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COMMITTEE: HEALTH AND HUMAN SERVICES

POLICY: NURTURING RESPONSIBLE FAMILIES AND CHILD SUPPORT SERVICES ADMINISTRATION AND ENFORCEMENT

TYPE OF POLICY: DIRECTIVE

Child support is administered through a state-federal partnership. NCSL urges the federal government to ensure that child support administration and enforcement are fair, equitable, timely and in the best interest of the children involved.

NCSL supports:

- Effective coordination of all programs and organizations working on child support enforcement, including state policymakers, state and Tribal courts, local and state bar associations, district and state attorneys, local and state child support directors, local law enforcement officials, educational institutions, family and child support advocacy groups, tribes, and programs that work with both parents.

- Innovation and adaptability to individual state needs, while still providing oversight.

- Flexibility for states to reinvest child support penalties in the child support system as a way for states to ensure compliance with federal expectations, including investments in related technology.

Program and System Improvements

NCSL urges the federal government, in partnership with states to:

- Support child support initiatives that allow maximum flexibility for states, reward new initiatives and encourage state experimentation and innovation.

- Continue to support technical assistance to the states with respect to best practices, procedures, and legislation.
• Regularly communicate with state legislators, particularly through the regional offices and relevant action transmittals.

• Continue to provide the federal parent locator service free of charge to states that use the service.

• Provide states with flexibility if any additional mandatory program requirements are adopted as amendments to the existing Child Support Enforcement program including: (1) a reasonable transition period; (2) waivers to permit states to address state specific problems with program requirements; and (3) flexibility for states to implement innovative alternatives that still meet the goals of the program; (4) ensuring that any federal legislation that results in increases of Title IV-D state child support program costs or reduced state child support program revenue also includes a fully offsetting increase in federal funding so that state child support programs and services to families are not adversely impacted.

• Support proposals that would put states on a phased-in schedule of improvement that would use current-year levels of paternity establishments as the base and would require a reasonable schedule for improvement.

• Support an incentive approach for a permanent enhanced federal administrative match for states that implements a minimum package of innovative procedures to increase program effectiveness.

• Provide federal funding for federal paternity mandates.

• Allocate funds to all states on a formula basis.

Payment of Child Support in the TANF Program/Child Support Pass Through

NCSL supports:

• State flexibility to use disregards innovatively including the option for states to use a disregard as a minimum financial incentive for recipients of Temporary Assistance to Needy Families (TANF) to participate in the child support program.

• State flexibility to permit families to keep more of the money collected on their behalf whether on or off public assistance. However, NCSL strongly urges the federal government to share in the cost of this forgone revenue.
• More efficient and innovative outreach efforts to include a greater number of recipients receiving child support enforcement assistance, particularly for families transitioning from welfare to work and ultimate self-sufficiency.

• Federal approval to provide states with maintenance-of-effort credit if states choose to pass-through child support to families.

NCSL opposes a federal mandate to pass through child support dollars as a cost-shift to states.

Noncustodial Parents

NCSL supports programs that reach more noncustodial parents and urges the federal government to:

• Ensure state legislatures have the authority to appropriate any block grant to states created for the purpose of involving noncustodial parents in the lives of their children.

• Support programs that improve the employment prospects for non-custodial parents thereby enabling them to provide regular, on-going financial support and develop strong, healthy relationships with their children.

• Support efforts to help low-income fathers, or other parents as applicable, be better parents and providers.

• Count state contributions to fatherhood, or other parents as applicable, toward their state maintenance-of-effort requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

• Provide state flexibility in determining eligibility of program participants and to create or support programs at the local level.

• Provide incentives for collaboration on the state and local level.

• Provide state flexibility to use government, nonprofit or faith-based providers as states determine the best way to meet the needs of their communities.
NCSL opposes any effort to preempt state laws regarding custody and visitation.

**Arrearages**

NCSL urges the federal government to encourage flexibility and innovation in addressing arrearages, including:

- Continuing to work with state policymakers to provide state technical assistance regarding the current options for states to address child support arrears owed by an noncustodial parent who later married or remarried the custodial parent, a non-custodial parent living in the household, or parents in financially insecure families.
- Providing assistance to states on the application of current policy toward compromising of arrearages.

**Family Formation**

NCSL supports policies that nurture economically secure families and which:

- Encourage marriage and the involvement of both parents.
- Provide opportunities for non-cohabiting parents to parent their children together.
- Support efforts to help parents develop positive parenting skills, even in the absence of marriage.

NCSL recognizes that efforts to involve both parents may not be appropriate in all situations, especially when safety is a concern.

**Child Support Assurance**

Child Support Assurance provides a guaranteed level of child support payments. NCSL supports maintaining the option of states to develop pilot programs for the assurance concept that can be rigorously analyzed and evaluated.

**Appropriate Federal and State Roles**
NCSL urges Congress to pass and support policies that:

• Focus federal efforts on helping states meet or exceed performance outcomes.
• Elevate and strengthen the Office of Child Support Services so it will be a more effective partner with the states, including attempts to improve cooperation between Title IV-D agencies, state revenue agencies, and state, local and Tribal courts.
• Direct federal funds to create incentives that are supportive, not coercive, of states to innovate and replicate successes and provide training.

NCSL is opposed to:

• any erosion of power or discretion of state, local and Tribal courts to establish and modify child support orders.
• the creation of federal criminal sanctions.
• any attempt to transfer all authority and responsibilities for child support administration and enforcement to the federal government.

Child Support Incentive Program

NCSL supports:

• an incentive system that rewards states for their performance and recognizes changing caseloads.
• federal legislation to remove the provision in the Deficit Reduction Act of 2005 that prohibits states from using child support incentive funds to match federal funds for the program.
• a base matching rate of no less than 66 percent.
• provision of clear, understandable criteria for the incentive system.
• criteria based on performance outcomes rather than administrative procedures and processes.
• state flexibility to reinvest in programs that serve children and families.
NCSL opposes efforts to require that incentives received by states be reinvested in the child support program. This ignores state priorities and preempts state authority over these funds.

