

**NCSL STANDING COMMITTEE on TECHNOLOGY AND  
COMMUNICATIONS  
POLICY DIRECTIVES AND RESOLUTIONS**

**LEGISLATIVE SUMMIT  
Louisville, Kentucky  
Aug 5-7, 2024**

**CONTENTS**

**POLICY: RELIABLE, AFFORDABLE HIGH-SPEED INTERNET SERVICES .....2**  
**POLICY: THE INTERNET AND ELECTRONIC COMMERCE .....4**  
**POLICY: ARTIFICIAL INTELLIGENCE (AI).....13**  
**POLICY: LIABILITY INSURANCE FOR ARTIFICIAL INTELLIGENCE (AI).....15**

1 **COMMITTEE: TECHNOLOGY AND COMMUNICATIONS**

2 **POLICY: RELIABLE, AFFORDABLE HIGH-SPEED INTERNET**  
3 **SERVICES**

4 **TYPE: NEW DIRECTIVE INTRODUCED BY NCSL PRESIDENT**  
5 **BRIAN PATRICK KENNEDY**  
6

7 The ability to access and maintain reliable, affordable high-speed Internet is essential to  
8 the success of families, businesses, and government services. Congress created the  
9 Affordable Connectivity Program (ACP) in 2021 to make broadband service and  
10 connected devices available to lower-income households at discounted prices from  
11 providers that opt to participate in the program.

12  
13 Until its termination in May 2024 because of insufficient funding, the ACP enabled more  
14 than 23 million low-income American households to connect to online educational  
15 resources, gain employment opportunities, access vital services such as telehealth and  
16 government assistance, and participate in our civic life. The ACP has also helped close  
17 the digital divide as many of these 23 million Americans reside in rural communities,  
18 military communities, and communities of color.

19  
20 In addition to impacts on broadband adoption, the end of the ACP is also impeding the  
21 success of other ongoing federal and state investments to close the digital divide  
22 through the construction of new infrastructure to help reach those in unserved and  
23 underserved parts of the country. If residents can no longer afford their internet service,  
24 the end of the ACP could undermine the billion-dollar investments providers,  
25 governments, and taxpayers are making in new infrastructure. Finally, the program's  
26 lapse is also disrupting the stability of customer bases of internet service providers as  
27 households are unable to afford the costs of getting and staying connected.  
28

29 The National Conference of State Legislatures urges Congress to prioritize the  
30 continuity and sustainability of the ACP or a similarly robust program to ensure that low-  
31 income American families can continue to afford high-speed internet service.

1 **COMMITTEE: TECHNOLOGY AND COMMUNICATIONS**  
2 **POLICY: THE INTERNET AND ELECTRONIC COMMERCE**  
3 **TYPE: UPDATED DIRECTIVE INTRODUCED BY SENATOR**  
4 **VICTORIA GU**  
5

6 The Internet defies a detailed one-size-fits-all approach to public policy and regulation.  
7 America's federal and state lawmakers, as well as policy makers from other countries  
8 should be guided by principles that foster the Internet's development while protecting  
9 the security and privacy of individual users.

10  
11 Our nation's state legislatures are well-aware of the impact that access to the Internet  
12 and electronic commerce have on the economic vitality of our states and communities.  
13 State legislatures also recognize that the marketplace for electronic commerce is global,  
14 not just in the United States. State legislatures share the concern of many in Congress  
15 that ill-conceived over-regulation and taxation of the Internet and electronic commerce  
16 services could harm our nation's ability to compete globally. However, state legislatures  
17 also recognize that they have an obligation to act, when and if necessary, to protect the  
18 general welfare of their constituents. As the use of the Internet continues to expand, any  
19 future or existing regulations must be balanced against market forces in a competitive  
20 and technologically neutral manner, as government must not choose the winners or  
21 losers of the digital age.

22  
23 Nothing in this policy statement is to be construed as limiting or affecting the right of any  
24 state to regulate alcohol according to its local norms and standards pursuant to the 21st  
25 Amendment.

26  
27 NCSL opposes unnecessary or unwarranted federal legislation or regulation that would  
28 impede efforts by states to promote access to the Internet, enhance competition or  
29 increased consumer choice, or ensure the security of personal information of  
30 consumers conducting electronic commerce transactions.

