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WHEREAS, advance refunding of tax-exempt municipal bonds can be a financial tool that saves state and local governments billions of dollars by allowing them to provide more comprehensive savings at lower costs to taxpayers; and

WHEREAS, the refunding of tax-exempt municipal bonds is a mechanism by which states and localities finance infrastructure projects, utilities, education, and other general purpose bonds; and

WHEREAS, a refunding occurs when the proceeds from one bond are used to pay off another bond, typically at a lower interest rate; and

WHEREAS, the bipartisan Investing in our Communities Act as introduced in the 118th Congress restores the ability for states to advance refund their tax-exempt municipal bonds, which was eliminated by the Tax Cuts and Job Act of 2017; and

NOW, THEREFORE, BE IT RESOLVED that the National Conference of State Legislatures urges Congress to pass legislation that restores the ability of states to finance public infrastructure that is cost-effective and consistent with NCSL principles of preserving fiscal viability and tax reform.
It is the policy of the National Conference of State Legislatures to advance and defend a balanced, dynamic partnership among local, state and federal governments.

Tax reform efforts and tax actions at the federal level affect states because:

- Federal and state tax systems are inextricably linked;
- Federal programs rely on state participation for implementation; and
- Any federal reform will likely have serious fiscal and administrative ramifications on the states.

Therefore, NCSL urges that all federal tax reform and other actions be guided by the following principles:

**General**

- Preserve the fiscal viability and sovereignty of state governments.
- Encourage work, savings, equity and simplicity.
- Promote efficiency and predictability.
- Avoid intrusion upon the state excise tax base.
- Preserve states’ ability and discretion to tax certain revenue sources.
- Preserve the ability of state and local governments to adopt fair and effective tax systems. This includes authorizing states with sales and use taxes to require interstate sellers to collect and remit those taxes and restoring the full state and local income tax, sales tax and property tax deductions for federal income tax purposes.
- Continue tax policies that reward work, specifically the Earned Income Tax Credit (EITC) and Individual Development Accounts (IDAs).
Transition

- Provide states with adequate transition time to implement and respond to new tax systems, preferably up to three or more years.
- Avoid the negative state impact of retroactive application of tax changes.
- Provide technical expertise to states to ease any transition of administrative responsibilities to the states resulting from federal tax reform.
- Provide adequate federal administrative funds for any federal tax reform that involves modified or increased collection responsibilities for the states.
- Ensure that federal tax changes are made in a manner that preserves federal data collection used by the states.

Do No Harm

- Provide flexibility and strengthen states’ ability to finance and administer programs for which they are traditionally responsible or have gained through devolution.
- Recognize that federal tax reductions should not compromise funding for existing and future commitments to mandated state-federal partnership programs.
- As imposition of sales, consumption or value added taxes is historically a state prerogative, oppose the imposition of any such tax on a federal level.

Tax-Exempt Financing/Bonds

- Preserve tax-exempt financing for infrastructure and capital projects, including the use of public-private partnerships.
- Maintain the tax-exempt status of state and local government bonds and lift existing restrictions on state and local government use of tax-exempt bonds.
- Avoid provisions that weaken the fiscal integrity of state and local governments. This includes: the arbitrage rebate provisions, which essentially are a one-hundred percent tax on the interest income of state and local governments; the alternative minimum tax, which now taxes interest from otherwise tax-exempt bonds; volume caps, which have unduly restricted the use of bonds for projects
that have increasingly become governmental responsibilities; and restrictions on advance refunding which increases the cost of government.

- Support the Mortgage Revenue Bond (MRB) program and the low-income housing tax credit.

**Enforcement**

- Increase enforcement efforts of the federal income tax laws so individual and business taxpayers are not bearing the burden of those who fail to pay owed taxes.
- Continue to take into account states’ reliance on federal tax rates and federal collection efforts.

**Payment in Lieu of Taxes**

The National Conference of State Legislatures supports federal efforts to:

- Continue, but reform the Payment in Lieu of Tax Program (PILT) program; to create a more predictable, fair and flexible system that accurately reflects the fiscal effects of federal lands on state and local governments.
- Provide full funding for the PILT program, provided that this goal is accomplished in a manner consistent with long-term federal debt management and deficit reduction; and
- Provide a more flexible payment system through authorization for the transfer of land of equivalent value from the federal government to states or counties in lieu of monetary payment, consistent with state statutes, and practice

**State Legislators’ Tax Issues**

The National Conference of State Legislatures supports the standard deduction allowed state legislators under section 162 (h) of the Internal Revenue Code. Regulation, interpretation, or other statutes should not undermine the section. Regulations implementing this code section should reflect the intent of Congress and should include the following recommendations:
A "session day" should mean a day in session as defined by the laws or rules of the state of residence of the legislator.

A "committee" of the legislature should mean 1) a committee of one or more legislators conducting the business of [or reporting to] the legislature, or 2) a committee created by state or federal statute, resolution, order or rule on which the legislator serves in his or her capacity as a legislator. This definition of "committee" should include caucuses that conduct the business of the legislature.

"State legislator" should include newly-elected legislators who attend official organizational meetings prior to administration of their oath of office.

Other

Prohibit further preemption of state courts by refusing to give federal courts jurisdiction to establish the valuation of property for state and local tax purposes or by refusing to give selected classes of state and local taxpayers procedural and substantive privileges unavailable to most taxpayers.

NCSL also encourages Congress and the administration to review the Railroad Revitalization and Regulatory Reform Act (4-R Act) to determine if the courts have expanded the 4-R Act beyond the original intent of Congress and reject federal legislation that would extend to other industries 4-R type benefits.

NCSL requests the federal government to respect the sovereignty of states to allow or prohibit games of chance or skill. Any effort by Congress or the administration to reform this regulation preempts states and diminishes the flexibility of state legislatures to use this mechanism as a revenue-related tool to meet the unique needs of residents of each state.

To address the evolution of remote work and its impact on state budgets, any comprehensive federal tax policy shall allow state legislatures to collect tax revenue without providing an unnecessary burden on states, taxpayers and businesses.
Whereas, the internet presents certain risks for children under the age of 13 years who may not be able to recognize dangerous situations online.; and

Whereas, Congress passed the Children’s Online Privacy Protection Act of 1998 (COPPA) to limit personally identifiable information from children without their parents’ consent. In 2000, the Federal Trade Commission (FTC) issued a rule implementing COPPA that requires websites to post a complete privacy policy, notify parents directly about their information collection practices, and obtain verifiable parental consent before collecting personal information from their children or sharing it with others; and

Whereas, since COPPA’s enactment, research on children’s mental health and their online interactions has become available, showing a disturbing increase in youth mental health issues commensurate with social media presence. Studies have found that youth who spend over three hours per day on social media have double the risk of experiencing poor mental health outcomes such as depression and anxiety; and

Whereas, full compliance with COPPA has yet to occur and it has become a concern of the states to protect children online as their presence on social media platforms and other online websites has increased significantly since COPPA's enactment and the FTC promulgated its rule; and

Whereas, states have begun to introduce and enact legislation to provide enhanced protections for children on the internet; and

Now therefore be it resolved that, given that Congress has already established a baseline structure for regulating content shown to children, and that there is a federal
agency in place to establish a regulatory framework, NCSL supports updating COPPA to reflect current concerns, encouraging compliance within the private sector, and creating reasonable federal standards to better protect children’s data that recognize important state interests and do not preempt state laws or create unimplementable, burdensome, or costly mandates for states.
COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, & INTERSTATE COMMERCE

POLICY: SUPPORTING THE AFFORDABLE CONNECTIVITY PROGRAM (ACP) THROUGH PERMANENT CONGRESSIONAL FUNDING

TYPE: CONSENT

WHEREAS, internet connectivity is essential to the success of families, businesses, and government services; and

Whereas, Congress created the Affordable Connectivity Program (ACP) in 2021 to make broadband service and connected devices available to lower-income households at discounted prices from providers that opt to participate in the program; and

WHEREAS, ACP has enabled low-income individuals and families to access online educational resources, gain employment opportunities, access vital services such as telehealth and government assistance, and participate in our civic life; and

Whereas, as of July 2023, more than 19 million low-income American households rely on support from ACP for access to the internet, and growing, many of whom receive broadband access effectively free after the ACP discount; and

Whereas, after state and federal broadband expansion investments, the ACP will help more Americans, including persons of color and residents in rural communities, stay connected; and

WHEREAS, many states are requiring recipients of the Department of Treasury’s Capital Projects Funds to participate in ACP; and

WHEREAS, states and territories may require recipients of Broadband Equity, Access, and Deployment (BEAD) funding to participate in ACP or any successor program; and
WHEREAS, current ACP funding could be exhausted in early 2024; and

WHEREAS, allowing funding for the ACP program to lapse will impose a hardship on the millions of families that rely on such support to secure broadband services that are necessary for jobs, for homework, and for staying connected with loved ones; and

WHEREAS, in addition to impacts on broadband adoption, the end of ACP would also impede the success of ongoing federal and state efforts to close the digital divide through the construction of new infrastructure to help reach those in unserved and underserved parts of the country; and

WHEREAS, it is crucial for Congress to prioritize the continuity and sustainability of ACP to ensure that low-income American families can continue to afford broadband internet access service; and

NOW, THEREFORE BE IT RESOLVED that the National Conference of State Legislatures urges Congress to fund the ACP program to ensure the continuation of the program ensuring that all Americans can have access to broadband service; and

BE IT FINALLY RESOLVED that a copy of this Resolution be sent to the President of the United States and all members of Congress.
WHEREAS, state legislatures have the primary responsibility for funding and governing their state’s K-12 and higher education systems; and

WHEREAS, the Elementary and Secondary School Emergency Relief (ESSER) Fund provided historic amounts of one-time federal funds that gave school districts, rather than states, discretion over how to spend ninety percent of funds; and

WHEREAS, school districts were granted unprecedented flexibility over how funds were spent; and