Medical Support Enforcement
NCSL continues to urge Congress to:

- close a loophole in the Employee Retirement Income Security Act of 1974 (ERISA) that allows self-insured companies to refuse to acknowledge state medical support orders and effectively blocks access to medical support for thousands of children.
- clarify that there is no preemption of state laws and procedures for medical child support, so that states can effectively manage costs and ensure that children of noncustodial parents working for companies subject to ERISA have adequate health insurance.

Automation
NCSL urges HHS to:

- provide adequate funding to states to upgrade their technology systems that maximize the outcomes of communication and enforcement strategies and attract and retain high-performing employees with the relevant technical skills.
- provide clear guidance that supports states in implementing compliant, operational systems and that sets forth all required functional requirements the child support systems must execute in statewide processing.
- convene state elected officials, welfare commissioners and vendors to review child support automation services and to develop realistic recommendations when future updates to automation services are planned.

Upon adoption of this directive, the existing directive on Child Support Enforcement will expire.
NCSL supports federal efforts to keep families together and promote the safety and well-being of all children and youth by:

- Providing services to families at risk of entering the child welfare system.
- Providing federal reimbursement for prevention services to increase the number of children who can remain safely at home with their families by providing families with greater access to mental health services, substance use treatment, and/or parenting skills training and support.
- Providing incentives to states to reduce placement of children in congregate care.
- Ensuring educational stability for children and youth in foster care.
- Promoting safety, permanency and well-being for children and youth in a range of foster care alternatives or with adoptive families.
- Permitting children and youth to remain in or return to their homes when it is safe and appropriate, and promoting kinship and guardianship placements when it is not.
- Establishing a system of family support services.
- Supporting state efforts to efficiently implement a comprehensive system of services promoting and supporting child, youth and family well-being, including: housing; economic supports; behavioral and physical health; education; juvenile justice; child care; home visiting, family resource centers and other family support models;
- Supporting states’ efforts to develop safe, age-appropriate and cost-effective alternatives to foster care.
• Providing flexibility to better administer and coordinate delivery of these programs and support systems and to meet locally determined community needs.

• Providing clear guidance, technical assistance and **financial** support for training to ensure states can develop and maintain a well-qualified child welfare workforce.

• Removing federal regulatory barriers that impede states’ efforts.

• Improving judicial processes in child welfare cases and supporting state efforts to sustain the integrity and efficiency of these efforts through interagency training, budgeting, planning, conflict resolution and integrated data systems.

NCSL opposes any efforts to earmark or restrict the use of federal funding and urges the U.S. Department of Health and Human Services (HHS) to permit states to determine the use of funding. Additionally, the vital work done by caseworkers should not be designated as an administrative cost with regard to caps on administrative funds.

**Foster Care**

NCSL opposes any proposals to cap Title IV-E expenditures and urges the federal government to continue to support the foster care program as an open-ended entitlement program under Title IV-E of the Social Security Act.

NCSL urges the federal government to provide technical assistance to help states comply with the complicated reporting system required by Title IV-E and find effective ways to maximize federal dollars and enhance revenues for innovative service techniques by:

• Promptly paying state claims.

• Refraining from imposing stringent time limitations on the submission of state claims.

• Monitoring and reviewing state performance fairly while giving states tools for improvement.
Defining and supporting the separation of states’ reporting of foster care administration activities from child placement activity accounts.

- Entrusting states to determine when and if a congregate care setting is appropriate for foster care placement.
- Allowing states to prioritize custody and placement with family members over placement in a foster home with non-relatives, unless determined by a court that placement in the foster care system is in the best interest of the child.
- Providing state options to use a portion of their funding for foster care maintenance payments for child welfare and family services, especially when utilization of foster care funds is reduced.

- Increasing the recruitment and training of foster care and special needs adoption providers and supportive services inclusive of respite care.
- Supporting states in assisting transition-age-youth by:
  - Offering flexibility to expand services to older youth for foster care adoption and relative guardianship.
  - Supporting programs that fund education and training for youth aging out of foster care.

- Allocation of federal funds to support services for caretaker relatives.
- Providing funding for the necessary coordination of services to high-needs children and families involved with the child welfare system including in the areas of health and mental health care, drug and alcohol abuse treatment and services and education and job training services.
- Refraining from restricting state authority to determine criteria for termination of parental rights.
- Promoting policies that keep children in their own communities and schools.
- Supporting states in meeting the needs of Native American and Alaskan Native children within federal and tribal government requirements.

NCSL opposes federal actions that would eliminate federal reimbursement for relative foster care that is non-licensed or limits state flexibility.
NCSL urges Congress to separate foster care eligibility from TANF eligibility for all states and move towards reimbursement for all children in care, as the states determine.

**Child Welfare Workforce**

NCSL supports federal efforts to help states develop and retain an ample, high-quality child welfare workforce, including funding for staff training and retention, student loan forgiveness, and caseload-reduction initiatives.

**Information Services**

NCSL supports federal efforts to develop a national information system to collect, analyze and monitor data on families in the child welfare system, including outcomes for children and the impact of substance abuse and the effectiveness of treatment options.

**Adoption Assistance and Services**

NCSL supports incentive criteria that considers the needs of children with a physical, mental or emotional disability and those whose age, racial or ethnic background, membership in a minority or sibling group or other characteristics make them more difficult to place.

- NCSL supports assistance with respite and other services for families adopting children with special needs, many of whom may have health and mental health problems as they mature.
- NCSL urges HHS to reimburse states for program expenditures in a timely manner for claims owed to the state for adoption assistance and to work with states to avoid unintended consequences resulting from changes in the funding structure that might fundamentally alter the capabilities of the program.
- NCSL urges HHS to work with states to ensure continuity of services for adoptive families when they relocate to another state.

**Child Abuse and Neglect**
NCSL supports early identification, intervention, and treatment of children who are victims of or at risk for child abuse, neglect or trafficking, and urges Congress to invest in efforts to reduce the incidence of neglect; physical, sexual or emotional abuse or exploitation.

- NCSL supports the federal Child Abuse Prevention and Treatment Act and urges that it be fully funded at the levels authorized by Congress.
- NCSL encourages the federal government to support states with training mandatory reporters and opposes federal preemption in defining who qualifies as a mandatory reporter.

