



Policy Directives and Resolutions for Consideration

**2023 Legislative Summit
Indianapolis, Indiana**

CONSENT CALENDAR

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1 **COMMITTEE: BUDGETS & REVENUE COMMITTEE**

2 **POLICY: SUPPORT FOR THE INVESTING IN OUR**
3 **COMMUNITIES ACT**

4 **TYPE: CONSENT**

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

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

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

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

16 NOW, THEREFORE, BE IT RESOLVED that the National Conference of State
17 Legislatures urges Congress to pass legislation that restores the ability of states to
18 finance public infrastructure that is cost-effective and consistent with NCSL principles of
19 preserving fiscal viability and tax reform.

1 **COMMITTEE: BUDGETS & REVENUE COMMITTEE**

2 **POLICY: STATE AND FEDERAL BUDGETING: PRINCIPLES**
3 **FOR FUNDAMENTAL TAX REFORM**

4 **TYPE: CONSENT**

5 It is the policy of the National Conference of State Legislatures to advance and defend a
6 balanced, dynamic partnership among local, state and federal governments.

7

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

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

13

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

16

17 **General**

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

30

31 **Transition**

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

41

42 **Do No Harm**

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

50

51 **Tax-Exempt Financing/Bonds**

52

- 53 • Preserve tax-exempt financing for infrastructure and capital projects, including
54 the use of public-private partnerships.
- 55 • Maintain the tax-exempt status of state and local government bonds and lift
56 existing restrictions on state and local government use of tax-exempt bonds.
- 57 • Avoid provisions that weaken the fiscal integrity of state and local governments.
58 This includes: the arbitrage rebate provisions, which essentially are a one-
59 hundred percent tax on the interest income of state and local governments; the
60 alternative minimum tax, which now taxes interest from otherwise tax-exempt
61 bonds; volume caps, which have unduly restricted the use of bonds for projects

62 that have increasingly become governmental responsibilities; and restrictions on
63 advance refunding which increases the cost of government.

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

66

67 **Enforcement**

- 68 • Increase enforcement efforts of the federal income tax laws so individual and
69 business taxpayers are not bearing the burden of those who fail to pay owed
70 taxes.

- 71 • Continue to take into account states' reliance on federal tax rates and federal
72 collection efforts.

73

74 **Payment in Lieu of Taxes**

75 The National Conference of State Legislatures supports federal efforts to:

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

85

86 **State Legislators' Tax Issues**

87 The National Conference of State Legislatures supports the standard deduction allowed
88 state legislators under section 162 (h) of the Internal Revenue Code. Regulation,
89 interpretation, or other statutes should not undermine the section. Regulations
90 implementing this code section should reflect the intent of Congress and should include
91 the following recommendations:

- 92 • A "session day" should mean a day in session as defined by the laws or rules of
93 the state of residence of the legislator.
- 94 • A "committee" of the legislature should mean 1) a committee of one or more
95 legislators conducting the business of [or reporting to] the legislature, or 2) a
96 committee created by state or federal statute, resolution, order or rule on which
97 the legislator serves in his or her capacity as a legislator. This definition of
98 "committee" should include caucuses that conduct the business of the
99 legislature.
- 100 • "State legislator" should include newly-elected legislators who attend official
101 organizational meetings prior to administration of their oath of office.

102

103 **Other**

- 104 • Prohibit further preemption of state courts by refusing to give federal courts
105 jurisdiction to establish the valuation of property for state and local tax purposes
106 or by refusing to give selected classes of state and local taxpayers procedural
107 and substantive privileges unavailable to most taxpayers.
- 108 • NCSL also encourages Congress and the administration to review the Railroad
109 Revitalization and Regulatory Reform Act (4-R Act) to determine if the courts
110 have expanded the 4-R Act beyond the original intent of Congress and reject
111 federal legislation that would extend to other industries 4-R type benefits.
- 112 • NCSL requests the federal government to respect the sovereignty of states to
113 allow or prohibit games of chance or skill. Any effort by Congress or the
114 administration to reform this regulation preempts states and diminishes the
115 flexibility of state legislatures to use this mechanism as a revenue-related tool to
116 meet the unique needs of residents of each state.
- 117 • To address the evolution of remote work and its impact on state budgets, any
118 comprehensive federal tax policy shall allow state legislatures to collect tax
119 revenue without providing an unnecessary burden on states, taxpayers and
120 businesses.