31

32 The National Conference of State Legislatures (NCSL) supports the following principles  
33 in formulating laws and regulations that impact the Internet and electronic commerce:

34

35 **Data Privacy, Security and Online Safety and Security**

36

37 With the proliferation of data online, including the internet of things and mobile devices,  
38 the regulation of the collection, sales, and transmission of consumer data is increasingly  
39 a priority for state and federal lawmakers. NCSL recognizes the importance of  
40 consumer data privacy and security protections, as well as the role of the states as  
41 leaders in establishing those protections for their constituents.

42

43 In response to many high-profile security breaches and violations of consumer privacy,  
44 data privacy and security have become the subject of increasing regulation, most  
45 notably the General Data Protection Regulation (GDPR) in Europe. States and the  
46 federal government are working to protect against data breaches, mishandling of data,  
47 and non-transparent sale of consumer data in a way that balances myriad competing  
48 interests and allows for innovation while safeguarding the rights of consumers.

49 ~~Congress has yet to enact any significant or comprehensive legislation that addresses~~  
50 ~~consumer data privacy and security protection. Meanwhile, state activity in the areas of~~  
51 ~~data privacy and security has significantly increased in the past few years and states~~  
52 ~~will not hesitate to act in the absence of federal legislation.~~

53

54 With regard to children and teenagers, the internet poses certain increased risks as they  
55 may not be able to recognize dangerous situations online. Strong privacy laws  
56 combined with online safety laws could be a critical part of alleviating the mental health  
57 harms facing young people. States have enacted comprehensive privacy, security, and  
58 online safety laws in the past few years and will not hesitate to act to protect the privacy,  
59 security, and mental health of their residents, particularly their children and teens.

60

61 NCSL opposes blanket state preemption in federal data privacy and security legislation.  
62 However, because of the interstate nature of the internet and data transmission, NCSL

63 recognizes there may be a need for uniformity in the regulatory environment. ~~Although~~  
64 ~~data privacy and security legislation has traditionally followed a sector-by-sector~~  
65 ~~approach, NCSL further urges Congress to consider comprehensive legislation in~~  
66 ~~setting any national standard.~~

67  
68 NCSL strongly urges Congress to engage in regular and meaningful consultation with ~~of~~  
69 state lawmakers when considering federal privacy and security legislation, including  
70 legislation aimed at protecting children and adolescents. State lawmakers should be  
71 included in hearings, review of draft language, principle setting, and other  
72 Congressional activity intended to impact state regulatory regimes.

73  
74 If Congress develops a national standard, NCSL strongly encourages consultation with  
75 states and recognition of state expertise in addressing the varied interests of each  
76 state's unique constituency. In any federal legislation, NCSL urges Congress to  
77 prioritize transparency and informed privacy decisions, ~~and~~ to carefully consider the  
78 best method for consumer notice, disclosure, and consent, and to ensure increased  
79 safeguards to protect the privacy, security and mental health of children and  
80 adolescents. NCSL further encourages Congress to consider issues of third-party  
81 access and sales, disposal of data, consumer rights to control data, and the burden of  
82 protecting consumer data. States have also engaged in significant deliberation over the  
83 applicability of consumer protections to various data types, including how to define  
84 personal data and how categories of data collectors or sellers should be regulated.  
85 NCSL supports recognition by Congress of states' expertise on these issues and  
86 opposes any legislation that preempts state law without meaningful consideration of  
87 state priorities or established consumer protections.

88  
89 NCSL also recognizes the rapidly evolving nature of data collection and urges Congress  
90 to consider biometric data, location data, and technologies like facial recognition and  
91 artificial intelligence when considering federal legislation.

92

93 States ~~must should~~ retain the right to establish their own legal rights of action,  
94 enforcement regimes, and oversight authority. NCSL urges Congress to protect the right  
95 of the states to enforce data privacy provisions in any federal legislation.

96

## 97 **Telemarketing**

98

99 NCSL recognizes the increase in telemarketing activity, telemarketing fraud, and  
100 robocalls across the nation and the work of the Consumer Financial Protection Bureau  
101 and Federal Communications Commission on expanding consumer rights in this area.  
102 NCSL ~~urges encourages~~ Congress to pass legislation to protect consumers from  
103 harassment, and predatory, and fraudulent telemarketing activity, including requiring  
104 telephone service providers to, at no cost to the customer:

105

- 106 1. Make robocall mitigation technology available to any customer;
- 107 2. Implement call authentication technology to identify likely spoofed calls; and
- 108 3. Offer call blocking technology.