Families with Behavioral Health Support Needs

NCSL urges the federal government to address the behavioral health needs of families who are involved in the child welfare system by supporting:

- Federal incentives for partnerships between behavioral health agencies and child welfare agencies to conduct cross-system training of staff, improve screening and assessment procedures, provide comprehensive treatment and prevention programs, provide after-care services, and improve data collection and usage.
- Programs that include child care for children and pregnant mothers with substance use disorders and programs that allow access to drug and alcohol treatment for pregnant women.
- Federally funded programs that recognize that public policy utilizing criminal penalties instead of rehabilitation and collaborative efforts can be a disincentive to women seeking prenatal care, and these interventions must be properly funded and implemented to prevent substance use disorder before women become pregnant.

- **Employee assistance programs that support employees with a range of health, financial, and social issues, including mental and/or substance use disorders.**

Family Violence Prevention

NCSL urges Congress to work with states to prevent family violence by:
• Supporting state programs to prevent family violence, provide immediate shelter and related services to victims, and offer trauma-informed training and technical assistance to state and local agencies on program administration.

• Providing state grants to support monitored and supervised visitation, and neutral drop-off and pick-up locations.

• Providing incentives for coordination between child welfare systems; domestic violence programs; juvenile courts; and services to at-risk households, such as emergency crisis services, in-home services and parent and family counseling.

Upon adoption of this directive, the existing directive on Child Welfare and Family Services will expire.
The National Conference of State Legislatures (NCSL) supports the state-federal partnership to provide nutrition assistance to those in need. State legislators are concerned about the vast numbers of hungry individuals, and particularly the severity of hunger among childhood and aging populations. The Supplemental Nutrition Assistance Program (SNAP), The Emergency Food Assistance Program (TEFAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and Child Nutrition programs alleviate and prevent hunger and enable families to improve their health and be more productive at school and at work.

**SNAP: Supplemental Nutrition Assistance Program/Food Stamps**

NCSL urges continued federal funding of the SNAP program at levels sufficient to provide assistance to all that are eligible or in need due to the rising cost of food. NCSL also urges the administration and Congress to continue to make SNAP and Temporary Assistance to Needy Families (TANF) block grants more compatible through the broad-based categorical eligibility option. This is a policy option for states by which households may become categorically eligible for SNAP because they qualify for Temporary Assistance for Needy Families or state maintenance of effort-funded benefits. In times of economic hardship, SNAP, along with other nutrition assistance programs, offers a vital safety net for low-income Americans.

NCSL opposes proposals that would impose costly administrative burdens and un-funded mandates on state governments or remove state flexibility that is critical to cost-effective administration of SNAP.

NCSL supports U.S. Department of Agriculture (USDA) initiatives to provide administrative flexibility through the waiver process by allowing states to implement administrative efficiencies such as telephone interviews, utilize Combined Application projects, simplified application forms, the creation of mobile-friendly software for SNAP recipients, and develop partnerships with community stakeholder organizations to improve quality, efficiencies, and overall nutrition.
access. NCSL supports additional waivers that increase administrative flexibility during a public health emergency.

SNAP Benefits and Program Design
NCSL recommends that the administration and Congress incorporate the following issues regarding SNAP benefits and program access into future legislative and regulatory action:

- Elimination of the annually indexed caps on excess shelter deductions to allow families to deduct high shelter costs;
- Exclusion of the first $150 a month by a non-custodial parent paid as child support from consideration as income in determining the SNAP allotment;
- Elimination of the rules concerning the value of a vehicle that a recipient may own and still receive SNAP benefits;
- Federal support and technical assistance for state outreach;
- Enhancement and simplification of application and eligibility determination procedures through supporting Web-based screening tools, permitting seniors and the disabled to apply at Social Security offices, reduced length application forms, and allowing use of joint applications;
- Continuation of state options regarding child support cooperation as a condition of eligibility for SNAP. NCSL supports the elimination of the fee for SNAP recipients' child support collection efforts as a further incentive toward child support enforcement participation.
- Continuation of state options to disqualify for SNAP eligible individuals who fail to cooperate with child support enforcement authorities or who are in arrears on child support obligation. NCSL supports this option and opposes changes that would mandate these actions;
- Permit the promotion and acceptance of SNAP at farmers’ markets and other non-grocery store, produce-oriented venues, for example: from a small farmer; and
- Continue to support current state options regarding categorical eligibility and "heat and eat."
SNAP and Legal Immigrants
NCSL supports SNAP eligibility for legal immigrant children and families. NCSL commends USDA’s outreach efforts to assist eligible legal immigrants, including their work to translate materials into more than 34 languages. NCSL continues to support restoring eligibility to the small number of legal immigrants who were not covered under previous restoration. NCSL urges the administration and Congress to include state lawmakers in making decisions that would alter the eligibility status for any category of immigrants legally present in the United States.

SNAP Employment and Training Program (SNAP E&T)
NCSL supports the objectives of self-sufficiency promoted by the SNAP Employment and Training program (SNAP E&T), and will work with the federal government toward that goal. NCSL urges the administration and Congress to allow states flexibility to create, fund, and integrate SNAP E&T programs with similar state programs, particularly TANF and the Workforce Innovation and Opportunity Act (WIOA). NCSL also supports program simplification and coordination between TANF and SNAP.

In addition, NCSL appreciates the USDA’s willingness to grant states waivers of the three-month time limit for non-working able-bodied adults without dependents in areas impacted by high unemployment and USDA’s technical assistance to states.

SNAP Program Quality Control (QC)/Judicial Waiver
NCSL supports the original intent of quality control, which is to provide states with a management tool to identify problems in public assistance administration and to facilitate corrective actions. However, many problems in the current system have been documented, including statistical flaws and the levying of excessive financial penalties on states. NCSL strongly supports the move away from a system based on error rates to one that awards bonuses for accuracy. NCSL urges the federal government to improve systems related to appeals of waiver decisions and reinvestment of claims, including outcome measures of program goals.
NCSL supports efforts to focus on program measurement and evaluation through positive incentives and urges Congress to reexamine funding levels. State legislators urge the USDA to continue to settle QC claims through state reinvestment in program improvement.

**Electronic Benefit Transfer and Automated Systems (EBT)**

NCSL supports the current implementation of EBT systems and supports allowing cards to be used for multiple programs.

