities, and authority; and
- a cost-benefit analysis to determine the use of each fuel source.

95 • NCSL believes that a national energy policy should consider energy sources based on
96 the following criteria first: lowest cost, cost benefit analysis, revenue loss, cost to
97 consumers, reliability, and environmental or other impacts. Energy policy alternatives
98 that would improve our energy security without imposing significant new costs, while
99 balancing the need for environmental protection, should be implemented. NCSL
100 strongly supports a coordinated effort between state and federal government in
101 producing a national energy policy. In the development of a national energy policy, the
102 federal government should consult closely with state legislatures, devise mechanisms
103 to bring state legislatures into the energy decision-making process as full participants
104 on a continuing basis, and ensure the inclusion of representatives of the legislative
105 branch of state government in all state-federal working groups dealing with energy
106 policy.

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108 **Conservation and Energy Efficiency**

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110 Increased energy efficiency can decrease U.S. reliance on imported oil, reduce the
111 environmental impacts of fossil fuels, reduce the long-term operating costs of U.S. industries
112 thus improving their competitiveness, slow the depletion of our finite fossil fuels, and extend
113 the time we have to make the transition to new and innovative energy technologies.

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115 NCSL supports a national energy policy that promotes energy efficiency in a variety of ways
116 including both setting and strengthening policies as technologies improve while recognizing
117 the significance of economic costs on various segments of the population including rural
118 areas:

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120 • Corporate Average Fuel Economy Standards for automobiles and light duty trucks,
121 including sport utility vehicles and minivans;

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123 • energy efficiency provisions in model building codes (including lighting efficiency
124 standards and weatherization);

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- 126 • "Whole-building" and life cycle costing approaches to construction and retrofitting that
127 integrate energy efficiency technologies and practices;
- 128 • home appliance and heating and cooling unit efficiency standards;
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- 130 • waste recycling and reduction standards for industrial manufacturing;
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- 132 • standards for conservation in electrical production and supply including cogeneration;
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- 134 • use of alternative energy; and
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- 136 • a national transportation policy that emphasizes various modes of transportation,
137 including passenger rail and transit, and promotes energy efficiency.
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139 **Government Support for Energy Efficient Products and Industries**

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141 NCSL supports incentives for consumers to purchase energy efficient products. The federal
142 government should continue to establish incentives for energy efficient fleet procurement
143 industries and manufacturers of energy efficient products. The federal government should
144 continue to encourage the use of innovative financing technologies to increase energy
145 efficiency in buildings such as performance contracting and long-term leasing and purchase
146 agreements for energy efficient products.

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148 **Government's Participatory Role**

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150 Federal and state governments' leadership role in the purchase and use of new energy
151 efficient technologies and products should be expanded, and all government-owned buildings
152 should make use of economical energy conservation programs, demonstrating state of the art
153 efficiencies whenever possible.

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155 **Renewable Energy**

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157 Renewable energy sources include, but are not limited to, geothermal, hydropower, biomass,
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158 wind, photovoltaics and solar. NCSL believes that recognizing this spectrum of resources, the
159 federal government should institute a long-range, stable Renewable Energy Development
160 Program which identifies and supports development of renewable energy sources from
161 research and development through demonstration projects and commercialization in a
162 cooperative effort among industry, higher education, and national laboratories.

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164 **Energy Emergency Preparedness**

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166 The federal government should support and enhance energy emergency preparedness in
167 order to reduce the potential impact of petroleum supply disruptions. Initial efforts should
168 focus on strategies to reduce the nation's dependence on foreign oil to avoid future
169 emergencies. Such programs must give consideration to existing state laws and programs,
170 and state and local officials should be included in the federal planning process.

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172 The national energy emergency preparedness program shall include the following principles:
173 voluntary conservation is preferred to mandatory measures wherever possible; any
174 mandatory response should be phased in, beginning with the least stringent measures, with
175 gasoline rationing reserved for only the most severe shortage; and to minimize undue
176 hardships on states and regions heavily dependent on motor vehicle transportation, rationing
177 allotments and allocation plans should be based on state and regional needs and strategies
178 rather than on national averages. Priority shall be given to home heating needs including
179 home heating oil and propane, provided homes are adequately insulated.

