



NATIONAL CONFERENCE
of STATE LEGISLATURES
The Forum for America's Ideas



E C O S

May 15, 2015

The Honorable James Inhofe
Chairman
Environment and Public Works Committee
United States Senate
205 Russell Senate Office Building
Washington D.C., 20510

The Honorable Barbara Boxer
Ranking Member
Environment and Public Works Committee
United States Senate
112 Hart Senate Office Building
Washington D.C., 20510

Dear Chairman Inhofe and Senator Boxer,

On behalf of the National Conference of State Legislatures (NCSL) and the Environmental Council of the States (ECOS), we are encouraged by the Committee's efforts towards a bipartisan compromise to reform the Toxic Substances Control Act (TSCA). We acknowledge that serious reform is needed to update this antiquated statute so that the federal government and states, as partners, have the necessary tools to better evaluate and regulate chemicals.

A reformed TSCA should shift from the current process whereby EPA has to show that there is substantial evidence of an unreasonable risk, before taking risk reduction actions, to one where manufacturers must provide adequate evidence that the chemicals they manufacturer may be used safely in commerce.

While no compromise is perfect, NCSL and ECOS support efforts by the Committee members to acknowledge and preserve state laws and regulations of harmful chemicals in the absence of federal action on toxic chemical regulation. We do, however, urge the Senate to go further, as preemption language with potentially harmful consequences still remains in the bill. States have traditionally acted more quickly to address state and regional problems than the federal government in identifying and successfully regulating toxic chemicals. We would support language that allows states to regulate a particular chemical in the absence of an EPA final determination.

NCSL and ECOS are grateful for the strides that have been taken in the latest iteration of S. 697 and feel that continued dialogue with the states is critical going forward. We appreciate modifications to Sec. 17 of the new bill that would allow states to co-enforce the federal requirements, as we have long been proponents of working together with the federal government

to administer environmental laws. We acknowledge and appreciate that language added to the bill was designed to make it easier for states to qualify for waivers than what was previously proposed; however, the waiver language remains complicated and creates uncertainty. States are willing to offer specific suggestions for streamlining.

Additionally, we approve of the language that ensures persistent and bioaccumulative chemicals are given preference when setting the initial list of high-priority chemicals.

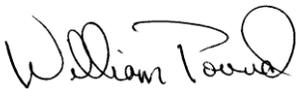
Resource Issues

We realize that many states have neither the staff nor resources to be able to sufficiently protect their citizens from harmful chemicals, so they look to the federal government for assistance, including funding for state and tribal assistance grants. NCSL and ECOS are in favor of a strong federal regulatory system for those states with limited resources, if that system is adequately funded and has the means necessary to do the job intended by the legislation. An additional concern raised by the bill is that EPA will not have the requisite funding needed to carry out its testing and enforcement responsibilities under S. 697.

Therefore, we urge the Senators to ensure that TSCA reform legislation contains an actual appropriation so that EPA has enough financial resources available to test high-priority chemicals before taking that ability away from states. Furthermore, we urge Senators to fund state grant programs, authorized under section 28 of TSCA, in recognition of the enhanced state-federal relationship. A competitive grant program will provide states with the resources to more fully partner with the EPA in regulating chemicals.

Again, NCSL and ECOS appreciate the strides taken in S. 697 thus far. We offer our assistance in drafting language changes that respect state authority as the bill moves forward. We stand ready to work with both houses of Congress to achieve meaningful TSCA reform. Please contact NCSL staff, Melanie Condon (Melanie.condon@ncsl.org) and Susan Parnas Frederick (susan.frederick@ncsl.org) and ECOS staff Carolyn Hanson (Chanson@ecos.org) with any questions.

Sincerely,



William T. Pound
Executive Director
National Conference of State Legislatures



Alexandra Dapolito Dunn
Executive Director
Environmental Council of the States

Attached:

[NCSL Federal Chemical Policy Reform Policy Directive](#)

[NCSL Federalism Policy Directive](#)

[ECOS Resolution 10-8, Reforming the Toxic Substances Control Act](#)