NCSL believes that states should be allowed to negotiate the terms of EBT with food marketers, farmers' markets, and financial institutions. NCSL opposes preemption of state laws that govern financial institutions pertaining to a nationwide EBT system. As additional income support programs are added to EBT systems that are state-only or state-federally governed, the federal government must not preempt state benefits law.

NCSL also encourages the administration and Congress to continue initiatives around summer feeding and EBT to secure a permanent summer EBT program, including adding monthly funding to family’s EBT cards and including funding for state startup costs.

**SNAP Program Flexibility and Waivers**

NCSL believes that the federal waiver process should recognize state participation and need. States need flexibility for further innovation and state legislators prefer to have options rather than waivers for policy changes that are not in need of further evaluation. State legislators need to be included in the waiver process prior to a waiver being granted. Plan approval and the results of demonstration grants should be shared with state legislators.

NCSL supports the authority for states to use, at their option, contractors to support administrative and eligibility functions in SNAP. NCSL asks the federal government to remove barriers to this option so that states can meet surges in demand, address workforce shortages, align SNAP flexibility with other programs, and ensure the right benefits go to the right people at the right time.

**Emergency Food Assistance and Commodity Distribution**
NCSL urges Congress to fully fund The Emergency Food Assistance Program (TEFAP) at its authorized level. NCSL believes that Congress should provide adequate administrative funds to facilitate the efficient distribution of food and should include sufficient safeguards to prevent program abuse. NCSL urges the USDA to make additional surplus commodities available to states, upon request, when additional surplus food becomes available. We also urge the USDA to provide administrative funding support for sorting, packaging, processing, and transporting donated food. NCSL supports federal programs that deliver commodities through farmers’ markets and the child nutrition commodity programs.

**Child Nutrition**

NCSL urges Congress to reauthorize legislation to continue and fully fund child nutrition programs. NCSL urges the USDA to emphasize the importance of nutritionally-appropriate foods, and avoiding those high in sugar, fat, and sodium. NCSL also urges Congress to protect, strengthen and improve the child nutrition programs by building on the Healthy, Hunger Free Kids Act of 2010 to ensure that children continue to have access to nutritious meals throughout the year.

NCSL urges Congress to invest in the ability and resources of states to provide access to healthy and affordable meals before, during and after school for all children, all year long and to ensure low-income children's improved access to and participation in child nutrition programs. NCSL supports accurate eligibility determination in federal programs, but urges Congress to ensure Accurate eligibility determination is important in any federal program, but efforts to serve ensure that only eligible children are served do not deter must not be a deterrent to program participation. NCSL supports the USDA’s proposal to create a pilot program for school districts to provide more nutritious alternatives that would allow experimentation without risk of financial loss to those schools.

**Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)**

NCSL supports the WIC program and its objectives of the WIC program to educate and inform participants with the best sources of nutrition to reduce the incidence of low birth weight, improve infant nutrition in the first year of life, and to improve the health of participants. NCSL
encourages the administration and Congress to ensure flexibility for the time it takes to process and approve applications for WIC applicants and ensure continued financial support to maximize WIC coverage for women, infants, and children in need.

NCSL supports congressional efforts to improve program administration by authorizing limited borrowing between fiscal years for the WIC program, and by requiring the timely apportionment of WIC funds to the states.

NCSL supports funding to allow technological improvements to WIC and to allow the implementation of WIC Electronic Benefits Transfer (EBT). NCSL also urges Congress to increase the flexibility of WIC appointments through increased access to remote appointments and extended certification periods as well as to support equitable access to the WIC food package through modernization efforts that increase access to online ordering, online purchasing, and delivery.

**School Breakfast and Lunch Programs**

NCSL strongly supports the National School Lunch Program (NSLP) and the School Breakfast Programs (SBP) as critically important to the well-being and education and self-sufficiency of young children. State legislators support the cash subsidies to schools USDA reimbursements to schools for free, reduced-price, and paid meals moderate- and high-income children under the provisions of the school lunch and school breakfast programs. Additionally, NCSL encourages support current more flexibility in the Community Eligibility Provision (CEP), which helps reduce paperwork for parents and schools with a high percentage of eligible students. NCSL urges Congress to expand the well-documented benefits of the Community Eligibility Provision CEP, which allows schools to serve meals at no charge to all students if enough are identified as qualifying for other assistance programs, by lowering the minimum identified student percentage (ISP), increasing the ISP multiplier, expanding direct certification with Medicaid data nationwide, and supporting the improvement of direct certification systems.

The provision of federally-funded start-up grants would enable many schools with large numbers of low-income children to initiate the school breakfast program. NCSL recommends that a study be conducted that would consider alternative financing scenarios.
that would retain program consistency. NCSL urges the USDA to emphasize nutritionally appropriate foods. NCSL supports the USDA’s proposal to create a pilot program for school districts to provide more nutritious alternatives that would allow experimentation without risk of financial loss to those schools.

NCSL supports permanent authorization of the Summer Electronic Benefits Transfer for Children program. NCSL also supports making funding for the program mandatory, and expanding the reach of the program to kids eligible for free or reduced-price school meals in all states, tribal nations and localities in order to close the summer meals gap. NCSL urges Congress to permanently authorize the Pandemic Electronic Benefits Transfer system, allowing authorities to quickly deliver increased nutritional aid during times of crisis.

Summer Food Service Program for Children (SFSPC)
NCSL supports the federal Summer Food Service Program for Children (SFSPC) and the restoration of meal reimbursement rates that allow low-income children to receive a nutritious lunch in the summer. NCSL supports policies that will make it easier for non-profit community groups and public entities to sponsor the program, and will allow the program to be available in more neighborhoods and rural areas. NCSL urges Congress to allow for more flexibility around where children are able to access and eat summer meals by allowing for non-congregate models in communities where summer meals sites are not available and by lowering the threshold required to operate sites open to all children.