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181 To ensure that the country has sufficient, affordable supplies of energy, NCSL believes
182 changes need to be made at the national level to encourage the more efficient use of energy
183 to reduce U.S. reliance on foreign oil. Federal investments in energy efficiency research and
184 technology have and will continue to ensure that less energy is consumed without a loss in
185 comfort or productivity. Also, federal investments in new energy technologies such as fuel
186 cells and hybrid generators can create technology and manufacturing jobs. Both energy
187 efficiency and research in developing alternative energy technologies should figure
188 significantly in a national energy policy.

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190 **Crude Oil**

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192 The federal government should promote the environmentally-sound production of domestic
193 energy resources in coordination with the conservation and efficient use of energy resources,
194 and the management of energy imports.

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196 The federal government should promote and encourage domestic production of crude oil in
197 an environmentally sound manner to supply United States consumers with a secure source of
198 petroleum, and provide a stabilizing influence to the world price of crude oil. Since domestic
199 production is declining rapidly, the efficient use and conservation of these resources must be
200 encouraged. Also, the extraction and transportation of crude oil must be done only with full
201 safeguards for the protection of the environment. In this regard, the federal government
202 should consider incentives for domestic exploration, maintenance of stripper wells, but
203 excluding other extractions, and technological research for methods of enhanced oil and gas
204 recovery that are environmentally safe and in accordance with state policy.

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206 The federal government should ensure that energy resources are utilized in a manner that
207 recovers the most energy value possible while assuring full protection of the environment.
208 Similarly, it should be the strategy of the United States to alleviate oil dependency by funding
209 research and development to perfect alternative fuels, particularly for transportation. The
210 federal government should also increase research and development in the area of new
211 energy generating technologies like biofuels, electric cars, fuel cells and hybrid engines.
212 Enhanced oil and gas recovery from known reserves should be promoted in an
213 environmentally sound manner.

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215 The federal government should manage United States imports by diversifying import
216 suppliers, pursuing a Pan American Energy Alliance with Western Hemisphere producing
217 nations, and expanding a dialogue with suppliers worldwide.

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219 **Coal**

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221 Coal is America's leading fossil fuel in reserve. Coal holds the promise of long-term energy
222 security for this nation. Resources of coal can be properly utilized only if we develop
223 technologies to burn coal more cleanly, and efficiently. Because coal consumption produces
224 carbon dioxide, mercury and other emissions, energy conservation and energy efficiency
225 must be emphasized.

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227 It should be the goal of the United States to provide continued support for the Clean Coal
228 Technology Program, in partnership with the private sector. Research and technology
229 development in clean coal usage should include work in pre-combustion, combustion, post-
230 combustion, and coal conversion areas with desulfurization efforts a top priority. The United
231 States should jointly address transboundary environmental problems with Canada and
232 Mexico. NCSL supports the acid rain program of the Clean Air Act of 1990 that phases -in
233 reductions in emissions from coal burning power plants.

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235 Since gas generated from coal can be distributed through existing pipeline systems, and
236 since the delivery of coal in a conventional form will require extensive capital investment in
237 plant conversion and rail transportation, coal gasification should be seriously considered as
238 an alternative to the use of coal in a conventional manner.

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240 Mined lands should be reclaimed concurrently and restored to an environmentally appropriate
241 condition. The effects on local infrastructure needs and the costs of prime farmland protection
242 and land reclamation should be considered in the development of a national coal program.
243 Financing of activities under the abandoned mine reclamation fund should be accelerated,
244 and a federal commitment to reclamation should be strengthened. No federal policy having
245 implications for land development or management should be adopted without
246 accommodating the laws and policies of affected states.

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248 **Natural Gas**

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250 Efficient natural gas turbines can be utilized in many areas with fewer environmental

251 concerns. Natural gas can be developed with very low worker mortality compared to other
252 energy activities.

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254 The United States should encourage domestic production of natural gas in an
255 environmentally sound manner.

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257 Currently, the Office of Pipeline Safety (OPS) regulates the inspections of gas pipelines in the
258 U.S. NCSL believes safety is not being maintained sufficiently given recent explosions. The
259 federal government should adopt legislation that funds and authorizes states to assume a
260 more prominent role in the regulation of pipeline safety. In this way, states in partnership with
261 the federal government, will enhance the safety of pipelines and the protection of residents by
262 decreasing the risk of pipeline accidents.