WHEREAS, states were expressly prohibited from directing or restricting school district spending; and

WHEREAS, school districts, by recent estimates, are expected to spend close to half of the total allocated local share of ESSER funds over the next year; and

WHEREAS, any pressure to rapidly draw down of tens of billions in ESSER funds may exacerbate inflation and potentially encourage local spending without a clear plan for sustainability; and

WHEREAS, a sudden and steep reduction in one-time funds, especially if spent on what are typically considered recurring expenses, could cause fiscal turmoil in school districts that state legislatures may be expected to respond to; and

WHEREAS, each state has its own unique system for funding K-12 and higher education; and
WHEREAS, fiscal conditions can vary significantly across states, especially during times of national economic emergencies; and

WHEREAS, education is a significant part of state budgets, other compelling priorities may make demands on state resources while states respond to and recovery from emergencies; and

WHEREAS, Congress has included maintenance of effort provisions for both K-12 and higher education funding from fiscal year 2020 to fiscal year 2023 as a condition of a state receiving funds from the Elementary and Secondary School Emergency Relief (ESSER) Fund; and

WHEREAS, Congress has also included “maintenance of equity” provisions for K-12 funding in fiscal years 2022 and 2023;

NOW, THEREFORE BE IT RESOLVED, the National Conference of State Legislatures believes unanticipated federal funding for education should not bypass state legislative appropriations processes and should allow state legislatures broad discretion in determining how those funds will best meet local and state education needs; and

NOW, THEREFORE BE IT FURTHER RESOLVED, the National Conference of State Legislatures believes Congress should extend the spending deadline for ESSER to December 31, 2026 in order to smooth the rate of school district spending, which could mitigate the inflationary impact of a rapid draw down of funds and give state legislatures more time to conduct oversight and evaluate whether and how certain ESSER expenditures could be sustained; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State Legislatures believes the U.S. Department of Education should implement an orderly and timely process for states and districts to request and receive permission for a late
liquidation of funds well in advance of the ESSER III obligation deadline of September 30th, 2024; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Secretary of Education should allow states the opportunity to seek waivers from the maintenance of effort and “maintenance of equity” provisions associated with the Elementary and Secondary School Emergency Relief (ESSER) Fund; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State Legislatures believes state fiscal requirements for education relief aid should only ask states to maintain aggregate funding levels or serve as a guide for how states can make cuts to education if facing revenue declines.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State Legislatures believes state fiscal requirements should not be used to compel states to make fiscal or policy decisions beyond the purposes enumerated above, which includes requiring states to increase funding for education or distribute funds to local education agencies by methods other than a state’s statutorily defined school funding formula.

BE IT FINALLY RESOLVED, that NCSL send a copy of this resolution to Members of Congress and the U.S. Department of Education.
Youth mental health, along with school safety and security, are perennial challenges faced by our nation. State legislatures recognize the need for increased school safety for children and educators in their state, as well as the increasing demand for mental health services and support.

State legislators see the federal government as a partner in supporting school security and the safeguarding of student mental health. State legislators firmly believe that the best structure for this partnership is a collaborative approach between the federal government and the states, consisting of federal funding and other means of support that are flexible enough to allow state legislatures to directly leverage these resources where they are most needed. State legislatures are best positioned to be responsive to the unique needs of their constituents.

The federal government should not mandate or incentivize specific strategies or approaches to school security and student mental health. When emergencies warrant the swift provision of federal resources to support school security and student mental health, funds should be distributed through existing programs or provided through flexible block grants to states.
Elementary and secondary education policy is defined broadly by state constitutions, specified by state statutes and implemented by state agencies, school boards and local school districts. State legislators believe that the federal role should be as a supportive partner instead of an intrusive, top-down role. A healthy state-federal partnership in the vital task of educating America’s children:

- Avoids unfunded and underfunded mandates, and fully funds federal requirements for education programs, activities, and reporting. It is both ineffective and unconstitutional to expect states to accomplish national goals that the federal government is not willing to fully fund. The policies and activities associated with federal education programs, regardless of federal funding levels, should be encouraged and not mandated. Further, federal reporting requirements should be reasonable and not require the use of funds that could otherwise be spent on program delivery.

- Encourages state innovation. States are inherently more capable than the federal government of moving quickly to initiate or change policies, can be more sensitive to public needs and can generate broader buy-in for policy changes from local school districts. State flexibility, in addition to being an effective means of making public services more cost effective, provides an opportunity for state legislators to integrate federal, state and local programs into a coordinated system.

- Respects state law and avoids inappropriate federal preemption. Creative solutions to public problems can be achieved more readily when state laws are accorded due respect. Any attempt to preempt should be balanced against the potential loss of accountability, innovation and responsiveness. Unless a clear and compelling case for national uniformity exists, every effort should be made to
allow state governments to respond without federal intervention to local conditions. The federal government should specifically restrain involvement in the following respects:

- **State academic standards.** State legislators support the adoption and implementation of high-quality and rigorous state academic standards as determined by state policymakers. The federal government should not—through legislative or regulatory action or funding opportunities—mandate, direct, control, coerce or incentivize states to adopt a national set of common academic standards. State participation in consortia and other multi-state collaborations should remain voluntary and the federal government should refrain from conditioning the receipt of grant funding upon adoption of common academic standards.

- **State academic assessments.** State legislators support the adoption and use of high-quality assessments aligned to state-determined academic standards. The federal government should not—through legislative or regulatory action or funding opportunities—mandate, direct, control, coerce or incentivize states to adopt a common assessment. State participation in consortia and other multi-state collaborations should remain voluntary, and the federal government should refrain from conditioning the receipt of grant funding upon adoption of a common assessment.

- Recognizes that K-12 education is predominantly a state and local financial and legal responsibility. Federal government spending is less than 10% of the nationwide K-12 budget and should not be used to exercise a disproportionate impact on education policy at the state and local level.

- State legislatures have plenary authority over their systems of finance for elementary and secondary education. Federal grants should not be conditioned in any way that would alter or amend a state’s school finance methodology.

- Preserves and respects state flexibility to implement and administer new block grants. If categorical federal education programs are consolidated into block grants, these grants should:
Include legislative language stating that block grant funding should be expended according to state law,

- Not limit states to the kinds of activities funded under corresponding block grants for past categorical programs, and
- Provide adequate federal funding to assure the continuation of services.

- Maintains steady resource streams, such as formula funding, as the primary funding source for state education aid.
- Distributes competitive grant funds, when appropriate, for targeted purposes, in a transparent and consistent process.
- Respects state budget processes. Federal funds should be incorporated into state budget processes for open hearings and deliberations. Federal funding going directly to state or sub-state bureaucracies or agencies should not bypass state legislative appropriations and oversight procedures. Takes into consideration state appropriation and legislative calendars. Sufficient time must be allowed for states to implement new federal legislation and regulation.
- Maximizes state flexibility to implement and administer federal programs through a streamlined waiver process. This is critical to ensure that states are not unduly burdened by federal regulation or legislation.
- Provides opportunity for ongoing communication with and technical assistance from the federal government in lieu of federal regulatory action.

Acknowledges the constitutional and statutory authority over education policy that rests with the state legislatures by ensuring state legislators are represented in all “timely and meaningful” consultation requirements in the creation or reauthorization of any federal law relating to elementary and secondary education.
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.
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.
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 access to and participation in child nutrition programs. NCSL supports accurate eligibility determination in federal programs, but urges Congress to ensure efforts to serve only eligible children do not deter program participation.

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

NCSL supports the WIC program and its objectives. 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 and the School Breakfast Program as critically important to the well-being and education of young children. NCSL supports USDA reimbursements to schools for free, reduced-price, and paid meals under the provisions of the school lunch and school breakfast programs.

NCSL supports current flexibility in the Community Eligibility Provision, 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, 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.

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**

NCSL supports the federal Summer Food Service Program for Children and 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**

NCSL supports flexibility to allow seniors to transport uneaten food they receive while participating in the Child and Adult Care Food Program. 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 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 program to evening meals 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.
NCSL supports:

- The federal 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 required work threshold or activity standards.
- 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 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 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,
- Allowing states options to collaborate and contract with religious organizations for family assistance services, within the boundaries of state and local laws,
• The federal government continuing to provide full financial support for the TANF block grant and contingency fund, which provides additional financial support for qualifying states during an economic downturn,
• Allowing flexibility for states to pursue successful strategies to move people into nonsubsidized employment,
• 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 TANF block grant and other social services block grants,
• The preemption of state authority or mandates on states that would 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 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 organization 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.

**Rewarding Work and Reducing Poverty**

NCSL urges the federal government to support state efforts to create a continuum of self-sufficiency. NCSL also urges federal policy to facilitate, inform and encourage comprehensive state and/or local strategies.

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

- 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,
- Allow states to count all recipient work effort including allowing 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,
- Retain the 30-hour work participation rate as the standard,
- Continue to provide states credit for those who leave public assistance programs because they have achieved economic self-sufficiency,
- Provide states the option of including education that leads 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,

- Extend the time limit on post-secondary education programs from 12 months to 24 months,
- Retain the 20-hour requirement for a parent with a child under 6 years of age,
- Allow states flexibility to define “education” and give credit to those engaged in Adult Basic Education and English as a Second Language,
- Continue to support use of TANF funds for subsidized employment programs, and
- Permit states flexibility to define sanctions for noncompliance with public assistance program rules including work requirements.

**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 the SSI and SSDI programs
- 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% 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.
Medicaid Guiding Principles
NCSL supports a partnership in the Medicaid program that achieves mutually agreed upon goals, improved outcomes for recipients, flexibility, transparency, and accountability in administration of programs and opportunities for savings for states, territories and local governments. NCSL urges the federal government to consider state legislative calendars when making changes to Medicaid programs since not all legislatures meet on a year-round basis.

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. NCSL urges federal partners to provide states adequate 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.

Block Grants
NCSL urges Congress and the Administration to provide states flexibility when exploring block grant programs. Any proposals 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 encourages 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.