Child and Adult Care Food Program (CACFP)
NCSL supports flexibility to allow seniors to transport uneaten food they receive while participating in the Child and Adult Care Food Program (CACFP). Proposals to eliminate or reduce this program ignore its valuable contribution to the expansion of child care and reduction of childhood hunger. NCSL opposes the elimination or reduction of the Child and Adult Care Food Program.
NCSL strongly supports efforts to expand Child and Adult Care Food Program (CACFP) to older children in after-school programs, and to ensure that the program is available in more neighborhoods and rural areas. Additionally, NCSL supports state options to expand this critical program to evening meals suppers in after-school programs.
Combating Childhood and Adult Obesity

NCSL supports federal efforts to find solutions for childhood and adult obesity without imposing mandates. NCSL urges Congress to fully fund these programs and supports a proposal to fund a pilot program for the states with the greatest incidence of childhood and adult obesity to develop policies and procedures to reduce obesity.

Nutritional Quality Measures for Older Adults

NCSL supports the quality measures used by the Centers for Medicare and Medicaid Services (CMS) to quantify health care processes, outcomes, patient perceptions, and systems that are associated with the ability to provide quality health care and/or that relate to “quality goals” for health care. CMS introduced four electronic clinical quality measures that would cover screening for malnutrition, assessment of those screened as at-risk for malnutrition, diagnosis of malnutrition, and creation of a nutrition care plan. NCSL urges CMS to adopt quality measures on malnutrition to heighten the importance of identification, evaluation, and treatment of malnutrition in the elderly.

NCSL also supports establishing malnutrition care as a measure of quality health care. NCSL urges the administration and Congress to support state efforts to reduce malnutrition in the elderly and heighten awareness of nutrition in elderly communities.
COMMITTEE: HEALTH AND HUMAN SERVICES

POLICY: BUILDING SELF-RELIANCE AND FINANCIAL INDEPENDENCE FOR LOW-INCOME FAMILIES

TYPE OF POLICY: DIRECTIVE

Building Self-Reliance and Financial Independence for Low-Income Families

Temporary Assistance for Needy Families (TANF)

NCSL supports:

- The federal stakeholders-government providing states with flexibility in making strategic TANF policy decisions and designing their own programs in accordance with their communities' specific needs,

- The concept that individuals receiving public assistance should be engaging in efforts towards self-sufficiency,

- Regulations that authorize states to deem compliant individuals with disabilities who fail to meet the required work threshold or activity standards, which TANF requires,

- Permitting states to determine if individuals applying for Social Security Income (SSI) meet the SSI threshold for an exclusion from the work rate calculations because they are unable to work prior to a Social Security Administration (SSA) determination,

- Excluding individuals unable to work due to temporary disability and ineligible from SSI from the work rate calculation,

- Elimination of the separate higher work participation rate for two-parent families in the TANF program,

- Providing assistance to needy families so that children can be cared for in their own homes or in the homes of relatives,
Continuing to allow Maintenance of Effort (MOE) requirements that are flexible for the use of funds in any manner “reasonably” calculated to achieve TANF’s statutory purpose, and excluding individuals unable to work due to temporary disability and ineligible from SSI from the work rate calculation, and allowing states options to collaborate and contract with religious organizations for family assistance services, within the boundaries of state and local laws.

NCSL urges federal partners to:

- The federal government continuing to provide full financial support for the TANF block grant, and the contingency fund, which provides additional financial support for qualifying states during an economic downturn, and allowing flexibility for states to pursue the successful strategies that states have had with proven employment jobs in the private sector.

- Maintaining the language of the “The Brown Amendment,” a critical component of TANF that explicitly gives state legislatures specific authority to appropriate their state’s TANF, child care and welfare-to-work funds.

- NCSL strongly supports maintaining the language of the “The Brown Amendment,” a critical component of TANF that explicitly gives state legislatures specific authority to appropriate their state’s TANF, child care and welfare-to-work funds.

NCSL opposes:

- Federal regulatory actions that would limit state flexibility, constrain state policy choices or leave states facing financial penalties for not meeting federal work participation rates,

- Congressional proposals to reduce the welfare block grant in TANF block grant and other social services block grants, related block grant and welfare program, and the preemption of state authority, or mandates on states that would as they compromise the spirit of the state-federal partnership.

- NCSL urges federal partners to consider an inflationary adjustment to the overall TANF block grant, which would enable states to respond to increased demand for non-cash
assistance, economic uncertainty. NCSL opposes any imposition of an MOE requirement as a condition of receipt of funding unless the receipt of the additional funds were optional.

**Individual Development Account (IDA)**

NCSL supports:

- Federal efforts to provide incentives for the creation of Individual Development Accounts (IDAs) as a tool to promote financial self-sufficiency that complements state efforts to reform welfare-public benefit programs and to support working families' efforts to move out of poverty,
- Changes in the federal tax code that would expand opportunities for IDAs, including a tax credit for financial institutions that participate with matching funds and for private entities that invest in nonprofit organizations that administer IDAs, and
- Examining and eliminating barriers in the TANF program, including those associated with the Cash Management Improvement Act, to simplify the administration of IDAs.

**Inflationary Adjustment**

NCSL urges federal partners to consider an inflationary adjustment to the overall TANF block grant. An inflationary adjustment would enable states to respond to the increased demand for non-cash assistance, economic uncertainty and any emerging expectations of welfare reform. NCSL would oppose any imposition of an MOE requirement as a condition of receipt of funding unless the receipt of the additional funds were optional.

**State Legislative Authority**

A critical component of the TANF law explicitly gives state legislatures specific authority to appropriate their state's TANF, child care, and welfare-to-work funds through the "The Brown Amendment." NCSL strongly supports maintaining this language.

**Rewarding Work and Reducing Poverty**

NCSL urges the believes that work is a critical component of welfare reform and federal government law should to support state efforts to create a continuum of self-sufficiency. NCSL
also urges federal policy to facilitate, and inform, and encourage comprehensive state-based and/or community and/or local comprehensive strategies.

