



NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

March 10, 2014

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*Senator
Oregon
President, NCSL*

Thomas W. Wright
*Chief of Staff to Speaker
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William T. Pound
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The Honorable John Shimkus
Chairman
Environment and the Economy Subcommittee
United States House of Representatives
2452 Rayburn House Office Building
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member
Environment and the Economy Subcommittee
United States House of Representatives
2463 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Shimkus and Representative Tonko,

On behalf of the National Conference of State Legislatures (NCSL), the bi-partisan organization representing the legislatures of our nation's 50 states, its commonwealths and territories, we appreciate the efforts by the House Energy and Commerce Subcommittee to move forward with the discussion of reforming the Toxic Substances Control Act of 1976 (TSCA). NCSL believes reforming TSCA is necessary to reflect the advances in science and technology since the law was enacted. However, NCSL must express its serious concerns with the recently released Chemicals in Commerce Act (CICA) discussion draft, that attempts to modernize TSCA. If enacted, CICA would severely impede the ability and authority of states to protect the health and welfare of their citizens.

Sections 5, 6, and 17 of CICA, would essentially eliminate state policymakers' ability to regulate toxic chemicals at the state level by divesting all authority away from states and localities and placing this authority solely with the Administrator of the Environmental Protection Agency (EPA). The notice requirements for the development of new chemical substances or mixtures and safety determinations would all be federalized under CICA. This approach would prevent states from establishing or continuing to enforce any state regulation of chemicals if the EPA has made a safety determination on the chemical, would prohibit states from regulating or banning any new chemical when the EPA makes a safety determination, and would eliminate states' ability to enact stricter or stronger laws than the federal government. States could not even act to protect human health and the environment if the EPA fails to make a safety determination on the new chemical within the 90 day period proposed in CICA.

In the absence of federal action to address issues related to TSCA implementation, many state legislatures have enacted legislation to regulate individual chemicals. From Maine to California states have enacted laws to protect their population from hazardous chemicals, in fact there are over 60 laws in 22 states that regulate toxic chemicals. In Oregon, for example, this bill would preempt a state law that requires the Department of Human Services to adopt standards for the labeling of

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hazardous substances, as determined by the director of the department. Other states have begun to develop comprehensive state chemical policies that aim to establish broad and permanent frameworks to systematically prioritize chemicals of concern, close data gaps on those chemicals and restrict their uses in those states. This is important work that should not be nullified by federalizing all toxic chemical regulation.

NCSL has long standing policy on environmental federalism that recognizes the need to preserve and strengthen uniform minimum federal standards for environmental protection while maintaining statutory authority for states to enact state environmental standards that are more stringent than minimum federal standards.

While NCSL supports the need for toxic chemical reform legislation, we must oppose any bill that so egregiously preempts states laws.

NCSL would welcome the opportunity to work with Congress to develop appropriate statutory language that modernizes TSCA while respecting state laws that address chemical regulation. Please feel free to contact NCSL staff Susan Frederick (susan.frederick@ncsl.org) or Melanie Condon (melanie.condon@ncsl.org) or by phone at (202)624-5400 for more information.

Sincerely,



Senator Bruce Starr
Oregon Senate
President, NCSL



Senator Debbie Smith
Nevada Senate
President-Elect, NCSL

Attached: [NCSL's Federal Chemical Policy Reform Policy Directive](#)
[NCSL's Environmental Federalism Policy Directive](#)