1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**
2 **INTERSTATE COMMERCE**

3 **POLICY: ONLINE CHILD PRIVACY PROTECTION**

4 **TYPE: CONSENT**

5 **Whereas**, the internet presents certain risks for children under the age of 13 years who
6 may not be able to recognize dangerous situations online.; and

7

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

14

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

20

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

25

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

28

29 **Now therefore be it resolved** that, given that Congress has already established a
30 baseline structure for regulating content shown to children, and that there is a federal

31 agency in place to establish a regulatory framework, NCSL supports updating COPPA to
32 reflect current concerns, encouraging compliance within the private sector, and creating
33 reasonable federal standards to better protect children's data that recognize important
34 state interests and do not preempt state laws or create unimplementable, burdensome,
35 or costly mandates for states.

1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**
2 **INTERSTATE COMMERCE**

3 **POLICY: SUPPORTING THE AFFORDABLE CONNECTIVITY**
4 **PROGRAM (ACP) THROUGH PERMANENT**
5 **CONGRESSIONAL FUNDING**

6 **TYPE: CONSENT**

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

9
10 **Whereas**, Congress created the Affordable Connectivity Program (ACP) in 2021 to
11 make broadband service and connected devices available to lower-income households
12 at discounted prices from providers that opt to participate in the program; and

13
14 **WHEREAS**, ACP has enabled low-income individuals and families to access online
15 educational resources, gain employment opportunities, access vital services such as
16 telehealth and government assistance, and participate in our civic life; and

17
18 **Whereas**, as of July 2023, more than 19 million low-income American households rely
19 on support from ACP for access to the internet, and growing, many of whom receive
20 broadband access effectively free after the ACP discount; and

21
22 **Whereas**, after state and federal broadband expansion investments, the ACP will help
23 more Americans, including persons of color and residents in rural communities, stay
24 connected; and

25
26 **WHEREAS**, many states are requiring recipients of the Department of Treasury's
27 Capital Projects Funds to participate in ACP; and

28
29 **WHEREAS**, states and territories may require recipients of Broadband Equity, Access,
30 and Deployment (BEAD) funding to participate in ACP or any successor program; and

31

32 **WHEREAS**, current ACP funding could be exhausted in early 2024; and

33

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

37

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

42

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

46

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

50

51 **BE IT FINALLY RESOLVED** that a copy of this Resolution be sent to the President of
52 the United States and all members of Congress.

1 **COMMITTEE: EDUCATION**

2 **POLICY: FEDERAL EDUCATION RELIEF AID**

3 **TYPE: CONSENT**

4 WHEREAS, state legislatures have the primary responsibility for funding and governing
5 their state’s K-12 and higher education systems; and

6
7 WHEREAS, the Elementary and Secondary School Emergency Relief (ESSER) Fund
8 provided historic amounts of one-time federal funds that gave school districts, rather
9 than states, discretion over how to spend ninety percent of funds; and

10
11 WHEREAS, school districts were granted unprecedented flexibility over how funds were
12 spent; and

13
14 WHEREAS, states were expressly prohibited from directing or restricting school district
15 spending; and

16
17 WHEREAS, school districts, by recent estimates, are expected to spend close to half of
18 the total allocated local share of ESSER funds over the next year; and

19
20 WHEREAS, any pressure to rapidly draw down of tens of billions in ESSER funds may
21 exacerbate inflation and potentially encourage local spending without a clear plan for
22 sustainability; and

23
24 WHEREAS, a sudden and steep reduction in one-time funds, especially if spent on what
25 are typically considered recurring expenses, could cause fiscal turmoil in school districts
26 that state legislatures may be expected to respond to; and

27
28 WHEREAS, each state has its own unique system for funding K-12 and higher
29 education; and

30 WHEREAS, fiscal conditions can vary significantly across states, especially during
31 times of national economic emergencies; and

32

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

36

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

41

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

44

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

49

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

56

57 NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State
58 Legislatures believes the U.S. Department of Education should implement an orderly
59 and timely process for states and districts to request and receive permission for a late

60 liquidation of funds well in advance of the ESSER III obligation deadline of September
61 30th, 2024; and

62
63 NOW, THEREFORE, BE IT FURTHER RESOLVED, the Secretary of Education should
64 allow states the opportunity to seek waivers from the maintenance of effort and
65 “maintenance of equity” provisions associated with the Elementary and Secondary
66 School Emergency Relief (ESSER) Fund; and

67
68 NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State
69 Legislatures believes state fiscal requirements for education relief aid should only ask
70 states to maintain aggregate funding levels or serve as a guide for how states can make
71 cuts to education if facing revenue declines.