NCSL supports:

1. The current work requirement, that after 24 months, all families should be engaged in work, as defined by the state, but NCSL also urges the administration to make the following changes in the work participation rates:

   a. Eliminate the work participation standard states must meet that requires a higher work participation standard for the two-parent portion of their assistance caseload, which will help strengthen families by removing a barrier to marriage,

   b. Allow states to count all recipient work effort including:

      1. Allowing Providing states greater flexibility to define what activities count as work, such as: job training and preparation, education and treatment for alcohol and other substance use disorders, and mental illness, and activities to meet the requirements of a domestic violence plan,

      2. Retaining the 30-hour work participation rate as the standard,

      3. Continuation to provide states credit for those who leave public assistance programs because they have achieved economic self-sufficiency welfare,

      4. Providing states the option of including education that leads leading to employment as part of the first 20 hours of work with the purpose of meeting state work participation rates and giving states the flexibility to count post-secondary programs that lead directly to employment good jobs,

      5. Extending the time limit on post-secondary education programs from 12 months to 24 months,

      6. Retaining the 20-hour requirement for a parent with a child under 6 years of age,

      7. Allowing states flexibility to define “education” and give credit to those engaged in Adult Basic Education and English as a Second Language,

      8. Continuing to support ability to use of TANF funds for subsidized employment programs, and
permitting states flexibility to define sanctions for noncompliance with welfare public assistance program rules including work requirements.

Time Limits

When a parent is working and receiving benefits, states should have an option to extend or exempt these workers and their families from the federal time limits.

NCSL supports:

• States having the option to extend benefits or exempt parents who are working and receiving benefits from federal time limits,

• Providing states flexibility to determine their own time limits,

• Distinguishing cash support from non-cash support and separating housing from other forms of assistance,

• Improving coordination between TANF and examining how the SSI and SSDI programs can better coordinate with the TANF program,

• Allowing states to decide to maintain separate state programs under MOE or segregate their MOE spending in an existing program with greater flexibility for funds and,

• Maintaining the ability of states to exempt 20% percent of their caseload, as defined by the state, from federal time limits.

Data Collection and Reporting Requirements

NCSL opposes:

• The establishment of a national error rate for TANF and Child Care and Development Block Grant (CCDBG) programs under the Improper Payments Act.
NCSL supports a partnership in the Medicaid program. The underlying goal of the Medicaid program should be to achieve mutually agreed upon goals, improved outcomes for recipient patients, and flexibility, transparency, and accountability in administration of programs and opportunities for savings for states, territories, and local governments. NCSL supports accountability and transparency from their federal partners and welcomes public feedback and participation in Medicaid oversight, and we also understand that flexibility requires accountability and transparency on their part. NCSL urges the federal government to consider that not all state legislative sessions are on a year-round basis, and ask them to be sensitive to state, territories, and local governments’ legislative schedules and resources when making changes to Medicaid programs.

NCSL also urges Congress and the Administration to seek the counsel and expertise of state and territory legislators as new Medicaid initiatives are being developed. It is important that federal agencies take the state and territory consultation requirement seriously when drafting legislation and regulations to implement changes. NCSL urges federal partners to provide states a fair amount of time to review and ultimately implement any new changes.
NCSL urges the federal government to improve relations between states and the Centers for Medicare and Medicaid Services (CMS) through improved technical assistance and CMS stakeholder engagement with states. NCSL also urges the federal government to consider the diversity of state needs, and the diversity, complexity, and size of each state’s Medicaid program when scaling new programs and allowing states to voluntarily participate in new state options through state plan amendments. We also caution against uniform proposals and changes as they can compromise the effectiveness of programs by making it difficult for states and territories to respond to local conditions.

Medicaid Landscape

NCSL sees the following Medicaid issues as most pertinent to states, territories and local governments:

Block Grants and Cost-Shifting Proposals

NCSL urges Congress and the Administration to provide states flexibility when exploring block grant programs. Flexibility needs to be a key principle. Any proposals should must refrain from establishing unfunded mandates and any cost shifting requirements for implementing a block grant program in states and territories.

Waivers

NCSL supports Congress and the Administration in their ongoing efforts to grant waivers, where appropriate, and in permitting states and territories to develop innovative programs and service-delivery systems in health, and human services. NCSL urges the federal government to bring successful waiver programs to scale and integrate them into the underlying program when appropriate and encourage federal efforts to streamline waiver applications, reviews and approvals.

NCSL urges the federal government to make information about state waivers and state plans publicly available and easily searchable to better inform state decision making.

Emergency Assistance and Countercyclical Assistance:
NCSL urges Congress to study options to include a provision establishing emergency and countercyclical assistance to states within the Medicaid statute. The provision would become effective upon some triggering event, such as an economic downturn, natural disaster, act of terrorism, pandemic or other public health emergency. In these instances, it would be recommended to add any additional financial assistance to states and territories through an enhanced federal match or some other mechanism that would revert to the regular federal-state cost sharing formula when an emergency has been resolved. This is a complex, but critical component to fiscal security for the Medicaid program. NCSL looks forward to working with federal partners to identify options and establish a program.

**Medicaid Managed Care**

NCSL urges the Centers for Medicaid and Medicare Services (CMS) to work with states and territories as stakeholders to continue to provide support in the operation and upholding of quality standards for Medicaid managed care entities contracting with states and territories.

NCSL encourages federal partners to recognize and support the work of states and territories with their Medicaid managed care stakeholders in the following areas:

- expanding care to those with complex medical needs,
- improving reach and support for rural health care populations,
- improving the implementation of patient-centered care and facilities,
- increasing integration of physical and behavioral health care services,
- continuing development of value-based purchasing and payments focusing on health outcomes over number of services delivered, and
- the role of community health centers, safety-net hospitals and academic medical services in providing primary and emergency care for Medicaid enrollees.

**Children’s Health Insurance Program (CHIP)**

NCSL supports an on-time, multi-year authorization of CHIP and as a partnership between the states and the federal government, CHIP is an essential program that must be authorized on time as it provides health care coverage to countless children across the country. NCSL
encourages the federal government to continue providing flexibility to carry out the program’s operation. NCSL supports Congress’ multi-year authorization of CHIP funds moving forward.

As CHIP funding winds down from its previously increased Federal Medical Assistance Percentages (FMAP) rate to participating states and territories, we encourage federal partners to recognize states may require additional flexibilities for running the CHIP program as a result. As these FMAP rates come back down to their original rates, and the CHIP maintenance-of-effort (MOE) runs to ensure a source of health care cover for children, NCSL recommends the following for the program:

- support for states to develop and test systems of coverage for low-income children and explore ways for states to share examples of best practices with each other,
- eliminate any burdensome waiting periods for CHIP enrollment to ensure a reduction in gaps of coverage for children, and
- continued efforts to streamline and facilitate the CHIP and Medicaid application process.