**Medicaid Managed Care**

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 encourages the federal government to continue providing flexibility to carry out the program’s operation.

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
- continue efforts to streamline and facilitate the CHIP and Medicaid application process.
Principles for Federal Health Insurance Reform
States must retain authority to regulate health insurance and 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 must 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 to require state action to comply and to 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. NCSL urges federal partners to 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 active consumers in healthcare pricing across providers and
services. When pursuing any changes to medical billing practices, NCSL urges federal
partners to not supersede states’ ongoing work or authority in state regulated health
plans, 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.
COMMITTEE: HEALTH AND HUMAN SERVICES

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

TYPE OF POLICY: CONSENT

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), and Tommy Tuberville (R-Alabama) and Representatives Ro Khanna (D-California) and Buddy Carter (R-Georgia) introduced 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.

Expires August 2024
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.
WHEREAS, Employers continue to need highly skilled employees to fill jobs in nearly all sectors in the economy,

WHEREAS, the potential for an expanded registered apprenticeship program in the United States can help workers reconnect to the economy while enhancing their skills and opportunities, and

WHEREAS, innovative new registered apprenticeship programs in non-traditional economic sectors such as health care, technology, and personal services will open pathways for increased diversity and inclusion in those occupations, and

WHEREAS, the traditional “earn while you learn,” approach of registered apprenticeship will reduce economic barriers to higher skilled occupations that currently are limited to paid tuition and fee based courses, and

WHEREAS, the traditional “on-the-job” learning requirements of registered apprenticeship are a successful learning style for many students who prefer learning skills through hands-on experience in addition to tradition classroom coursework, and

WHEREAS, providing incentives to employers to participate in registered apprenticeship programs in non-traditional sectors through tax policies and apprentice utilization agreements, when combined with long-term employer commitments, will establish a sustainable future for apprenticeship programs, and

WHEREAS, the success of traditional registered apprenticeship programs that are financially sustainable and jointly managed create tens of thousands high wage and
high skilled jobs to ensure future generations of skilled apprentices for high demand occupations in our country, and

WHEREAS, replicating the success of traditional registered apprenticeship programs to non-traditional occupations will take significant resources and support from the United States Department of Labor,

WHEREAS, there are very successful apprenticeship programs in the United States and throughout the world,

THERFORE, BE IT RESOLVED that the NCSL support federal initiatives and funding to expand state registered apprenticeship programs into non-traditional occupations and careers, considering best practices and policies found in other countries.
Our American federalism creatively unites states with unique cultural, political, and social diversity into a strong nation. It is built on the concepts of shared sovereignty and delineated powers. The Tenth Amendment is the cornerstone of constitutional federalism and reserves broad powers to the states and to the people. Federalism protects liberty, enhances accountability and fosters innovation with less risk to the nation. NCSL strongly urges federal lawmakers to maintain a collaborative federalism that respects states’ roles and empowers states to appropriately implement federal standards, permit diversity without causing division, and foster unity and coordination among states without enshrining uniformity. To revitalize federalism, the three branches of the national government should carefully examine and refrain from enacting proposals that would limit the ability of state legislatures to exercise discretion over basic and traditional functions of state government.

The Constitution divides authority between federal and state governments for the protection of individuals." New York v. United States 505 U.S. 144 (1992). This careful balance enhances the express protections of civil liberties within the Constitution. Effective governance requires appropriate devolution of decision-making authority from the federal government to the states in order to encourage participation and inclusion in our federalist system.

By retaining power to govern, states can more confidently innovate in response to changing needs. As Justice Brandeis wrote: "It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country." New State Ice Co. v. Liebmann, 285 U.S. 262 (1932)
It is a suitable role for the federal government to encourage innovation by states. Our country's founders did not contemplate a perfect union, but rather a more perfect union, meaning, there must be room for policy experimentation and different methods of self-government at the state level. States are inherently capable of moving more quickly than the federal Congress to correct errors observed in policy and can be more sensitive to public needs.

The Supreme Court has sent a strong message to Congress that its powers under the Commerce Clause have boundaries (United States v. Lopez, (1995). Congress must heed the wisdom of Lopez and not exercise its commerce powers without a compelling need to do so. The Supreme Court has recognized the negative practical effect that federal overreach under the dormant Commerce Clause would have on states in our global economy, and that such overreach would “cast a shadow over laws long understood to represent valid exercises of the States’ constitutionally reserved powers.” (National Pork Producers Council v. Ross (2023) The Supreme Court should add to the ability of states to respond to pressing social and economic problems by interpreting the dormant Commerce Clause in a restrained manner sensitive to the states constitutionally derived authority in the federal system.

NCSL dedicates itself to restoring balance to federalism through changes in the political process and through thoughtful consideration and broad national debate of proposals to amend the Constitution or to clarify federal law that are specifically intended to redress the erosion of state powers under the Constitution. NCSL does not endorse any specific proposal for or against constitutional change or call for a constitutional convention. NCSL continues to support all civil rights laws in force in this country.

Pre-emption

Congress must allow states flexibility to shape public policy. Creative solutions to public problems can be achieved more readily when state laws are accorded due respect. Every preemptive law diminishes other expressions of self-government; therefore, NCSL maintains that state laws should never be preempted without substantial
justification, compelling need, and broad consensus. Our federalism anticipates diversity; our unity does not anticipate uniformity. While proponents of pre-emption may claim expected benefits, any benefit must be balanced against the potential loss of accountability, innovation, and responsiveness.

Preemption may be warranted in specific instances when it is clearly based upon provisions of the U.S. Constitution authorizing such preemption and only when it is clearly shown (1) that the exercise of authority in a particular area by individual states has resulted in widespread and serious conflicts imposing a severe burden on national economic activity or other national goals; (2) that solving the problem is not merely desirable, but necessary to achieve a compelling national objective; and (3) that pre-emption of state laws is the only reasonable means of correcting the problem.

The authority of Congress under the Supremacy Clause to preempt state legislation is exercised by the federal government assuming responsibility for regulating under federal law. In addition, the Supremacy Clause allows the federal government to offer states the option of regulating pursuant to federal standards. The power of Congress to thus pre-empt state authority must not be expanded to permit the federal government to commandeer states to administer federal programs.

Congress shall provide reasonable notice to state legislative leaders and governors of any congressional intent to preempt and shall provide them with opportunity for formal and informal comment prior to enactment. To ensure that Congress knows the effects of its decisions on states, members of Congress shall investigate which of their state’s laws would be preempted by federal legislation before they vote on the pre-emptive legislation. Congress shall develop processes and seek early and regular consultation with state legislatures to fully understand the fiscal and other policy impacts of proposed bills on states. NCSL supports the creation of congressional intergovernmental committees or subcommittees and maintains that Congress shall refer bills that affect state powers and administration to these intergovernmental committees or subcommittees.
States should not be undercut through the regulatory process. It is not acceptable for unelected federal agency officials to exercise legislative authority through regulation that preempts the decisions of the elected legislatures of the sovereign states. Any agency intending to preempt state laws and rules must have the express statutory authority from Congress to preempt. The Executive Order on Federalism (E.O. 13132) provides guidance for agency examination of intergovernmental impact. NCSL urges the codification of E.O. 13132 and enforcement of its provisions. NCSL also advocates against agency circumvention of rule-making procedures through interim final rule-making and urges its prohibition. NCSL supports the creation of an appropriate congressional committee to review agency regulations to identify unjustified intrusions into state sovereignty.

State Contracts

NCSL believes that states should partner or contract with religious organizations and engage in charitable choice initiatives pursuant to state and local laws and prerogatives, not nationally mandated standards.

Grant Conditions and Mandates

When national policymakers ignore the fiscal impact of proposals that are to be implemented at the state level, it confronts states with an impossible choice – ignore federal law and face stiff financial penalties or underfund other important state priorities in order to comply with federal unfunded mandates. Ignoring state impact also creates a rift in intergovernmental relations between states and the federal government. The federal government must be accountable for its policy decisions that ultimately affect the level of services states provide or the level at which states are compelled to tax their citizens. NCSL believes that states must retain the predominant role in shaping policies for which they will allocate the predominant share of resources. Among the distortions caused by the excessive power of the national government is the separation of decisions to tax from decisions to spend. The intractable federal debt makes federal spending decisions more difficult and increases state reliance on
mandates or grant conditions to accomplish congressionally set goals. NCSL maintains that the federal government must fully appropriate designated funds before application of penalties to states contained in authorized programs. Where statutes are ambiguous, agencies must establish regulatory guidance before states become subject to penalties. Federal resources shall be adequate to offer meaningful encouragement to state efforts and, at a minimum, to provide technical assistance and oversight.

In *New York v. United States*, the Supreme Court outlined guidelines appropriate for limiting regulation under the Spending Clause. Conditions should be unambiguous and should be reasonably related to the purpose of the expenditure. NCSL opposes conditions on grants made to the states beyond such conditions that are necessary to specify the purpose of the expenditure, except where the conditions, such as those relating to civil and individual rights, may fulfill powers expressly delegated to Congress by the Constitution. Existing grants should not automatically become subject to new conditions.

NCSL believes that federal grants to states can achieve national goals without disrupting state laws and procedures. NCSL supports federal legislation that respects the role of the legislature and that does not create an unnecessary preference for state executive decision-making. NCSL maintains that funds received by a state under provisions of federal law shall be subject to appropriation by the state legislature, consistent with the terms and conditions required under such federal law. Legislatures shall also retain authority to designate implementing agencies and to review state plans and applications for assistance. State court systems shall not be commandeered to implement federal policies; in the event federal actions will result in an increased burden on state courts, then the federal government shall also provide funds to implement action by the courts.

NCSL opposes Congress placing responsibility for administrative oversight of grant conditions in the federal courts by relying on beneficiaries to enforce federal grant requirements through lawsuits. In the event the courts are to be relied upon for enforcement, then the federal government shall waive its sovereign immunity and
become subject to suit for failures in administration of programs. This policy does not relate to access to federal courts for enforcement of constitutional rights.