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264 **Nuclear**

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266 Assuming concerns regarding plant safety, and the transportation, storage and disposal of
267 nuclear waste can be resolved, nuclear power is an integral part of a national energy plan.
268 A federal government program for the long-term treatment and disposal of high-level
269 radioactive waste, funded by the generators of the waste, should be pursued with the highest
270 priority given to the safe reprocessing or transportation of waste and to the safety and
271 technical suitability of storage or disposal sites. Such a program should be developed in full
272 consultation with all of the affected states. The nuclear power plant licensing process for
273 future plant construction must be improved to ensure both public input and timely decisions,
274 and federally standardized nuclear power plant designs should be established.

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276 It is essential that the Nuclear Regulatory Commission provide strong, centralized, and

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278 • consistent administration to improve management of the agency, expedite policy
279 formulation, and help bring about needed reforms in licensing and regulation,

280 consistent with the NRC's primary responsibility of ensuring public health and safety.

281 Meaningful and effective state participation is necessary in public safety planning and

282 transportation of commercial nuclear waste.

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- 284 • States must continue to have the right to monitor operating conditions at nuclear
285 power plants, waste storage and disposal facilities, and to exercise regulatory authority
286 where consistent with federal law.
- 287 • Federal funding should be provided for research in the areas of waste management
288 technologies, nuclear fusion, and plant retrofit and life extension.

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- 290 • Tax Treatment of Decommissioning Funds

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292 State electric industry restructuring initiatives and the emergence of competition in generation
293 supply have two potentially adverse major impacts on decommissioning funds - loss of tax
294 deductibility and taxation of the funds transferred in nuclear plant sale transactions. The tax
295 code should be updated to ensure that existing funds are treated in the manner intended by
296 the tax laws and to reflect new business conditions.

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298 **Electricity**

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300 The federal government should promote energy efficiency and conservation to lower the
301 demand for electricity. The development of sources of electric energy that are sufficient to
302 meet national needs, secure from external threat, reliable in availability and delivery, safe
303 relative to people and the environment, and efficient for use in homes, businesses, industries,
304 and as an alternative vehicular fuel, should be pursued in junction with aggressive efficiency
305 and conservation programs are implemented.

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307 The electricity sector today is marked by tremendous regional diversity, especially with regard
308 to capacity. Fuel usage also varies widely. Implementation of federal legislation that fails to
309 recognize this diversity inevitably penalizes one region or another.

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311 **Public Benefits/Environment:**

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- 313 • States should maintain the authority to require public benefits programs on a
314 nondiscriminatory basis, including those that support reliable and universal service,

315 energy efficiency, renewable technologies, research and development, and low-
316 income assistance. Existing federally sponsored public benefits programs should be
317 maintained in a restructured market. Electric industry restructuring should be
318 consistent with any federal environmental laws, including the Clean Air Act.

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320 • In regards to fuel usage, the electricity sector is characterized by tremendous diversity,
321 regionally, and state-to-state. Factors relating to fuel usage include energy efficiency,
322 economic competitiveness, environmental impacts and technological adaptability.
323 Implementation of Federal legislation that fails to recognize market mechanisms
324 inevitably penalizes one region or state or another. Mandate programs, which have led
325 to energy market distortions in the past, are counter to the concept of restructuring,
326 which encourages the efficiencies of market competition. States are in the best
327 position to evaluate market force considerations. Congressional legislation should not
328 limit, through the use of mandates or otherwise, state flexibility in addressing market
329 mechanisms in electric restructuring plans.

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331 • NCSL believes that non-traditional energy production should be encouraged. The
332 federal government must maintain and increase its commitment to cost effective
333 energy conservation and efficiency while maintaining adequate and reliable energy.
334 Power providers, equipment and appliance manufacturers, and consumers should be
335 given legislative and regulatory incentives to promote these goals.

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337 • Consumer Protection and Education:

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339 • The safety, reliability, quality, and sustainability of services should be maintained or
340 improved.

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342 • All consumers should have access to adequate, safe, reliable, and efficient energy
343 services at fair and reasonable prices, as a result of competition.

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- 345 • States should retain the authority, with the assistance of the federal government as
346 needed, to protect consumers from anticompetitive behavior, undue discrimination,
347 poor service, market power abuses, and unfair service practices.
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- 349 • States should maintain the authority to establish or require comprehensive consumer
350 education and outreach programs to minimize public confusion and provide
351 information so consumers are able to make informed choices and participate
352 effectively in a restructured market.

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354 **Regulatory Authority**

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356 State regulatory bodies are close to consumers, utilities, industries, and concerned for state
357 environmental and economic well being. State regulatory bodies are in the best position to
358 evaluate consumer needs, and address questions relative to fuel choice, economic
359 development implications, and system reliability.