72
73 NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State
74 Legislatures believes state fiscal requirements should not be used to compel states to
75 make fiscal or policy decisions beyond the purposes enumerated above, which includes
76 requiring states to increase funding for education or distribute funds to local education
77 agencies by methods other than a state’s statutorily defined school funding formula.

78
79 BE IT FINALLY RESOLVED, that NCSL send a copy of this resolution to Members of
80 Congress and the U.S. Department of Education.

1 **COMMITTEE: EDUCATION**

2 **POLICY: SCHOOL SAFETY AND STUDENT MENTAL**
3 **HEALTH**

4 **TYPE: CONSENT**

5 Youth mental health, along with school safety and security, are perennial challenges
6 faced by our nation. State legislatures recognize the need for increased school safety
7 for children and educators in their state, as well as the increasing demand for mental
8 health services and support.

9

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

17

18 The federal government should not mandate or incentivize specific strategies or
19 approaches to school security and student mental health. When emergencies warrant
20 the swift provision of federal resources to support school security and student mental
21 health, funds should be distributed through existing programs or provided through
22 flexible block grants to states.

1 **COMMITTEE: EDUCATION**

2 **POLICY: THE STATE-FEDERAL PARTNESHIP IN**
3 **ELEMENTARY AND SECONDARY EDUCATION**

4 **TYPE: CONSENT**

5 Elementary and secondary education policy is defined broadly by state constitutions,
6 specified by state statutes and implemented by state agencies, school boards and local
7 school districts. State legislators believe that the federal role should be as a supportive
8 partner instead of an intrusive, top-down role. A healthy state-federal partnership in the
9 vital task of educating America’s children:

10

- 11 • Avoids unfunded and underfunded mandates, and fully funds federal
12 requirements for education programs, activities, and reporting. It is both
13 ineffective and unconstitutional to expect states to accomplish national goals that
14 the federal government is not willing to fully fund. The policies and activities
15 associated with federal education programs, regardless of federal funding levels,
16 should be encouraged and not mandated. Further, federal reporting requirements
17 should be reasonable and not require the use of funds that could otherwise be
18 spent on program delivery.
- 19 • Encourages state innovation. States are inherently more capable than the federal
20 government of moving quickly to initiate or change policies, can be more
21 sensitive to public needs and can generate broader buy-in for policy changes
22 from local school districts. State flexibility, in addition to being an effective means
23 of making public services more cost effective, provides an opportunity for state
24 legislators to integrate federal, state and local programs into a coordinated
25 system.
- 26 • Respects state law and avoids inappropriate federal preemption. Creative
27 solutions to public problems can be achieved more readily when state laws are
28 accorded due respect. Any attempt to preempt should be balanced against the
29 potential loss of accountability, innovation and responsiveness. Unless a clear
30 and compelling case for national uniformity exists, every effort should be made to

31 allow state governments to respond without federal intervention to local
32 conditions. The federal government should specifically restrain involvement in the
33 following respects:

- 34 ○ State academic standards. State legislators support the adoption and
35 implementation of high-quality and rigorous state academic standards as
36 determined by state policymakers. The federal government should not--
37 through legislative or regulatory action or funding opportunities--mandate,
38 direct, control, coerce or incentivize states to adopt a national set of
39 common academic standards. State participation in consortia and other
40 multi-state collaborations should remain voluntary and the federal
41 government should refrain from conditioning the receipt of grant funding
42 upon adoption of common academic standards.
- 43 ○ State academic assessments. State legislators support the adoption and
44 use of high-quality assessments aligned to state-determined academic
45 standards. The federal government should not--through legislative or
46 regulatory action or funding opportunities--mandate, direct, control, coerce
47 or incentivize states to adopt a common assessment. State participation in
48 consortia and other multi-state collaborations should remain voluntary,
49 and the federal government should refrain from conditioning the receipt of
50 grant funding upon adoption of a common assessment.
- 51 • Recognizes that K-12 education is predominantly a state and local financial and
52 legal responsibility. Federal government spending is less than 10% of the
53 nationwide K-12 budget and should not be used to exercise a disproportionate
54 impact on education policy at the state and local level.
- 55 • State legislatures have plenary authority over their systems of finance for
56 elementary and secondary education. Federal grants should not be conditioned
57 in any way that would alter or amend a state's school finance methodology.
- 58 • Preserves and respects state flexibility to implement and administer new block
59 grants. If categorical federal education programs are consolidated into block
60 grants, these grants should:

- 61 ○ Include legislative language stating that block grant funding should be
- 62 expended according to state law,
- 63 ○ Not limit states to the kinds of activities funded under corresponding block
- 64 grants for past categorical programs, and
- 65 ○ Provide adequate federal funding to assure the continuation of services.
- 66 • Maintains steady resource streams, such as formula funding, as the primary
- 67 funding source for state education aid.
- 68 • Distributes competitive grant funds, when appropriate, for targeted purposes, in a
- 69 transparent and consistent process.
- 70 • Respects state budget processes. Federal funds should be incorporated into
- 71 state budget processes for open hearings and deliberations. Federal
- 72 funding going directly to state or sub-state bureaucracies or agencies should not
- 73 bypass state legislative appropriations and oversight procedures. Takes into
- 74 consideration state appropriation and legislative calendars. Sufficient time must
- 75 be allowed for states to implement new federal legislation and regulation.
- 76 • Maximizes state flexibility to implement and administer federal programs through
- 77 a streamlined waiver process. This is critical to ensure that states are not unduly
- 78 burdened by federal regulation or legislation.
- 79 • Provides opportunity for ongoing communication with and technical assistance
- 80 from the federal government in lieu of federal regulatory action.

81

82 Acknowledges the constitutional and statutory authority over education policy that rests
83 with the state legislatures by ensuring state legislators are represented in all “timely and
84 meaningful” consultation requirements in the creation or reauthorization of any federal
85 law relating to elementary and secondary education.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: CHILD SUPPORT SERVICES ADMINISTRATION AND**
3 **ENFORCEMENT**

4 **TYPE OF POLICY: CONSENT**

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

8 NCSL supports:

- 9 • Effective coordination of all programs and organizations working on child support
10 enforcement, including state policymakers, state and Tribal courts, local and state bar
11 associations, district and state attorneys, local and state child support directors, local
12 law enforcement officials, educational institutions, family and child support advocacy
13 groups, tribes, and programs that work with both parents.
- 14
- 15 • Innovation and adaptability to individual state needs, while still providing oversight.
- 16
- 17 • Flexibility for states to reinvest child support penalties in the child support system as a
18 way for states to ensure compliance with federal expectations, including investments in
19 related technology.
- 20

21 **Program and System Improvements**

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

- 23 • Support child support initiatives that allow maximum flexibility for states, reward new
24 initiatives and encourage state experimentation and innovation.
- 25 • Continue to support technical assistance to the states with respect to best practices,
26 procedures, and legislation.
- 27 • Regularly communicate with state legislators, particularly through the regional offices
28 and relevant action transmittals.

- 29 • Continue to provide the federal parent locator service free of charge to states that use
30 the service.
- 31 • Provide states with flexibility if any additional mandatory program requirements are
32 adopted as amendments to the existing Child Support Enforcement program including:
33 (1) a reasonable transition period; (2) waivers to permit states to address state specific
34 problems with program requirements; and (3) flexibility for states to implement
35 innovative alternatives that still meet the goals of the program; (4) ensuring that any
36 federal legislation that results in increases of Title IV-D state child support program
37 costs or reduced state child support program revenue also includes a fully offsetting
38 increase in federal funding so that state child support programs and services to families
39 are not adversely impacted.
- 40 • Support proposals that would put states on a phased-in schedule of improvement that
41 would use current-year levels of paternity establishments as the base and would require
42 a reasonable schedule for improvement.
- 43 • Support an incentive approach for a permanent enhanced federal administrative match
44 for states that implements a minimum package of innovative procedures to increase
45 program effectiveness.
- 46 • Provide federal funding for federal paternity mandates.
- 47 • Allocate funds to all states on a formula basis.