109

## 110 **Free Speech**

111

112 The Internet allows people to communicate and share ideas with others with an ease  
113 never before possible. Federal government policy should rigorously protect freedom of  
114 speech and expression on the Internet, but not restrict states or local governments from  
115 oversight protecting freedom of speech. New technologies should adequately enable  
116 individuals, families and schools to protect themselves and students from  
117 communications and materials they deem offensive or inappropriate. State law  
118 enforcement, with federal assistance and resources, must be able to enforce criminal  
119 statutes against predators that use the Internet to harm or abuse children.

120

## 121 **Self-Governance**

122

123 NCSL requests that Congress to maintain the current self-governance approach that  
124 allows the competitive marketplace to drive broadband and broadband-related  
125 applications development and deployment. Congress should avoid adopting new  
126 mandates and provide the Federal Communications Commission (FCC) with defined  
127 and limited authority to oversee, but not proactively intervene in, the broadband Internet  
128 marketplace consistent with principles that focus on assessing whether the market  
129 continues to ensure that consumers can:

- 130
- 131 1. Receive meaningful information regarding their broadband service plans;
  - 132 2. Have access to their choice of legal Internet content, recognizing the limits on  
133 bandwidth and quality of service of their service plan;
  - 134 3. Run applications of their choice, subject to the needs of law enforcement and the  
135 limits on bandwidth limits and quality of service of their service plans, as long as  
136 they do not harm the provider's network or interfere with other consumers' use of  
137 the broadband service; and
  - 138 4. Be permitted to attach any devices they choose to their broadband connection at  
139 the consumer's premise, so long as they operate within the limits on bandwidth  
140 and quality of service of their service plans and do not harm the provider's  
141 network, interfere with other consumers' use of the broadband service, or enable  
142 theft of services.

143

144 **Growth**

145

146 Public policies must be designed to foster continuing expansion of useful and affordable  
147 bandwidth, encourage development of innovative technologies and promote broad  
148 universal access. Federal and state governments must work together to ensure that all  
149 Americans, regardless of where they live, have competitive access to high-speed  
150 broadband technologies. Government must work to guarantee open and competitive  
151 markets for broadband services.

152

153 **Information Technology**



154

155 Information technology (IT) is a global industry. A strong American IT industry enhances  
156 and strengthens the economic well-being of our states and nation. States and the  
157 federal government must work together to ensure a climate that allows America's IT  
158 companies to continue to perform research and technology development, to generate  
159 innovative new products and services and to solve customer problems. States must  
160 have the unfettered ability to continue to seek ways to use IT to better the lives of their  
161 residents. Therefore, NCSL opposes any attempt by the federal government to restrict  
162 or penalize states' efforts to utilize information technology services and products that  
163 allow states to provide more efficient government services to residents at lower costs to  
164 taxpayers.

165

### 166 **Internet Gambling**

167

168 Congress must respect the sovereignty of states to allow or to prohibit Internet gambling  
169 by their residents.

170

171 The Wire Act of 1961 prohibits using an interstate wire communication to transmit bets  
172 or wagers or information assisting in the placing of bets or wagers on any sporting event  
173 or contest. The law also made it illegal to use interstate wire communications  
174 transmissions to provide remuneration for winning bets or wagers or for information  
175 assisting in the placing of bets or wagers.

176

177 In 2018, the Supreme Court's ruling in *Murphy vs. National Collegiate Athletic Assn.*  
178 allowed states to legalize and regulate sports betting for the first time, and many states  
179 have passed or are considering legislation that allows online gaming. Additionally,  
180 states currently engage in online gaming markets, interstate online poker pools, online  
181 lottery sales, and interstate lottery pools, among other online gaming activities. States  
182 and bettors also use the internet for marketing and payment processing. Some states  
183 currently utilize technology that restricts sportsbooks and users to operate within state  
184 lines.