Sovereign Immunity
The Supreme Court has held that the powers delegated to Congress under Article I of the United States Constitution do not include the power to subject non-consenting States to private suits for damages in state courts (Alden v. Maine (1999)). The Court in *Alden* also recognized that sovereign immunity does not derive from the 11th Amendment, but from the structure of the original Constitution itself. The states have been recognized as sovereign entities even before the ratification of the U.S. Constitution.

The Court further constrained Congress’ ability to abrogate state sovereign immunity under Section 5 of the 14th Amendment to the Constitution in *College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board* (1999). The Court held that Congress’ powers under § 5 of the 14th Amendment are powers of enforcement only, and that these enforcement powers are remedial. This means that in order for sovereign immunity of a state to be waived under Section 5, Congress must be able to identify a pervasive pattern of wrongdoing under the 14th Amendment, and the federal legislation seeking to remedy the wrongdoing, must be narrowly tailored to do so.

It is NCSL’s position that if Congress intends to abrogate state sovereign immunity it must state its intent in unmistakably clear language, and the federal government should waive its own immunity in order to enhance legislative consideration of the risks. Normally, equitable and injunctive remedies are sufficient safeguards for ensuring compliance with the law.

Criminal Jurisdiction
Federal expansion of criminal jurisdiction, while not specifically preempting state laws, diminishes the role of state legislatures by permitting federal and state prosecutors to circumvent state law. The choice to prosecute in federal court based upon federal penalties entails a choice to by-pass state legislative responsibility. NCSL opposes the
federalizing of state criminal offenses because federalism is weakened and because the role of federal courts as courts of limited jurisdiction is thereby undermined. NCSL recognizes that specific crimes may be appropriate for federal action if a systemic failure makes state action impossible or ineffective; such crimes may include those that have complex international or interstate implications, which relate to the protection of civil rights, or where conflicts prevent effective state or local prosecution. NCSL deems inadequacy of state resources to be an insufficient reason for federal takeover of criminal jurisdiction.

Courts

It is NCSL’s position that in the process of selecting nominees to the federal courts, the President and the Senate should -- among other considerations -- be mindful of the vital role federalism plays within our constitutional framework.

Conclusion

NCSL endorses periodic examination by Congress of the state of American federalism. Members of Congress shall expand formal and informal communications with their state legislatures in order to defend federal legislation that diminishes state powers and to explore less intrusive means of achieving national goals. In exploring the dimensions of federalism, Congress shall consider the need for statutory and constitutional remedies to restore balance. Together, we should revive appreciation for the principle that sharing power between levels of government enhances America’s ability to develop responsive policy in a changing world.
The National Conference of State Legislatures maintains that response to natural disasters and terrorist attacks begins at the local level where the event occurs, and involves state and federal response as local, then state, resources are overwhelmed by the magnitude of the event. NCSL urges Congress and the Administration to partner with NCSL and other organizations representing state and local government to prepare our nation for national disasters and threats to homeland security. NCSL urges Congress and the administration to:

- Continue to channel funding directly to the states to ensure compliance with statewide strategies for maximum coordination and require that such funds be subject to the state legislative oversight or the state appropriation process;
- Recognize the roles of state legislatures in the development of future guidance frameworks and Congressional legislation;
- Consult with state entities when creating or amending post-disaster relief programs and applications in order to streamline their procedures to deliver appropriated funds to governments and individuals struggling to recover from devastating disasters;
- Provide state flexibility among grant program categories for spending-planning, training, equipment, and exercises allowing transfer of funds across categories;
- Continue to provide a minimum grant in states that appear to have low risk, vulnerability, and criticality factors, in order to sustain the basic response infrastructure for public safety and public health emergencies;
- Consult with NCSL and state legislatures regarding each state’s cost for the development and implementation of performance standards and other accountability measurements related to grant programs;
• Ensure that funding for any new grant programs complements, and DOES NOT replace, existing funding sources for other key programs such as first responder programs;
• Permit citizen rescue and aid efforts to assist in disaster recovery pursuant to state Good Samaritan laws without fear of federal penalties; and
• Where practicable, allow states to purchase surplus emergency management equipment from the federal government following response and recovery efforts.

Congress must also recognize the strain on personnel, equipment, and other resources that activation of the National Guard for federal services poses for state and local ability to secure the homeland from terrorism and natural disasters; and must work with state legislatures to develop programs to ensure adequate resources to maintain domestic security. NCSL strongly opposes any effort to preempt domestic control of the National Guard from state authority.

NCSL urges the Department of Homeland Security (DHS) and the Federal Emergency Management Agency (FEMA) to develop a centralized grant application process for homeland security and emergency preparedness activities; utilize an all-hazards approach including terrorism, natural and man-made disasters, and public health emergencies; and avoid adding new compliance requirements to existing grant programs. NCSL insists that FEMA streamline grants administration processes at FEMA as well as work together with other federal agencies that oversee disaster assistance – such as the Department of Housing and Urban Development (HUD) and the Small Business Administration (SBA) – to streamline and improve the efficiency of disaster assistance administration as a whole. Where possible, grants should be administered at the state level.

NCSL supports the funding of the Emergency Management Planning Grants (EMPG) at a level that meets current needs, and supports funding for the Emergency Management Assistance Compact (EMAC).

The Department of Homeland Security (DHS) DHS should work closely with NCSL, individual state legislatures, state emergency management and public safety leaders to meet the goal of fully funded and fully operating Fusion Centers that blend relevant law enforcement and intelligence information analysis and coordinate security measures to
reduce threats in their communities and to continue to improve the quality and quantity of analytical intelligence products that are provided to state and local governments.

**Cybersecurity**

NCSL recognizes that the nation’s information infrastructure is rapidly becoming one of the most serious threats our country has ever encountered. In order to combat this increasing threat, it is essential that all levels of government work together to develop proper solutions. NCSL urges Congress and the Administration to:

- View state and local governments as critical stakeholders;
- Avoid unfunded federal mandates and preemptions on state and local partners;
- Collaborate with state and local governments to invest in cybersecurity awareness; and
- Maintain the civil liberties and privacy of all citizens while sustaining the safety and stability of the internet and electronic communications.

**Border Security and Enforcement**

Securing all of America’s borders, ports, and airports is essential to preserving our national security and maintaining the safety of all Americans. NCSL urges the federal government to fulfill its responsibilities with regard to border security and encourages a renewed state-federal cooperation in countering human trafficking, weapons and drug smuggling. NCSL calls on the federal government to increase its enforcement of these crimes and encourages countries of origin to provide reentry facilities, transition services and transportation for returned inmates.

NCSL supports full, federal funding for increases in Department of Homeland Security border enforcement personnel where they are most needed and necessary improvements in facilities, technology and infrastructure.

**Emergency Management and Presidential Disaster Declarations**

NCSL believes effective emergency management involves both preparing for and responding to disasters. According to a 2018 National Institute of Building Sciences (NIBS) study, every $1 invested in disaster mitigation by the federal government saves communities $6. Recognition that states need to allocate state funding and receive federal funding before a disaster strikes is a necessity in order to sufficiently prepare for disasters and ultimately save communities money. NCSL urges FEMA and Congress to
make federal disaster assistance available for a range of pre-disaster mitigation activities – from flooding to wildfires and beyond - that will promote advance planning for disasters and save both states and the federal government money in the long run. Specifically, NCSL urges:

- Congress to pass legislation that will increase assistance for wildfire mitigation, given the significant and increasing threat wildfires pose to air quality, water quality, and the safety of residents in affected states.
- FEMA to co-locate federal with state emergency management staff to 1) better administer disaster preparedness training on the state and local level and 2) learn from state and local staff the disaster risk profile specific to the area rather than assuming a one-size-fits-all approach.
- The Federal government to provide state emergency management personnel proper access to federal lands for the purpose of mitigation activities, including but not limited to forest maintenance and fuel load reduction.

In considering procedures for when disasters do occur, FEMA should not make changes to existing systems in the absence of state consultation. Upon the issuance of a Presidential Disaster Declaration (PDD), FEMA calculates federal aid to states based on a per capita equation tied to state or local population pursuant to 44 C.F.R. Section 206.4. FEMA uses this per capita figure as one of several contributing factors when deciding whether to grant public assistance to a state. NCSL urges FEMA to exercise caution when determining whether to alter this existing formula. While NCSL appreciates FEMA’s goals of reducing disaster costs overall and incentivizing pre-disaster planning and mitigation, any changes in the current statutory scheme must be constitutional, and must not contain burdensome cost shifts to states, or unwarranted preemption of state law. NCSL urges FEMA to engage in extensive consultation with state legislators in order to alleviate any intergovernmental issues that could aggravate the federal-state-local relationship. NCSL would oppose changes to the existing disaster declaration framework that would slow down the distribution of federal funds that contribute to state recovery from natural disasters.