Health Insurance Reform

Principles for Federal Health Insurance Reform

States must retain authority to regulate health insurance and should continue to set and provide oversight on insurance matters. NCSL opposes any proposals that would expand the preemption of state laws and regulations beyond those already established in the Employee Retirement Income Security Act of 1974 (ERISA), the Patient Protection and Affordable Care Act (ACA), and that would exempt any insurer or entity from state health insurance standards and laws. Federal health insurance legislation that establishes mandated benefits or uniform standards, should have inclusive state feedback prior to implementation, and work to establish standards that work for all states.

Implementations of Health Reforms at the Federal Level

NCSL urges any implementation of health reforms at the federal level should require state action to comply and must allow a reasonable amount of time for state legislatures to debate and enact any necessary legislation for their constituents. NCSL supports developing a
process for declaring "substantial compliance" for states that already have similar legislation in place, a process for declaring "substantial compliance" should also be developed. NCSL urges federal partners to also recognize that health insurance programs in the states and territories are where innovations in health insurance and healthcare delivery happen and to utilize states’ models of health insurance and care moving forward.

Federal Demonstration Authority for States to Experiment with Innovative Health Care Reform Initiatives

NCSL supports federal initiatives to provide financial assistance and to authorize states to experiment with innovative approaches to:

- increase access to and affordability of health care services, including mental health, to the uninsured or underinsured,
- improve the quality and cost-effectiveness of our health care system and the flexibility to test new models that do so,
- increase access to the broad range of long-term care services including home and community-based services (HCBS) that will enable constituents to live in their own homes or communities that provide personalized and a high-quality care,
- support for health insurance plans that work to integrate physical, behavioral and social determinants of health with the aim of reducing costs and improving overall health outcomes for individuals, and
- explore a broad range of approaches and financing mechanisms to improve our health care system including reinsurance programs.
- allow states to continue their work on addressing issues which include but are not limited to surprise medical billing, out-of-network and in-network billing practices and transparency for health care prices and health insurance plans and/or Certificate of Need regulated by states. This includes programs providing patients with the information they need to be an active consumers in healthcare pricing across providers and services. When pursuing any changes to medical billing practices, We also encourage NCSL urges federal partners as they pursue any changes to medical billing practices to not supersede states’ ongoing work or authority in state regulated health
plans, and to involve states in a timely way when drafting any potential changes to medical billing practices, to be transparent, and to provide adequate time for states to implement any changes.

Expires August 2023
NCSL Applauds Global Health Equity Week, Oct. 23-27, 2023 (Memorial Resolution)

Global Health Equity Week 2023 (GHEW) is an annual event that will next take place on Oct. 23-27, 2023. GHEW provides key public and private health and information technology stakeholders an opportunity to convene around the country in support of the advancement of health equity and to promote the value and potential of health information and technology to transform the public’s overall health and well-being.

Initiated in 2006 by HIMSS as National Health IT Week, Global Health Equity Week has emerged as the culminating successor given the importance of health equity to our national health improvement agenda. The week serves as a landmark annual occasion for bringing together diverse global policymakers to affect change. This year’s theme is “Supporting Healthy Communities” and will focus on the following areas:

1. Digital Health Literacy, Inclusion, and Access
2. Maternal Health Equity
   1. Maternal Health
   2. Pandemic Response
3. Digital Literacy
4. Digital Health Equity
5. Public Health Data Modernization
6. Telehealth and Broadband Access

The National Conference of State Legislatures (NCSL) has worked closely with HIMSS and other stakeholder organizations to promote understanding among state policymakers of the contributions of health IT in meeting the quadruple aim for
improving health outcomes, the quality and safety of healthcare delivery, containing healthcare costs, and improve the work life of health professionals. Moreover, NCSL applauds HIMSS for elevating the value of health IT in addressing social determinants of health through the annual Global Health Equity Week events. NCSL and other stakeholders recognize the importance of health information technology and data to ensure states become more resilient to public health threats like COVID-19, the opioid crisis, natural disasters, and chronic diseases that greatly affect our most vulnerable communities. NCSL and HIMSS support state actions to leverage health IT and data systems to achieve these goals. For instance, broadband access and connected health often lead to better health outcomes through the adoption of telehealth and digital decision-making tools essential to empowering people to engage in their own care – care that is value-based, secure, reliable, and that takes into account the social determinants that drive improved outcomes and reduced health disparities.

NCSL encourages its members to observe Global Health Equity Week in appropriate ways in their respective state capitals as well as in the Nation’s Capital. NCSL also encourages its members to advocate for their respective delegations to the United States Congress to join in recognizing the benefits of health information and technology as they act to improve healthcare for all citizens during Global Health Equity Week and beyond.

Expires August 2024
COMMITTEE: HEALTH AND HUMAN SERVICES

POLICY: SUPPORTING FEDERAL LEGISLATION TO EMPOWER STATES TO PROTECT CHILDREN AND YOUTH IN RESIDENTIAL CARE

TYPE OF POLICY: RESOLUTION

WHEREAS, congregate care residential facilities include but are not limited to programs such as wilderness programs, residential treatment facilities, psychiatric residential treatment facilities, therapeutic boarding schools, special education schools, intermediate care facilities for children with intellectual and developmental disabilities and group homes; and

WHEREAS, an estimated 120,000-200,000 children and youth are placed in residential facilities each year by state child welfare and juvenile justice systems, mental health providers, refugee resettlement agencies, school district special education programs, and by parents; and

WHEREAS, the majority of these programs are not licensed by any health care agency and as such the children are not protected by the licensure requirements imposed on licensed health care providers; and

WHEREAS, some residential facilities still operate without any licensure at all; and

WHEREAS, many of these programs advertise treatment despite the lack of licensed health care licensure or eligibility for Medicaid or private insurance reimbursement; and

WHEREAS, the current regulatory and licensure framework makes it difficult for state agencies, parents and medical professionals to distinguish between high quality evidence based facilities and dangerous programs that exploit youth; and

WHEREAS, an estimated $23 billion dollars of public funds are annually used to place youth in residential programs and facilities and the cost per child, per day for residential treatment ranges from $250-$800; and
WHEREAS, many of these placements are funded solely by State General Funds or private funds from parents and as such are not subject to the conditions of participation under Medicaid or utilization review by commercial insurance; and