185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214

The Department of Justice has issued several memos on the application of the Wire Act that may impact the ability of states to operate and regulate a variety of online betting and gaming activities. In 2019, the Office of Legal Counsel in the Department of Justice issued a revision of their 2011 opinion. The revision stated that the restrictions in the Wire Act apply to any form of gambling that crosses state lines, and may impact many currently legal state gambling activities, including the passing of data through intermediaries. The revision creates uncertainty in the regulatory environment and may cause disruption in state markets as litigation follows.

NCSL recognizes the importance of state sovereignty in the operation and regulation of online gaming and the importance of a predictable and stable regulatory environment. NCSL encourages Congress and the Department of Justice to engage in regular and meaningful consultation of state lawmakers and regulators when considering bills, opinions, or other actions that may disrupt current state markets or affect the ability of states to regulate online gaming. NCSL recognizes that states are best suited to regulate online gambling and encourages the Department of Justice to revise its current interpretation of the Wire Act to recognize state sovereignty in regulating these activities and provide market stability.

NCSL also urges Congress to clarify the Wire Act to protect the ability of states to operate and regulate online gambling activities as they see fit, including currently legal activities threatened by the revision of the OLC opinion. NCSL further recognizes that the Wire Act contains language that is out of date and does not reflect the reality that states, markets, consumers, and regulators operate in the age of the internet and digital commerce. NCSL supports a revision of the Wire Act that updates the Act to more accurately represents current technology and communications capabilities.

## **Electronic Commerce and Taxation**

215 Government policies should create a workable infrastructure in which electronic  
216 commerce can flourish. Policy makers must resist any temptation to apply tax policy to  
217 the Internet in a discriminatory or multiple manner that hinders growth. Government tax  
218 systems should treat transactions, including telecommunications and electronic  
219 commerce, in a competitively neutral and non-discriminatory manner. The federal  
220 government and America's industries should work with state legislatures in ensuring  
221 equal tax treatment of all forms of commerce and should encourage state efforts to  
222 achieve simplification and uniformity through the streamlining of state and local sales  
223 and telecommunications tax systems.

224

225 NCSL supports the reform of the discriminatory taxation of communications services  
226 and believes that if state and local governments were to take such action, the need for  
227 the federal moratorium on Internet access would cease to exist.

228

### 229 **Video Franchise Reform**

230

231 Innovation and convergence of existing technologies are radically expanding  
232 communications and information services, blurring distinctions between telephone,  
233 Internet services, cable, wireless and satellite. These rapid changes often outpace  
234 abilities of federal, state and local regulatory regimes to adapt. It is important that video  
235 regulatory policy assure that like services are treated alike, investment is encouraged,  
236 and services are in a non-discriminatory manner.

237

### 238 **State Administration Will Preserve State Authority**

239

240 Local jurisdictions are the creation of either state constitutions or law. The powers that  
241 these political subdivisions of the state exercise were granted to them over time by state  
242 legislatures. Those local jurisdictions that have franchise authority have it as a result of  
243 state legislation or the state constitution. Therefore, any attempt by Congress to  
244 preempt current local franchise authority is a preemption of state sovereignty.

245

246 While NCSL rarely advocates for the consideration of legislation in state legislatures,  
247 NCSL has at times, when states are facing a crisis or a serious threat of federal  
248 preemption, urged state legislatures to take action. NCSL endorses efforts that remove  
249 barriers to entry for or inequity of regulation among video competitors and foster  
250 additional consumer choices in the video marketplace ultimately ensuring competitive  
251 neutrality.

252

253 Government should encourage competition and consumer choices for broadband and  
254 video services and promote the deployment of broadband services and technologies, as  
255 well as including options for public-private partnerships where applicable.

256

### 257 **Fees and Taxation of Video Providers**

258

259 Franchise fees today are levied, imposed or collected as a percentage of gross  
260 revenues, used for general revenue purposes and not based on the actual direct and  
261 identifiable costs of any benefit to the entity that pays the fee. To the extent such fees  
262 are intended as payment for use of public rights-of-way, that fee should be limited to the  
263 actual, direct and identifiable cost of such use, and that portion of the fee should be  
264 applied only to those who use the rights-of-way. Franchise fees should be collected and  
265 administered by one central agency per state.