48

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

50 NCSL supports:

- 51 • State flexibility to use disregards innovatively including the option for states to use a
52 disregard as a minimum financial incentive for recipients of Temporary Assistance to
53 Needy Families (TANF) to participate in the child support program.
- 54 • State flexibility to permit families to keep more of the money collected on their behalf
55 whether on or off public assistance. However, NCSL strongly urges the federal
56 government to share in the cost of this forgone revenue.

- 57 • More efficient and innovative outreach efforts to include a greater number of recipients
58 receiving child support enforcement assistance, particularly for families transitioning
59 from welfare to work and ultimate self-sufficiency.
- 60 • Federal approval to provide states with maintenance-of-effort credit if states choose to
61 pass-through child support to families.

62

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

65

66 **Noncustodial Parents**

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

- 69 • Ensure state legislatures have the authority to appropriate any block grant to states
70 created for the purpose of involving noncustodial parents in the lives of their
71 children.
- 72 • Support programs that improve the employment prospects for non-custodial parents
73 thereby enabling them to provide regular, on-going financial support and develop
74 strong, healthy relationships with their children.
- 75 • Support efforts to help low-income fathers, or other parents as applicable, be better
76 parents and providers.
- 77 • Count state contributions to fatherhood, or other parents as applicable, toward their
78 state maintenance-of-effort requirements under the Personal Responsibility and
79 Work Opportunity Reconciliation Act of 1996.
- 80 • Provide state flexibility in determining eligibility of program participants and to create
81 or support programs at the local level.
- 82 • Provide incentives for collaboration on the state and local level.
- 83 • Provide state flexibility to use government, nonprofit or faith-based providers as
84 states determine the best way to meet the needs of their communities.

85

86 NCSL opposes any effort to preempt state laws regarding custody and visitation.

87

88 **Arrearages**

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

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

97

98 **Family Formation**

99 NCSL supports policies that nurture economically secure families and which:

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

104

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

107 **Child Support Assurance**

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

111

112 **Appropriate Federal and State Roles**

113 NCSL urges Congress to pass and support policies that:

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

120

121 NCSL is opposed to:

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

127

128 **Child Support Incentive Program**

129 NCSL supports:

- 130 • an incentive system that rewards states for their performance and recognizes changing
- 131 caseloads.
- 132 • federal legislation to remove the provision in the Deficit Reduction Act of 2005 that
- 133 prohibits states from using child support incentive funds to match federal funds for the
- 134 program.
- 135 • a base matching rate of no less than 66 percent.
- 136 • provision of clear, understandable criteria for the incentive system.
- 137 • criteria based on performance outcomes rather than administrative procedures and
- 138 processes.
- 139 • state flexibility to reinvest in programs that serve children and families.

140

141 NCSL opposes efforts to require that incentives received by states be reinvested in the child
142 support program. This ignores state priorities and preempts state authority over these funds.

143

144 **Medical Support Enforcement**

145 NCSL continues to urge Congress to:

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

153

154 **Automation**

155 NCSL urges HHS to:

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

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: CHILD WELFARE AND FAMILY SERVICES**

3 **TYPE OF POLICY: CONSENT**

4 NCSL supports federal efforts to keep families together and promote the safety and well-being
5 of all children and youth by:

- 6 • Providing services to families at risk of entering the child welfare system.
- 7 • Providing federal reimbursement for prevention services to increase the number of
8 children who can remain safely at home with their families by providing families with
9 greater access to mental health services, substance use treatment, and/or parenting
10 skills training and support.
- 11 • Providing incentives to states to reduce placement of children in congregate care.
- 12 • Ensuring educational stability for children and youth in foster care.
- 13 • Promoting safety, permanency and well-being for children and youth in a range of foster
14 care alternatives or with adoptive families.
- 15 • Permitting children and youth to remain in or return to their homes when it is safe and
16 appropriate, and promoting kinship and guardianship placements when it is not.
- 17 • Establishing a system of family support services.
- 18 • Supporting state efforts to efficiently implement a comprehensive system of services
19 promoting and supporting child, youth and family well-being, including: housing;
20 economic supports; behavioral and physical health; education; juvenile justice; child
21 care; home visiting, family resource centers and other family support models;
- 22 • Supporting states' efforts to develop safe, age-appropriate and cost-effective
23 alternatives to foster care.
- 24 • Providing flexibility to better administer and coordinate delivery of these programs and
25 support systems and to meet locally determined community needs.
- 26 • Providing clear guidance, technical assistance and financial support for training to
27 ensure states can develop and maintain a well-qualified child welfare workforce.
- 28 • Removing federal regulatory barriers that impede states' efforts.