WHEREAS, children and youth are frequently placed in facilities outside their own state of residence; and

WHEREAS, the placement of children and youth across state lines creates uncertainty about jurisdiction, definitions of abuse and neglect and accountability measures for individuals or entities that engage in abuse or neglect of children in residential facilities; and

WHEREAS, state child welfare and juvenile justice agencies, journalists, and thousands of residential congregate care facility survivors have reported pervasive physical, emotional and sexual abuse, including hitting and choking, sexual assault, harassment, grooming, food and/or sleep deprivation, solitary confinement, inappropriate and punitive use of physical and chemical restraints, restricted access to bathrooms, forced labor, the use of attack therapy, sexual shaming and/or forced sexualized behavior as part of “treatment”; and

WHEREAS, news reports document more than 350 child deaths at these facilities and there are additional deaths not reported to the media; and

WHEREAS, children and youth in many residential facilities are routinely prohibited from communicating with parents, lawyers or child protection and advocacy agencies or are subject to monitoring of such communications; and

WHEREAS, the 2008 Government Accountability Office report "Residential Programs: Selected Cases of Death, Abuse, and Deceptive Marketing" found that “ineffective management and operating practices, in addition to untrained staff, contributed to the death and abuse of youth”; and

WHEREAS, the 2021 National Disability Rights Network's report showed that "Physical abuse, often masked as punishment or a control tactic, is not uncommon in [residential
facilities]” and that “children in [residential facilities] report sexual assault at the hands of staff”; and

WHEREAS, that same report found youth lacked “adequate access to clean water and proper sanitation & have limited recreational space… and some youths report that they are unable to obtain academic credit for education completed at [residential facilities], putting them at a significant disadvantage upon return to their communities.”; and

WHEREAS, the 2021 “Away From Home” study conducted by the nonprofit Think of Us surveyed 78 youth with recent lived experience in residential placements who reported that institutions failed to meet the mandate of child welfare, were carceral, punitive, traumatic and unfit for healthy child and adolescent development; and

WHEREAS, the 2022 Government Accountability Office report “HHS Should Facilitate Information Sharing Between States to Help Prevent and Address Maltreatment in Residential Facilities,” was conducted because “news media have reported several incidents of youth being maltreated by staff employed at residential facilities... Little information is publicly available about incidents of maltreatment in federally funded residential treatment facilities for youth;” and

WHEREAS, the GAO subsequently recommended that the Department of Health and Human Services, in consultation with the Department of Education, facilitate information sharing among and between states on promising practices for preventing and addressing maltreatment in residential facilities; and

WHEREAS, lack of clear national standards for licensing, oversight, abuse investigation and child abuse definitions have left States without needed authority and necessary information to appropriately oversee residential facilities for children and youth; and

WHEREAS, Senators Jeff Merkley (D-Oregon), John Cornyn (R-Texas), Tommy Tuberville (R-Georgia) and Representatives Ro Khanna (D-California) and Buddy Carter (R-Georgia) will be introducing federal legislation, currently referred to as the “Stop Institutional Child Abuse Act” to assist states in protecting children and youth from abuse in residential facilities; and
WHEREAS, states need access to information about best practices, facility safety and quality and mechanisms to hold contractors to account for state funded services that fail to meet contract standards and harm children and youth; and

WHEREAS, youth residential providers need clear and consistent nationwide standards for accountability, oversight and quality service delivery to elevate the quality of services for children and youth; and

WHEREAS, children and youth in residential facilities deserve basic protections against all forms of abuse and neglect; access to an appropriate education and necessary medical care; freedom from inappropriate physical, mechanical or chemical restraint; freedom from solitary confinement, forced silence or restricted communication with trusted caregivers including parents, state agencies, advocacy organizations and first responders; and the freedom to report mistreatment anonymously without fear of reprisal;

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures urges Congress to pass the bipartisan legislation currently referred to as the “Stop Institutional Child Abuse Act” to provide children and youth with protection from all forms of abuse and to empower States to demand accountability from providers to whom they entrust their children through greater oversight, transparency and accountability for residential care.
Whereas, a federal-state partnership governs the child support program under Title IV-D of the Social Security Act, in which the federal government provides a policy framework, states and tribes oversee ongoing operations and administration, and all partners share funding responsibilities.

Whereas, child support programs provide critical services that help families and children with financial, emotional, and other support, and help reduce the need for families to rely on other public benefits.

Whereas, guidance from the Internal Revenue Service prohibits disclosure of federal tax information to tribal child support programs.

Whereas, the Internal Revenue Code includes a provision that limits federal tax information that can be accessed by state child support contractors, with enforcement of the provision held in abeyance since at least 2009 but scheduled to begin in October 2024.

Whereas, contractors play critical roles in most states in supporting and operating the child support program, including paternity establishment, establishment and enforcement of orders, modifications of support orders, customer service contact centers, parenthood initiatives, document management, and development and management of information technology.
Whereas, states that use contractors include a contractual obligation to safeguard and protect federal tax information, provide training to contractors and hold contractors to the same standards to which the Internal Revenue Service holds the states

Whereas, implementation of the Internal Revenue Code provision would harm the child support program and the families it serves by limiting contractor access to information necessary to locate parents, to establish paternity, to confirm employment and income to establish and collect fair support obligations, and, overall, limit the ability to maintain current services

Therefore, let it be Resolved that the National Conference of State Legislatures urges that:

1. Congress adopt bipartisan legislation to modernize the Internal Revenue Code and include direct access to federal tax information by tribal child support agencies. Similar legislation passed the Senate during the 117th Congress (S. 534, Wyden (D-OR) - Thune (R-SD))

2. The Administration permanently allow the continued sharing of federal tax information with state and tribal contractors, at state option, for use in the child support program

Upon adoption of this resolution, a copy of this resolution shall be submitted to the Secretary of the United States Department of Health and Human Services and the Commissioner of the Office of Child Support Services in the Administration for Children and Families, the Secretary of the United States Treasury, and the Chairs and Ranking Members of the U.S. Senate Committee on Finance and the U.S. House Committee on Ways and Means, the public welfare requiring it.