NCSL calls upon the Administration to:
• Consult with states and requests transparency in its review and reform standards, policies, and procedures.
• When determining aid per capita for states, recognize and respect individual designations of localities within states. Likewise, when FEMA considers whether to recommend a disaster declaration for any given state, NCSL urges consideration of inordinately extensive impact to localities.
• Avoid federal action, such as stringent licensing requirements, that would discourage Good Samaritan aid or inhibit liability protections for voluntary civilian aid at the state level.
• Exercise the greatest level of flexibility possible in granting FEMA public assistance disaster relief funds that respect the distinctiveness of different states.
• Remain united in prioritizing the efficient appropriation of needed aid to disaster-stricken states and territories.
WHEREAS, the Deferred Action for Childhood Arrivals (DACA) program, established by executive order in 2012, safeguarded individuals who applied for protection under the program from deportation. These individuals entered the country under the age of 16 prior to June 15, 2012, have continuously resided in the United States since 2007, have no prior serious criminal history, and have either served in the United States Armed Forces, completed, or are currently enrolled in high school or a GED program; and

WHEREAS, Dreamers are a broader category of young people who entered the United States as children but have not yet applied for or received DACA program protections. Both Dreamers and DACA recipients are most familiar with and loyal to the United States, not their birth country; and

WHEREAS, These young immigrants are hardworking and educated individuals who are tax paying members of the American workforce, annually contributing about $5.7 billion in federal taxes and $3.1 billion in state and local taxes according to the Center for American Progress; and

WHEREAS, DACA has been subject to near constant litigation in the federal court system regarding the constitutionality of the program. Congress has failed to pass legislation addressing this population causing instability that forces Dreamers and DACA recipients to live in fear of someday being arrested and deported to a country which, in many cases, they do not remember living in; and
NOW, THEREFORE, BE IT RESOLVED, the National Conference of State Legislatures urges Congress to pass legislation that grants Dreamers and DACA recipients a pathway to citizenship.
WHEREAS, the United States has a vested interest in securing its borders; and
WHEREAS, promoting legal immigration is paramount to the prosperity of the United States; and
WHEREAS, the right to seek and enjoy asylum from persecution is a commonly accepted human right in the international community that the United States upholds; and
NOW, THEREFORE, BE IT RESOLVED, the National Conference of State Legislatures urges Congress and the Administration to invest in procedural and technological improvements to its ports of entry and judicial system in order to facilitate a safe, efficient, timely, and humane immigration process for asylum seekers.
COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY
POLICY: PATHWAY TO CITIZENSHIP FOR REFUGEES
TYPE: CONSENT

WHEREAS, Temporary Protected Status (TPS) is a crucial designation that allows those whose home countries have been ravaged by natural disasters and war to gain lawful entry and temporary residency in the United States; and

WHEREAS, violence and instability in Afghanistan, Yemen, Ukraine, Myanmar, Syria, and many other regions worldwide have created a global refugee population of over 30 million people, half of them being children according to the United Nations High Commissioner for Refugees; and

WHEREAS, nationals from qualifying countries are currently eligible to apply for TPS in the United States through the stringent and thorough application process, consisting of background checks and application fees; and

WHEREAS, the majority of TPS holders have resided in the country for over a decade; and

WHEREAS, the Center for Migration Studies reports TPS holders have labor participation rates of over 80% and are thus beneficial to the economy, projected to contribute $164 billion to the economy over the next decade; and

WHEREAS, TPS recipients often do not have a clear pathway to citizenship. Those who have resided in the United States for long periods of time and have built a life for themselves in the country would face an uncertain future. Pursuant to *Sanchez v. Mayorkas*, the Supreme Court held that TPS recipients who entered the US without inspection must return to their country of origin to have their visa application processed
by a consular post. This is a process that would prevent most TPS holders from gaining approval to re-enter the US for multiple years; and

WHEREAS, the Department of Homeland Security has the authority to designate countries for TPS, leaving TPS protections largely in the hands of the executive branch, which can change drastically in terms of priorities depending on the administration; and

NOW, THEREFORE, BE IT RESOLVED, the National Conference of State Legislatures urges Congress to pass legislation granting those in the United States with TPS a pathway to citizenship.

NOW THEREFORE BE IT FURTHER RESOLVED, the National Conference of State Legislatures urges Congress and the Administration to develop a fair and consistent process to evaluate and approve TPS applications on an expedited basis, without forcing applicants to return to the dangers in their home country while they await the outcome of their application.
WHEREAS, the official record of all eligible voters in a state, voter registration rolls are the foundation of free, fair, and secure elections;

WHEREAS, voters move or die every day; election officials may not get this information in a timely manner;

WHEREAS, maintaining accurate and updated voter rolls through a nonpartisan, nondiscriminatory, and effective system is vital to strengthening trust and confidence in election results;

WHEREAS, Federal/State coordination can help identify and remove ineligible or deceased voters and update eligible voters’ records;

LET IT BE RESOLVED, to increase voter confidence, NCSL urges the United States Congress to collaborate with the states to ensure fair and effective list maintenance.
The automobile is on the cusp of a technological transformation with the potential to both revolutionize personal mobility and provide immeasurable safety benefits. As vehicles that operate on public roads are subject to both state, federal and local jurisdiction, the National Conference of State Legislatures (NCSL) understands the need to clearly define state and federal roles as well as avoid unnecessary federal preemption and burdensome federal mandates.

**State Authority to Regulate Autonomous Vehicle Testing**

NCSL agrees that the National Highway Traffic Safety Administration (NHTSA) should be the sole entity setting federal motor vehicle safety standards (FMVSS) for autonomous vehicles, equivalent to their current role for conventional vehicles. However, NCSL strongly believes that states are the sole authority when it comes to vehicle use—which includes vehicle registration; driver licensing and education; traffic laws, regulations and enforcement; and insurance and liability. NCSL is opposed to congressional or administration proposals that would seek to preempt this authority from states by prohibiting states from prescribing certain standards or regulations related to autonomous vehicle testing, including requirements related to the presence of a human driver.

**FMVSS Exemptions**

NCSL recognizes, appreciates, and agrees that authority to issue exemptions of FMVSS remains solely in the realm of the Secretary of Transportation. However, NCSL strongly encourages the Secretary (or applicable designated agency) to ensure that any exemption of existing motor vehicle safety standards provides a safety level at least equal to the safety level of the standard. Further, as exemptions are granted, NCSL implores the department to provide such information to states, in a timely manner.
Advisory Councils
NCSL requests that state legislators be appointed to or included in any congressional or administration task force, council, or other advisory group related to the development of autonomous vehicles. NCSL encourages congressional and administration task forces to work with NCSL to help ensure the appropriate states are included.

Cybersecurity Information Sharing
Cybersecurity is a vital aspect of autonomous vehicles. As vehicles begin to communicate with each other (vehicle-to-vehicle or V2V) as well with infrastructure (vehicle-to-infrastructure, V2I, and V2X), the potential risk of cyberattacks and security breaches greatly increases. NCSL urges both the administration and Congress to both share any threat information with state governments and to work with states to ensure that such threats and affected vehicle populations do not become endemic. A collaborative effort is vital in ensuring such safety.
A resolution of the National Conference of State Legislatures, urging the federal government to fund research on microplastics in the environment.

WHEREAS, microplastics are pieces of plastic that are less than five millimeters in size which can result from the disposal and breakdown of products and industrial waste containing plastics; and

WHEREAS, the majority of plastics in the United States are not recycled; and

WHEREAS, recent studies have shown that microplastics are pervasive in the environment; and

WHEREAS, microplastics are easily ingested by plankton and filter feeding animals and are found in many species of wildlife including fish and shellfish; and

WHEREAS, microplastics have been found in bottled water and other consumer products intended for human consumption; and

WHEREAS, microplastics have been found in human stools; and

WHEREAS, scientists still know little about the effects of microplastics on the human body or on wildlife; and

WHEREAS, water resources, including drinking water, and soils and sediments are rarely tested or monitored for microplastics; and
WHEREAS, questions still remain as to the sources of microplastics in the environment, including the contributions from wastewater treatment facilities; and

WHEREAS, research is needed to understand the impacts of microplastics on the environment and human health and to develop testing and monitoring protocols.

NOW, THEREFORE, BE IT RESOLVED, by the National Conference of State Legislatures that it urges to the United State Environmental Protection Agency to increase research efforts on microplastics.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the U.S Attorney General, to the President of the United States, and all members of Congress.
WHEREAS, the National Conference of State Legislatures wishes to support sound public policies that encourage states to take matters into their own control to protect human life, preserve mobility and enhance economic development by creating state-funded, highway-railroad grade crossing safety enhancements, including roadway separations and eliminations; and

WHEREAS, there are more than 200,000 at-grade, public railroad crossings throughout the country; and

WHEREAS, thanks to billions of dollars of upgrades to grade crossing warning features including gates, lights and bells, since 1981 grade crossing collisions have decreased from 9,461 collisions, down 443%, to 2,131 collisions in 2021; and

WHEREAS, since 1981, grade crossing collisions have decreased from 728 fatalities, down 307%, to 237 fatalities in 2021; and

WHEREAS, since 1981 grade crossing collisions have decreased from 3,293 injuries, down 504%, to 653 injuries; and

WHEREAS, the National Association of County Officials (NACo), National League of Cities (NLC), and American Association of State Highway and Transportation Officials (AASHTO) have previously urged Congress to support improved rail safety programs, including supporting additional founding to local governments, state, and railroads to further improve grade crossings and separations allowing for safer interactions between road and rail traffic; and
WHEREAS, rail interstate networks between cities and regions provide essential transportation flow for American goods and passengers; and

WHEREAS, these rail interstate networks are essential to the American economy but in cities, towns, villages, and states throughout the country, their localized presence can cause negative externalities including road congestion for extended periods of time at rail crossings; and

WHEREAS, the federal Infrastructure Investment and Jobs Act includes approximately $3 billion in funding to be administered by the Federal Railroad Administration over the next 5 years to build new grade separations and eliminate more road-rail crossings throughout the nation; and

WHEREAS, some state legislatures have created their own, dedicated state grade crossing separation, elimination, and safety enhancement program to leverage those federal dollars in order to unlock new economic development, safety enhancements, and railroad fluidity opportunities throughout each state; and

WHEREAS, 23 U.S.C. Section 130’s Railway Highway Crossing Program was introduced in 1987 and over the past 35 years has annually funded several hundred million dollars of federal match for at-grade crossing enhancements, eliminations, and separations that have driven down vehicular and pedestrian fatalities, injuries, and collisions; and

WHEREAS, as part of IIJA, Congress increased incentive payments for grade crossing closures from the previous cap of $7,500 to the new level of $100,000 within the federal Section 130 Grade Crossing Safety Fund; and

WHEREAS, also as part of IIJA, Congress expanded the eligible activities under the Section 130 Program to now cover replacement of functionally obsolete warning
devices that were improved once before in the early years using Section 130 Program funds.