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361 NCSL strongly supports and urges the continuation of the state legislative oversight for the
362 approval and siting of all major energy conversion facilities, subject to minimum federal
363 standards established only after the fullest consultation with state governments, both
364 executive and legislative branch. State authority over the siting of energy facilities should not
365 be preempted by federal law.

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367 NCSL acknowledges the need for a robust national transmission system that can support
368 new technology and allow for additional power production to be brought onto the grid. In the
369 2005 Energy Policy Act Congress established federal backstop authority for the Federal
370 Energy Regulatory Commission (FERC) over the siting of transmission lines in National
371 Interest Energy transmission Corridors. Since the enactment of the new authority, the
372 provisions have proven largely unnecessary and court action in the 4th Circuit Court of
373 Appeals has upheld that the rejection of a permit application by a state for good cause is not
374 grounds for being able to appeal to the FERC to obtain the permit. In addition, the 2005
375 Energy Policy Act enacted new preemptions of state authority regarding liquefied natural gas
376 terminal siting. NCSL urges Congress to allow these provisions to be implemented and

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377 studied before any attempt is made to expand the preemption to further limit the state role in
378 siting of these energy infrastructure components. NCSL opposes any such expansion of
379 these provision but urges Congress at a minimum to allow for the complete implementation of
380 the new standards before reopening the issue.

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382 **Research and Development**

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384 The cornerstone of a national energy policy should include a broad research and
385 development component. The federal government has already committed substantial
386 research funds for clean coal, nuclear research, basic science and related efforts. These
387 research and development efforts ought to be continued. These efforts, however, should be
388 supplemented with increased incentives and federal funding for research and development
389 projects emphasizing emerging technologies, including, but not limited to, renewable
390 resources, energy conservation, efficient use of energy, alternative fuels, oil and gas
391 recovery, superconductivity, and fuel cell technology. This enhanced long-term research and
392 development capacity should also be designed to encourage private sector participation with
393 federal and state representatives. NCSL urges Congress to provide explicit recognition in the
394 Internal Revenue Code that sustainable energy (conservation, efficiency and customer sited
395 renewable) is a private activity serving a public good.

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397 **Renewable Energy R&D Market Support**

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399 Part of the renewable energy resource development program, and critical to its success, is
400 federal development of alternative technologies that improve renewable energy efficiencies,
401 cut costs, and assist in integrating renewable energy into existing energy systems. Federal
402 standards for the deployment of these new technologies should not undermine established
403 programs at the state level to integrate these resources into existing energy systems. Also
404 needed is a translation and distribution system for international technical and marketing
405 papers on renewable energy. The U.S. should strive for excellence in the use, manufacturing
406 and marketing of renewable energy resources and technologies.

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408 **Education and Information**

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410 It is essential that the nation, including its elementary and secondary school-age children, be
411 made fully aware of energy use and costs, production processes, alternative energy
412 resources and the impact energy usage has on our environment. NCSL recommends that
413 public and private sector education efforts be initiated, expanded and appropriately funded.

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415 These efforts should emphasize that significant economic and environmental benefits can be
416 achieved through increased efficiency and conservation. Also, the federal government should
417 promote both energy conservation education and fund research into conservation
418 technologies. Federal funding of energy conservation programs, including grants to states,
419 should be enhanced.

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421 The federal government and the states should encourage education in schools about the
422 importance of energy efficiency and conservation.

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424 NCSL believes an essential step in formulating a balanced energy policy is to develop the
425 necessary data and employ analytical methods and models to assess the efficiency,
426 productivity costs and risks of the various energy choices available to the nation. NCSL
427 recommends the development of this analytic base by the Department of Energy, with
428 assistance from the Departments of Defense, Treasury and State, and the Office of
429 Management and Budget, in conjunction with the states.

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431 **Transportation**

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433 National transportation strategies must include public policy initiatives directed at broadening
434 the efficient use of our energy resources. NCSL believes these policy initiatives should
435 include, but not necessarily be limited to, incentives and adequate funding for mass transit,
436 high speed rail, magnetic levitation and other emerging transportation technologies; fuel
437 economy standards; and other market incentives for improving the energy efficiency of
438 automobiles and light trucks; and federal, state, and local procurement policies favoring
439 efficient vehicles. Public-private partnerships should be encouraged.