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

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

36 **Foster Care**

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

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

- 43 • Promptly paying state claims.
 - 44 • Refraining from imposing stringent time limitations on the submission of state claims.
 - 45 • Monitoring and reviewing state performance fairly while giving states tools for
46 improvement.
 - 47 • Defining and supporting the separation of states' reporting of foster care administration
48 activities from child placement activity accounts.
 - 49 • Entrusting states to determine when and if a congregate care setting is appropriate for
50 foster care placement.
 - 51 • Allowing states to prioritize custody and placement with family members over placement
52 in a foster home with non-relatives, unless determined by a court that placement in the
53 foster care system is in the best interest of the child.
- 54 Providing state options to use a portion of their funding for foster care maintenance
55 payments for child welfare and family services, especially when utilization of foster care
56 funds is reduced.

- 57 • Increasing the recruitment and training of foster care and special needs adoption
58 providers and supportive services inclusive of respite care.
- 59 • Supporting states in assisting transition-age-youth by:
 - 60 ○ Offering flexibility to expand services to older youth for foster care adoption and
61 relative guardianship.
 - 62 ○ Supporting programs that fund education and training for youth aging out of
63 foster care.
- 64 • Allocation of federal funds to support services for caretaker relatives.
- 65 • Providing funding for the necessary coordination of services to high-needs children and
66 families involved with the child welfare system including in the areas of health and
67 mental health care, drug and alcohol abuse treatment and services and education and
68 job training services.
- 69 • Refraining from restricting state authority to determine criteria for termination of parental
70 rights.
- 71 • Promoting policies that keep children in their own communities and schools.
- 72 • Supporting states in meeting the needs of Native American and Alaskan Native children
73 within federal and tribal government requirements.

74

75 NCSL opposes federal actions that would eliminate federal reimbursement for relative foster
76 care that is non-licensed or limits state flexibility.

77 NCSL urges Congress to separate foster care eligibility from TANF eligibility for all states and
78 move towards reimbursement for all children in care, as the states determine.

79 **Child Welfare Workforce**

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

83 **Information Services**

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

87

88 **Adoption Assistance and Services**

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

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

101

102 **Child Abuse and Neglect**

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

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

111 **Families with Behavioral Health Support Needs**

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

- 114 • Federal incentives for partnerships between behavioral health agencies and child
115 welfare agencies to conduct cross-system training of staff, improve screening and
116 assessment procedures, provide comprehensive treatment and prevention programs,
117 provide after-care services, and improve data collection and usage.
- 118 • Programs that include child care for children and pregnant mothers with substance use
119 disorders and programs that allow access to drug and alcohol treatment for pregnant
120 women.
- 121 • Federally funded programs that recognize that public policy utilizing criminal penalties
122 instead of rehabilitation and collaborative efforts can be a disincentive to women
123 seeking prenatal care, and these interventions must be properly funded and
124 implemented to prevent substance use disorder before women become pregnant.
- 125 • Employee assistance programs that support employees with a range of health, financial,
126 and social issues, including mental and/or substance use disorders.

127

128 **Family Violence Prevention**

129 NCSL urges Congress to work with states to prevent family violence by:

- 130 • Supporting state programs to prevent family violence, provide immediate shelter and
131 related services to victims, and offer trauma-informed training and technical assistance
132 to state and local agencies on program administration.
- 133 • Providing state grants to support monitored and supervised visitation, and neutral drop-
134 off and pick-up locations.
- 135 • Providing incentives for coordination between child welfare systems; domestic violence
136 programs; juvenile courts; and services to at-risk households, such as emergency crisis
137 services, in-home services and parent and family counseling.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: NUTRITION PROGRAMS AND ASSISTANCE**

3

4 **TYPE OF POLICY: CONSENT**

5 The National Conference of State Legislatures (NCSL) supports the state-federal partnership
6 to provide nutrition assistance to those in need. State legislators are concerned about the vast
7 numbers of hungry individuals, and particularly the severity of hunger among childhood and
8 aging populations. The Supplemental Nutrition Assistance Program (SNAP), The Emergency
9 Food Assistance Program (TEFAP), the Special Supplemental Nutrition Program for Women,
10 Infants, and Children (WIC), and Child Nutrition programs alleviate and prevent hunger and
11 enable families to improve their health and be more productive at school and at work.