NOW THEREFORE BE IT RESOLVED, the National Conference of State Legislatures encourages Congress to continue to create, expand, and enhance state and local grade crossing protection funds which have the effect of improving safety, mobility and economic development potential for both the railroads and motoring public throughout the country.
Aviation is a key component of a balanced transportation system and is vitally linked to regional growth and economic development efforts. The development and preservation of a balanced system of airports, which is responsive to the needs of all sectors of the nation, is the mutual responsibility of federal, state and local governments. Given this mutual responsibility, the National Conference of State Legislatures (NCSL) urges Congress and the administration to actively engage state legislatures in discussions on the development and preservation of our system of airports and to avoid federal mandates, preemption of state authority and where possible provide states maximum flexibility.

Finance
The following recommendations regarding aviation financing are to be viewed as a comprehensive package and not as individual parts to be implemented piecemeal. Recognizing the safety, security, economic, and other broad public benefits of the services provided by the Federal Aviation Administration (FAA), NCSL supports efforts to:

- continue a General Fund contribution, due to military and federal usage of airport facilities and services. Maintain the Airport and Airway Trust Fund, financed by existing dedicated user taxes and charges, as the primary method of funding federal-aid aviation projects. Any federal aviation fees collected from airline ticket taxes that are diverted to non-aviation purposes should be rededicated or repealed. NCSL supports federal grant assurance provisions barring diversion of airport revenue to non-airport purposes;
- maintain the current structure of federal aviation taxes which equitably distributes the financial burden on all users;
continue to fully fund the Airport Improvement Program (AIP) at authorized levels annually on a multi-year basis to help support needed safety, security, capacity and noise projects;

• authorize states to use AIP funds for increased security measures required by federal law at a 100-percent federal share;

• provide states maximum flexibility in the prioritization and administration of trust fund allocations, this includes aviation-related planning activities being an allowable expense;

• remove the Trust Fund from the federal unified budget;

• create a mechanism to guarantee that all revenue dedicated to the Trust Fund is spent each year for its intended purpose and that Trust Fund revenue is classified as "mandatory" spending and operate as a "pay-as-you-go" program;

• remove statutory or regulatory barriers to state and locally-generated revenues that support airport activities;

• reduce aircraft noise and a continued set-aside of AIP funds for noise abatement projects;

• continue the Passenger Facility Charges (PFCs) as a supplementary revenue source to finance airport needs;

• exempt from federal tax laws airport municipal bonds; and

• allow the use of innovative financing methods, such as state infrastructure banks and revolving loans, whenever possible to enable states to meet the funding needs of smaller airports.

**State Block Grant Program**

The state block grant program should be extended and expanded so that all states are eligible to participate. NCSL believes that the program should be structured to allow states the maximum flexibility in the administration of grants.

**Development**

NCSL supports a coordinated national plan of development as long as state plans for investment are included. As part of the development of the National Airspace System
Architecture, the FAA should make every effort to consider state input. The economies of many parts of the country are dependent on the modernization of the nation's aviation system. Federal policies should support state efforts to address capacity problems through expansion. NCSL supports the increased use of former and current military airports to provide immediate capacity relief for the aviation system.

**Regulation**

NCSL supports efforts to increase airport capacity and competition within the airline industry. However, NCSL remains concerned over the preservation of state authority over certain airline actions and practices. An examination should be made of other provisions of law that pertain to the ability of the state to regulate or enforce airport safety standards and practice.

**Federal-Aid Program**

NCSL supports the Essential Air Service (EAS) program and urges the federal government to honor its commitment to EAS. Where EAS is terminated, proper and adequate notification to the affected community should be required and transition plans implemented.

**Organized Deployment of Unmanned Aerial Systems (UAS)**

Registrations of unmanned aircraft already outnumber manned aircraft which highlights the exponential growth of this technology. Although FAA has issued operational rules for commercial operators (Part 107) and is studying the potential expansion of operational rules through the drone Integration Pilot Program, they have yet to finalize formal operational rules and regulations pertaining to the use of UAS by hobbyists. This has resulted in a type of frontier mentality for use and judgment in that air space.

As the agency continues its work to integrate UAS rules and laws, NCSL recognizes FAA’s general authority over the national airspace but believes it is imperative to preserve the authority of state governments to issue reasonable restrictions on the time, manner and place of UAS operations as they relate to states’ traditional police powers,
including to protect public safety and security, personal privacy, property rights and
manage land use. In response to Congress imposing a nationwide registration
requirement for UAS operators, NCSL supports the delegation of this authority to states
in order to more effectively and efficiently capture all users. Further, NCSL strongly
believes in the need for federal and state governments to work together to manage the
organized deployment of recreational and commercial UAS and that states should be
allowed to conduct enforcement of federal UAS rules if they so choose and that the
federal government should ensure adequate resources be available to states for proper
enforcement.

Other
Federal support for research and development of facilities and equipment is critical to
meet the demands of the next century’s air travelers. Reforms in the FAA technology
procurement process should be considered.

NCSL urges Congress to act expeditiously on program reauthorizations so as to ensure
continuity and to minimize negative effects bred by short-term extensions of critical
programs.

Airport Infrastructure Funding
The National Conference of State Legislatures (NCSL) fully supports the goal of ensuring
that airports have sufficient funding to meet their infrastructure needs, both to restore or
replace critical facilities that are coming to the end of their useful lives and to build new
infrastructure to enhance safety, security, and capacity to allow for expansion of air
service and increased opportunities for competition among airlines. To achieve this goal,
it is essential that Congress maintain existing levels of federal grant funding, and raise
the federal cap on Passenger Facility Charge (PFC) user fees, which are locally imposed
and dedicated to capital improvements within the local airport system. Therefore, NCSL
believes that Congress should continue to fully fund the Airport Improvement Program
(AIP) at authorized levels annually on a multi-year basis and increase the federal limit on
individual Passenger Facility Charge (PFC) user fee to keep up with inflation, to help
ensure that airport operators have sufficient funding to implement needed safety, security, capacity and noise projects at their airports.
In order to fully secure the further benefits that only a national energy policy can ensure, NCSL urges Congress to direct the U.S. Department of Energy through the national laboratories and technology centers to develop a national energy strategy for moving the United States toward independence from non-North American energy sources. The development of this strategy should be done in partnership with state governments and universities to leverage the work which has already been done and should encompass short, medium and long-term goals designed to help transition the nation to a more secure and financially stable future configuration that is drastically more independent of non-North American energy sources.

The NCSL believes a considerable effort needs to be undertaken at the federal level in partnership with state, local and tribal governments to help bring about a more secure and sustainable energy future. To that end NCSL urges action by Congress and the administration to:

- Promote enhanced efficiency and conservation in the use of our energy resources.
- Establish a diversified national energy.
- Encourage and assist in the development of enhanced oil and gas refining capacity and technology.
- Support domestic energy production and reduce imports.
- Regularly reviews and updates CAFE standards.
- Accelerate research and development of advanced clean energy technologies.
- Promote the development of an infrastructure to support the distribution of clean energy technologies.
- Ensure energy resources are used in a sustainable and environmentally sound manner.
• Support investment in the national academic and job training systems to advance science and engineering curricula for the purpose of creating a highly skilled and trained workforce.

• Address the limitations of the visa system that restricts entry to the United States of leading scientists and engineers from around the world.

• Address the capital, material and labor deficiencies affecting our ability to manufacture and deploy advanced clean energy technologies.

• Accelerate the deployment and use of alternative transportation fuels to begin to eliminate the nation’s dependence on foreign sources of oil.

The U.S. Department of Energy and the U.S. Environmental Protection Agency should work in partnership with states to:

1. Develop and implement state and federal energy policy planning processes.

2. Deploy new energy efficiency and other demand-side options, as well as deploying new and conventional supply-side technologies.

3. Provide sufficient funding to states as they develop energy policies on an individual or regional basis.

4. Provide assistance, when requested, as states attempt to solve their energy problems.

**NCSL Believes**

States should have the option and authority of being represented in Regional Transmission Organizations (RTOs) on a voluntary basis. Such participation should not supersede nor alter state jurisdiction, unless agreed to by the state.

Congress should facilitate the development of state-created regional mechanisms like interstate compacts and regional reliability boards designed to address transmission reliability, problems related to the interconnectedness of the energy grid, environmental impact of generating electricity, and other regional energy.
Energy facility siting should remain under state jurisdiction devoid of federal mandates and preemption; Electric facility siting authority should remain under state authority.

The federal government should not exercise its power of eminent domain in its pursuit of constructing energy facilities or related purposes.

To the extent to which federal activity has restricted state authority over electric facility siting, specifically electricity transmission lines, the federal government should work together with the states to ensure a seamless system of regulatory action and minimize the necessity for the federal backstop to be used.
The National Conference of State Legislatures urges the federal government to continue working cooperatively with state, local, and tribal governments to develop, implement and maintain an expansive, integrated, environmentally-sensitive and cost-effective national energy policy.

Principles

NCSL believes the following principles should guide the federal government’s development and implementation of a national energy policy:

- Promotion of the most efficient and economical use of all energy resources.
- Promotion of energy conservation and efficiency and the development and use of alternative and renewable energy supplies.
- Promotion and provision of incentives for the development and optimal use of all energy resources and new facility infrastructure.
- Assurance that various domestic energy sources are continually developed, maintained and stored to prevent supply emergencies and promote energy independence.
- Consideration and assessment of environmental costs and benefits for all energy resources, fuels and technologies in rendering legislative, regulatory and market decisions regarding energy production and use.
- Provision of an affordable and reliable energy supply for all citizens.
- Examine the feasibility of, and where feasible, promote statewide or regional minimum storage level requirements for heating oil for states dependent on this fuel.
- Specification and balancing of clear lines of local, state and federal regulatory authority.
Promotion of continued investments in electric power grid infrastructure to make it more efficient and resilient and recognize the value of the electric power grid as an asset that must be maintained, improved and supported by all of those who use and operate the grid.