1 **COMMITTEE: TECHNOLOGY AND COMMUNICATIONS**

2 **POLICY: ARTIFICIAL INTELLIGENCE (AI)**

3 **TYPE: NEW RESOLUTION INTRODUCED BY**  
4 **REPRESENTATIVE JASON SAINÉ**  
5

6 **WHEREAS**, AI is a vastly growing field with the capacity to substantially impact many  
7 different areas of our day-to-day life including, but not limited to, employment,  
8 transportation, education, healthcare, housing, and more; and  
9

10 **WHEREAS**, the incorporation of AI into government, society, and work can drive  
11 innovation and economic growth, create efficiencies, and improve productivity; and  
12

13 **WHEREAS**, despite its many benefits, the use of AI also creates risks and challenges  
14 especially in areas such as elections, ethics, privacy, cybersecurity, civil rights, the  
15 financial sector, and the potential for job displacement; and  
16

17 **WHEREAS**, state legislatures have been working closely with stakeholders from  
18 government, academia, the private sector, and labor, among other interests, in  
19 researching and developing state laws and regulations on the use and deployment of AI  
20 technologies, balancing the sometimes competing principles of encouraging innovation  
21 with protecting the public interest; and  
22

23 **WHEREAS**, especially in light of state legislative and regulatory activity in this area,  
24 federal preemption of state AI laws and regulations could interfere with state efforts to  
25 create solutions that meet the unique needs of their residents and businesses, and  
26 undermine public trust in this new technology; and  
27

28 **NOW, THEREFORE, BE IT RESOLVED** that the National Conference of State  
29 Legislatures encourages the federal government to collaborate with state and local  
30 governments, private sector stakeholders, and other thought leaders in efforts to

31 develop a public awareness and education campaign to help Americans better  
32 understand AI technology and provide information regarding its benefits and risks; and

33

34 **BE IT FURTHER RESOLVED** that NCSL urges Congress and federal agencies to  
35 consult with states as they debate and develop AI legislation and regulations, paying  
36 particular attention to how any federal law or regulation will impact state laws governing  
37 AI. Federal laws and regulations in the AI space should support states' ability to adopt  
38 their own laws to keep pace with and respond to rapid AI technological advances; and

39

40 **BE IT FURTHER RESOLVED** that NCSL urges Congress and federal agencies to  
41 ensure that federal AI legislation and regulation does not usurp states' ability to legislate  
42 and regulate in areas that traditionally rest under the oversight of states and local  
43 governments; and

44

45 **BE IT FURTHER RESOLVED** that NCSL urges the federal government to invest in  
46 research initiatives with the National Science Foundation, the National Institute of  
47 Standards and Technology, and other appropriate organizations to conduct thorough  
48 and ongoing research on AI technologies, and to share those findings with their  
49 counterparts in state government; and

50

51 **BE IT FINALLY RESOLVED** that a copy of this resolution be sent to the President of  
52 the United States, all members of Congress, and all relevant federal and state officials.

1 **COMMITT:** **TECHNOLOGY AND COMMUNICATIONS AND**  
2 **BANKING, FINANCIAL SERVICES, AND INSURANCE**

3 **POLICY:** **LIABILITY INSURANCE FOR ARTIFICIAL**  
4 **INTELLIGENCE (AI)**

5 **TYPE:** **NEW RESOLUTION INTRODUCED BY SENATOR**  
6 **VICTORIA GU**

7 **WHEREAS**, it should be an important goal of federal policy to ensure that development and  
8 deployment of advanced AI systems is conducted responsibly and does not generate social  
9 costs that exceed the social benefits of the technology; and

10 **WHEREAS**, advanced AI systems may generate risks of harm that would exceed the ability of  
11 their creators or deployers to compensate the victims; and

12 **WHEREAS**, it is crucial that any victims of harms caused by advanced AI systems receive  
13 compensation; and

14 **WHEREAS**, requiring liability insurance commensurate with each technology's risk level will  
15 provide an economic incentive for advanced AI system developers to take appropriate  
16 precautions to avoid the occurrence of damage; and

17 **NOW, THEREFORE, BE IT RESOLVED** that NCSL requests that Congress works with state  
18 insurance regulators to encourage the insurance industry to develop liability insurance for the  
19 deployment of advanced AI systems, with coverage requirements set based on an assessment  
20 of the system's potential hazardous capabilities.