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

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

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

24 NCSL supports U.S. Department of Agriculture (USDA) initiatives to provide administrative
25 flexibility through the waiver process by allowing states to implement administrative efficiencies
26 such as telephone interviews, utilize Combined Application projects, simplified application
27 forms, the creation of mobile-friendly software for SNAP recipients, and develop partnerships
28 with community stakeholder organizations to improve quality, efficiencies, and overall nutrition

29 access. NCSL supports additional waivers that increase administrative flexibility during a public
30 health emergency.

31 **SNAP Benefits and Program Design**

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

- 34 • Elimination of the annually indexed caps on excess shelter deductions to allow families
35 to deduct high shelter costs;
- 36 • Exclusion of the first \$150 a month by a non-custodial parent paid as child support from
37 consideration as income in determining the SNAP allotment;
- 38 • Elimination of the rules concerning the value of a vehicle that a recipient may own and
39 still receive SNAP benefits;
- 40 • Federal support and technical assistance for state outreach;
- 41 • Enhancement and simplification of application and eligibility determination procedures
42 through supporting Web-based screening tools, permitting seniors and the disabled to
43 apply at Social Security offices, reduced length application forms, and allowing use of
44 joint applications;
- 45 • Continuation of state options regarding child support cooperation as a condition of
46 eligibility for SNAP. NCSL supports the elimination of the fee for SNAP recipients' child
47 support collection efforts as a further incentive toward child support enforcement
48 participation.
- 49 • Continuation of state options to disqualify for SNAP eligible individuals who fail to
50 cooperate with child support enforcement authorities or who are in arrears on child
51 support obligation. NCSL supports this option and opposes changes that would
52 mandate these actions;
- 53 • Permit the promotion and acceptance of SNAP at farmers' markets and other non-
54 grocery store, produce-oriented venues, for example: from a small farmer; and
- 55 • Continue to support current state options regarding categorical eligibility and "heat and
56 eat."

57

58 **SNAP and Legal Immigrants**

59 NCSL supports SNAP eligibility for legal immigrant children and families. NCSL commends
60 USDA's outreach efforts to assist eligible legal immigrants, including their work to translate
61 materials into more than 34 languages. NCSL continues to support restoring eligibility to the
62 small number of legal immigrants who were not covered under previous restoration. NCSL
63 urges the administration and Congress to include state lawmakers in making decisions that
64 would alter the eligibility status for any category of immigrants legally present in the United
65 States.

66 **SNAP Employment and Training Program (SNAP E&T)**

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

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

76 **SNAP Program Quality Control (QC)/Judicial Waiver**

77 NCSL supports the original intent of quality control, which is to provide states with a
78 management tool to identify problems in public assistance administration and to facilitate
79 corrective actions. However, many problems in the current system have been documented,
80 including statistical flaws and the levying of excessive financial penalties on states. NCSL
81 strongly supports the move away from a system based on error rates to one that awards
82 bonuses for accuracy. NCSL urges the federal government to improve systems related to
83 appeals of waiver decisions and reinvestment of claims, including outcome measures of
84 program goals.

85 NCSL supports efforts to focus on program measurement and evaluation through positive
86 incentives and urges Congress to reexamine funding levels. State legislators urge the USDA to
87 continue to settle QC claims through state reinvestment in program improvement.

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

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

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

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

99 **SNAP Program Flexibility and Waivers**

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

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

110 **Emergency Food Assistance and Commodity Distribution**

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

119 **Child Nutrition**

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

126 NCSL urges Congress to invest in the ability and resources of states to provide access to
127 healthy and affordable meals before, during and after school for all children, all year long and
128 to ensure low-income children's access to and participation in child nutrition programs. NCSL
129 supports accurate eligibility determination in federal programs, but urges Congress to ensure
130 efforts to serve only eligible children do not deter program participation.