Development of both short- and long-term strategies to provide adequate energy supplies, efficient utilization of those supplies and optimum cost effectiveness.

Promotion of the education of school-age children regarding energy resources, consumption, conservation, and production and regarding environmental protection, safety and risks in energy production.

Assurance of expanded energy research and development and broadening of the citizenry’s access to energy-related information.

Assurance of participation of state and local officials in the development and implementation of a national energy plan and strategy.

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

**Implementation**

NCSL believes development of a national energy strategy by the federal government should contain at a minimum these components:

- An assessment and forecast of our nation’s energy future and its impacts.
- An evaluation and ranking of short and long-term energy options available to the nation.
- An evaluation of possible energy futures which provide greater benefits to our citizens.
- The development of recommendations for energy options and energy futures that the nation should pursue, with the establishment of national targets or goals.
- An evaluation and recommendation of implementation mechanisms including, but not limited to, incentives, technical assistance, educational programs, regulatory standards or guidelines to achieve the targets or goals.
• Considers energy sources based on the lowest cost, cost benefit analysis, revenue loss, cost to consumers, reliability, and environmental or other impacts. Additionally, energy policy alternatives that would improve our energy security without imposing significant new costs, while balancing the need for environmental protection, should be implemented.

• A coordinated effort between state and federal government in the development of producing a national energy policy where the federal government consults closely with state legislatures, devising mechanisms to bring state legislatures into the energy decision-making process as full participants on a continuing basis and ensuring the inclusion of representatives of the legislative branch of state government in all state-federal working groups dealing with energy policy.

Conservation and Energy Efficiency
NCSL supports a national energy policy that promotes energy efficiency in a variety of ways including both setting and strengthening policies as technologies improve while recognizing the significance of economic costs on various segments of the population including rural areas. NCSL supports the use of:

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

• Energy efficiency provisions in model building codes (including lighting efficiency standards and weatherization).

• "Whole-building" and life cycle costing approaches to construction and retrofitting that integrate energy efficiency technologies and practices.

• Home appliance and heating and cooling unit efficiency standards.

• Waste recycling and reduction standards for industrial manufacturing.

• Standards for conservation in electrical production and supply including cogeneration.

• Use of alternative energy.

• A national transportation policy that emphasizes various modes of transportation, including passenger rail and transit, as well as promoting energy efficiency.
New Source Review Program (NSR)
NCSL urges the Environmental Protection Agency (EPA) to reform the NSR program to achieve improvements that enhance the environment and increase production capacity, while encouraging efficiency, fuel diversity and the use of resources without weakening the requirements intended to reduce emissions from new or modified sources of air pollution. Routine maintenance, repair or replacement activities which are not major modifications should not trigger NSR requirements.

Government Support for Renewable Energy and Energy Efficient Products and Industries
NCSL believes that the federal governments’ leadership role in the purchase and use of new energy efficient and renewable energy technologies and products should be expanded and supports federal incentives for consumers to purchase energy efficient products. The federal government should continue to establish incentives for energy efficient fleet procurement industries and manufacturers of energy efficient products as well as continue to encourage the use of innovative financing technologies to increase energy efficiency in buildings such as performance contracting and long-term leasing and purchase agreements for energy efficient products. All government-owned buildings should make use of economical energy conservation programs, demonstrating state of the art efficiencies whenever possible.

Renewable Energy
NCSL believes that as part of a national energy policy the federal government should recognize a spectrum of renewable energy resources including, but not limited to geothermal, hydropower, biomass, wind, photovoltaics and solar. Further, the federal government should institute a long-range, stable Renewable Energy Development Program which identifies and supports development of renewable energy sources from research and development through demonstration projects and commercialization in a cooperative effort among industry, higher education, and national laboratories.

NCSL recommends that:
Federal action should be flexible, allowing for a range of complementary strategies at the state and federal level maintaining a strong role for state government in any federal action.

- Federal legislation should provide states the authority and flexibility to work within an overall framework that affords states the ability to choose from a range of options & apply the law effectively in the most cost effective, timely and efficient manner for each state.
- Federal legislation should not pre-empt state governments from enacting stricter or stronger measures within their jurisdiction.
- Congress must authorize and appropriate sufficient funds for state and federal governments to implement any federal legislation. These funds should be newly authorized appropriations, not reprogrammed resources.

Energy Emergency Preparedness

NCSL believes that the federal government should support and enhance energy emergency preparedness in order to reduce the potential impact of petroleum supply disruptions.

A national energy emergency preparedness program should include the following principles:

- Initial efforts should focus on strategies to reduce the nation's dependence on foreign oil to avoid future emergencies.
- Voluntary conservation is preferred to mandatory measures, wherever possible.
- When any mandatory responses are required, they should be phased in, beginning with the least stringent measures, with gasoline rationing reserved for only the most severe shortage.
- Minimize undue hardships on states and regions heavily dependent on motor vehicle transportation with rationing allotments and allocation plans based on state and regional needs and strategies rather than national averages.
- Priority shall be given to home heating needs including home heating oil and propane, provided homes are adequately insulated.
NCSL believes changes need to be made at the national level by the federal government to ensure that the country has sufficient, affordable supplies of energy, by encouraging more efficient use of energy to reduce U.S. reliance on foreign oil. As such, federal investments in both energy efficiency and research in developing new and alternative energy technologies should figure significantly in a national energy policy.

**Coal**

NCSL believes the federal government should support the efficient, responsible production and utilization of the United States vast resources of coal, as the largest reserves of any nation in the world, and the strategic global economic advantage it provides.

- Provide continued support for Clean Coal Technology research, in partnership with the private sector. Such support, through additional research and technology development in clean coal usage, should include work in pre-combustion, combustion, post-combustion, and coal conversion areas with desulfurization efforts a top priority.
- Jointly address transboundary environmental issues with Canada and Mexico.
- Continue to support the acid rain program of the Clean Air Act of 1990 that phases in reductions in emissions from coal burning power plants.
- Seriously consider coal gasification as an alternative to the use of coal in a conventional manner.
- Concurrently reclaim and restore mined lands to an environmentally appropriate condition.
- Consider the effects on local infrastructure needs and the costs of prime farmland protection and land reclamation in the development of a national coal program.
- Accelerate the financing of activities under the abandoned mine reclamation fund and a federal commitment to reclamation should be strengthened.
- Avoid adopting federal policy that has implications for land development or management without accommodating the laws and policies of affected states.
Crude Oil

NCSL believes the federal government should promote and encourage domestic production of crude oil in an efficient and environmentally sound manner in order to both supply United States consumers with a secure source of petroleum as well as provide a stabilizing influence on the global price of crude oil. As such, the extraction and transportation of crude oil must be done only with safeguards for the protection of the environment. The federal government should consider incentives for domestic exploration, maintenance of stripper wells, but excluding other extractions, and technological research for methods of enhanced oil and gas recovery that are environmentally safe and in accordance with state policy as well as an increase in research and development in the area of new energy generating technologies including but not limited to biofuels, electric cars, fuel cells, hybrid engines, and alternative fuels particularly for transportation.

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

Natural Gas

NCSL believes the United States should encourage domestic production of natural gas in an environmentally sound manner. The federal government should adopt legislation that funds and authorizes states to assume a more prominent role in the regulation of pipeline safety. A partnership with the federal government will enhance the safety of pipelines and the protection of residents by decreasing the risk of pipeline accidents.

State Primacy in Regulation of Oil and Gas and Production Wastes

Since oil and gas exploration and production occur in several different states in distinct regions, NCSL believes that primary responsibility for the regulation of used oil and of oil and gas exploration and production wastes is best handled by the affected state to accommodate site-specific conditions and environmental considerations should not be preempted by federal legislation or regulation. As such, NCSL supports the continuation
of exempting used oil and waste generated in oil and gas exploration and production
from classification as hazardous waste under the Resource Conservation and Recovery
Act (RCRA).

Revenues from On-Shore and Outer Continental Shelf Drilling
The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et. seq.),
requires 50 percent of the revenues from federal on-shore drilling is paid to the state in
which the lease is located and ensures that state legislatures shall direct the use of
these funds.

- NCSL supports the state legislatures' role in the appropriation of these funds.
- NCSL opposes any effort by Congress or the Administration to reduce the
  revenue share paid to states in an effort to off-set federal expenditures on a
temporary or permanent basis.

NCSL does not support or oppose additional exploration or production on the Outer
Continental Shelf (OCS). However, to the extent that mineral extraction occurs,
Congress is urged to:

- Authorize and appropriate 50 percent of the Outer Continental Shelf (OCS)
  revenues to the states.
- Ensure the state legislatures' participation in the appropriation of these funds.
- Provide state lawmakers the flexibility to target these funds to their respective
  state's natural resource priorities.
- OCS revenue sharing with the states should be in addition to and not replace
  other Federal funding programs.
- Preserve state authority to impose moratoriums on or allow for mineral
  exploration, development and production activities on the OCS.
- Lift federal fees charged to states for use of sand, gravel and shell resources
  taken from the OCS for use in beach nourishment and other coastal erosion
  mitigation activities.
- Give states full review of development and production of mineral resources on
  the OCS.
NCSL believes that,

- The federal government should recognize that nuclear energy generates an essential share of the nation’s clean, non-emitting, zero carbon baseload electricity.
- The Nuclear Regulatory Commission (NRC) should provide strong, independent oversight of all commercial nuclear plant operations, including plant licensing (both license extensions, where appropriate, and over the ongoing construction of new reactors) and used fuel and radioactive waste management, transportation and disposal, to ensure public health and safety. The rigorous NRC safety review process already employed in certifying new reactor designs should be maintained as additional designs are considered.
- The federally-supported public-private partnership that is pursuing the design, development and licensing of Small Modular Reactors should focus on maximizing the economic development and positive trade balance potential of this emerging technology. The federal government should assist the ongoing efforts of various states to establish U.S. leadership in this promising market.
- A federal government program for the long-term treatment and disposal of used nuclear fuel and high-level radioactive waste, already funded by nuclear utility ratepayers, should be pursued with the highest priority given to the safe reprocessing or transportation of waste and to the safety and technical suitability of storage or disposal sites. Such a program should be developed in full consultation with all of the affected states.
- Meaningful and effective state participation is necessary in public safety planning and transportation of commercial used nuclear fuel and high-level waste.
- The recommendations of the Blue Ribbon Commission on America’s Nuclear Future appropriately comport with the longstanding position of NCSL in favor of a path forward for used fuel. In particular, NCSL favors: creation of a public-private partnership to manage the back end of the nuclear fuel cycle; assurance that ratepayer contributions to the Nuclear Waste Fund be available solely for their intended purpose; establishment of one or more NRC-licensed centralized
interim used fuel storage facilities in willing host communities and states (with consultation of all state, local and tribal officials and other interested parties).

- States must continue to have the right to monitor operating conditions at nuclear power plants, waste storage and disposal facilities, and to exercise regulatory authority where consistent with federal law.
- Federal funding should complement private sector investments in the areas of waste management technologies, nuclear fusion, and plant retrofit and life extension.
- The tax treatment of federal decommissioning funds should be updated to ensure that existing funds are treated in the manner intended by the tax laws and to reflect new business conditions.

The Electric Power Grid

NCSL believes that the federal government should promote policies which recognize that:

- Reliable electricity supply depends in part upon modernization of the electric power grid, and that in order to meet current and future demands for electricity, investments in the electric power grid will need to be made.
- Electric power grid investments funded wholly or in part by retail ratepayer dollars should be just and reasonable, and properly balance the needs of all consumers, as well as the needs of electric utilities and grid operators.
- Electric power grid investments provide benefits to consumers. NCSL recognizes the potential for electric power grid investments to provide for a more resilient power system, increase operational efficiencies, increase electric grid reliability, reduce outages, reduce outage restoration time, improve power quality, reduce peak demand, improve overall system efficiency, provide consumers with new information and tools to voluntarily control their own energy costs, integrate an increasingly diverse set of energy resources and enable economic growth and innovation.
- Electric utilities are responsible for ensuring that electric power grid technologies are deployed in a manner consistent with reasonable and effective cyber and
physical security best practices. Systems should be designed to mitigate risks
and enhance the resiliency of the electric power grid, and preserve the accuracy,
integrity and privacy of data.

Electricity
NCSL believes that the federal government should promote

- Energy efficiency and conservation to lower the demand for electricity.
- The development of sources of electric energy that are sufficient to meet national
  needs, secure from external threat, reliable in availability and delivery, safe
  relative to people and the environment, and efficient for use in homes,
  businesses, industries, and as an alternative vehicular fuel.
- The implementation of aggressive efficiency and conservation programs are
  implemented.
- Legislation that recognizes the tremendous regional diversity, especially with
  regard to capacity of the electricity sector

Public Benefits/Environment:
NCSL believes that:

- States should maintain the authority to require public benefits programs on a
  nondiscriminatory basis, including those that support reliable and universal
  service, energy efficiency, renewable technologies, research and development,
  and low-income assistance. Additionally, existing federally sponsored public
  benefits programs should be maintained in a restructured market and electric
  industry restructuring should be consistent with any federal environmental laws,
  including the Clean Air Act.
- Implementation of federal legislation that fails to recognize market mechanisms
  inevitably penalizes one region or state or another and that mandate programs
  are counter to the concept of restructuring, which encourages the efficiencies of
  market competition.
- As states are in the best position to evaluate market force considerations,
  Congressional legislation should not limit, through the use of mandates or
otherwise, state flexibility in addressing market mechanisms in electric
restructuring plans.

- The federal government should encourage nontraditional energy production and
the federal government must maintain and increase its commitment to cost
effective energy conservation and efficiency while maintaining adequate and
reliable energy. As such, power providers, equipment and appliance
manufacturers, and consumers should be given legislative and regulatory
incentives to promote these goals.

**Consumer Protection and Education:**

NCSL believes that:

- The federal government should assist states to ensure the safety, reliability,
quality, and sustainability of services be maintained or improved, and that all
consumers have access to adequate, safe, reliable, and efficient energy services
at fair and reasonable prices, as a result of competition.

- States should retain the authority, with the assistance of the federal government
as needed, to protect consumers from anticompetitive behavior, undue
discrimination, poor service, market power abuses, and unfair service practices.

- States should maintain their authority to establish or require comprehensive
consumer education and outreach programs to minimize public confusion and
provide information so consumers are able to make informed choices and
participate effectively in a restructured market.

**Regulatory Authority**

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

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

NCSL acknowledges the need for a robust national transmission system that can support new technology and allow for additional power production to be brought onto the grid. NCSL urges Congress to allow provisions included in the 2005 Energy Policy Act relating to state authority of liquefied natural gas terminal siting to be implemented and studied before any attempt is made to expand the preemption to further limit the state role in siting of these energy infrastructure components. NCSL opposes any such expansion of these provision but urges Congress at a minimum to allow for the complete implementation of the new standards before re-addressing the issue.

Research and Development

NCSL believes that the cornerstone of a national energy policy should include a broad research and development component. Specifically, federal government research and development funds for clean coal, nuclear research, basic science and related efforts ought to be continued. However, these efforts should be supplemented with increased long-term incentives and federal funding for research and development projects emphasizing emerging technologies, including, but not limited to, renewable resources, energy conservation, efficient use of energy, alternative fuels, oil and gas recovery, superconductivity, and fuel cell technology and should be designed to encourage private sector participation with federal and state representatives. NCSL urges Congress to provide explicit recognition in the Internal Revenue Code that sustainable energy (conservation, efficiency and customer sited renewable) is a private activity serving a public good.

NCSL encourages federal development of alternative technologies that improve renewable energy efficiencies, cut costs, and assist in integrating renewable energy into existing energy systems. The implementation of federal standards for the deployment of these new technologies should not undermine established programs at the state level to
integrate these resources into existing energy systems. NCSL also believes in the need
for a translation and distribution system for international technical and marketing papers
on renewable energy and that the U.S. should strive for excellence in the use,
manufacturing and marketing of renewable energy resources and technologies.

Wave Energy and Tidal Energy
NCSL strongly believes that the federal government should increasingly encourage all
forms of renewable energy, including avenues of renewable energy that are not
currently in the forefront; specifically wave energy, wave farms, and tidal energy.

NCSL requests that the federal government demonstrate global leadership and:

• Recognize the importance of wave energy and tidal energy to the future of the
  United States;
• Support the research and development of advances in wave energy and tidal
  energy technology, including the ability to tow and set up the equipment in the
  oceans through loan guarantees, grants and tax incentives;
• Research and create a “Wave Hub,” or similar infrastructure necessary for
  integrating wave- and tidal-energy production facilities into the national grid; and
• Encourage the demonstration and deployment of wave energy and tidal energy
  beyond the limited scope of R&D to ensure competitive and equitable access for
  wave- and tidal-energy projects and provide a fair opportunity to supply the
  nation with a reliable and renewable energy.

Education and Information
NCSL believes that it is essential that the federal government work to ensure that the
nation, including its elementary and secondary school-age children, are fully aware of
energy use and costs, production processes, alternative energy resources, the
importance of energy efficiency and conservation and the impact energy usage has on
our environment. NCSL recommends that the federal government initiate, expand and
appropriately fund public and private sector education efforts.
The federal government should promote both energy conservation education and fund research into conservation technologies while federal funding of energy conservation programs, including grants to states, should be enhanced. Such efforts should emphasize that significant economic and environmental benefits can be achieved through increased efficiency and conservation.

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

**Transportation**

NCSL believes that national transportation strategies must include public policy initiatives directed at broadening the efficient use of our energy resources. As such, federal policy initiatives should include, but not necessarily be limited to:

- Incentives and adequate funding for mass transit, high speed rail, magnetic levitation and other emerging transportation technologies.
- Fuel economy standards; and other market incentives for improving the energy efficiency of automobiles and light trucks.
- Procurement policies favoring efficient vehicles.
- The encouragement of public-private partnerships.
WHEREAS, Drones as First Responders (DFR) is a program whereby first responders’ drones are pre-positioned in a service area, ready to be launched immediately in response to an emergency call for service; and

WHEREAS, once overhead, the drone live-streams the video to responding first responders and communications centers; and

WHEREAS, DFR has proven to be an efficient and effective way of providing public safety with critical information increasing situational awareness and providing de-escalation strategies keeping both first responders and the community safe; and

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures urges Congress to require the Federal Aviation Administration (FAA) to establish a regulatory pathway for certification or approval of Beyond Visual Line of Sight Operations (BVLOS) for Unmanned Aircraft Systems for first responders to support DFR programs around the country.
WHEREAS, Chronic Wasting Disease (CWD) affects cervids such as deer, elk, and moose and has been detected in at least 29 states, according to the Center for Disease Control’s (CDC) March 2023 survey; and

WHEREAS, the states currently grappling with CWD are incurring significant costs to respond to the disease, often requiring the wildlife management agencies and research universities to divert limited resources from other vital activities; and

WHEREAS, these diseases create great suffering and death of wildlife and threaten to infect more animals and impact ecosystems and economies; and

WHEREAS, recent research indicates CWD may be spread by ticks, and has the potential to jump into human populations; and

WHEREAS, the CDC recommends not eating CWD infected deer; and

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures urges Congress to provide states with additional flexible federal funds for research and response to emerging wildlife diseases, in order to effectively address this multi-state wildlife disease crisis and enable states to assure their wildlife populations are healthy. These funds must be provided without federal mandates on state wildlife management; and

BE IT FURTHER RESOLVED, the National Conference of State Legislatures supports National Institutes of Health funding to examine human health impacts from CWD.