131

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

133 NCSL supports the WIC program and its objectives. NCSL encourages the administration and
134 Congress to ensure flexibility for the time it takes to process and approve applications for WIC
135 applicants and ensure continued financial support to maximize WIC coverage for women,
136 infants and children in need.

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

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

146 **School Breakfast and Lunch Programs**

147 NCSL strongly supports the National School Lunch Program and the School Breakfast
148 Program as critically important to the well-being and education of young children. NCSL
149 supports USDA reimbursements to schools for free, reduced-price, and paid meals under the
150 provisions of the school lunch and school breakfast programs.

151 NCSL supports current flexibility in the Community Eligibility Provision, which helps reduce
152 paperwork for parents and schools with a high percentage of eligible students. NCSL urges
153 Congress to expand the well-documented benefits of the Community Eligibility Provision,
154 which allows schools to serve meals at no charge to all students if enough are identified as
155 qualifying for other assistance programs, by lowering the minimum identified student
156 percentage (ISP), increasing the ISP multiplier, expanding direct certification with Medicaid
157 data nationwide, and supporting the improvement of direct certification systems.

158 NCSL urges the USDA to emphasize nutritionally appropriate foods. NCSL supports the
159 USDA's proposal to create a pilot program for school districts to provide more nutritious
160 alternatives that would allow experimentation without risk of financial loss to those schools.

161 NCSL supports permanent authorization of the Summer Electronic Benefits Transfer for
162 Children program. NCSL also supports making funding for the program mandatory, and
163 expanding the reach of the program to kids eligible for free or reduced-price school meals in all
164 states, tribal nations and localities in order to close the summer meals gap. NCSL urges

165 Congress to permanently authorize the Pandemic Electronic Benefits Transfer system,
166 allowing authorities to quickly deliver increased nutritional aid during times of crisis.

167 **Summer Food Service Program for Children**

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

176 NCSL supports flexibility to allow seniors to transport uneaten food they receive while
177 participating in the Child and Adult Care Food Program. NCSL opposes the elimination or
178 reduction of the Child and Adult Care Food Program.

179 NCSL strongly supports efforts to expand Child and Adult Care Food Program to older children
180 in after-school programs, and to ensure that the program is available in more neighborhoods
181 and rural areas. Additionally, NCSL supports state options to expand this program to evening
182 meals in after-school programs.

183

184 **Combating Childhood and Adult Obesity**

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

189 **Nutritional Quality Measures for Older Adults**

190 NCSL supports the quality measures used by the Centers for Medicare and Medicaid Services
191 (CMS) to quantify health care processes, outcomes, patient perceptions, and systems that are
192 associated with the ability to provide quality health care and/or that relate to “quality goals” for

193 health care. CMS introduced four electronic clinical quality measures that would cover
194 screening for malnutrition, assessment of those screened as at-risk for malnutrition, diagnosis
195 of malnutrition, and creation of a nutrition care plan. NCSL urges CMS to adopt quality
196 measures on malnutrition to heighten the importance of identification, evaluation, and
197 treatment of malnutrition in the elderly.

198 NCSL also supports establishing malnutrition care as a measure of quality health care. NCSL
199 urges the administration and Congress to support state efforts to reduce malnutrition in the
200 elderly and heighten awareness of nutrition in elderly communities.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: TEMPORARY ASSISTANCE FOR NEEDY**
3 **FAMILIES (TANF)**

4 **TYPE OF POLICY: CONSENT**

5 NCSL supports:

- 6 • The federal government providing states with flexibility in making strategic TANF
7 policy decisions and designing their own programs in accordance with their
8 communities' specific needs,
- 9 • The concept that individuals receiving public assistance should be engaging in
10 efforts towards self-sufficiency,
- 11 • Regulations that authorize states to deem compliant individuals with disabilities
12 who fail to meet required work threshold or activity standards.
- 13 • Permitting states to determine if individuals applying for Social Security Income
14 (SSI) meet the SSI threshold for an exclusion from the work rate calculations
15 because they are unable to work prior to a Social Security Administration (SSA)
16 determination,
- 17 • Excluding individuals unable to work due to temporary disability from the work
18 rate calculation,
- 19 • Elimination of the separate higher work participation rate for two-parent families
20 in the TANF program.
- 21 • Providing assistance to needy families so children can be cared for in their own
22 homes or in the homes of relatives,
- 23 • Continuing to allow Maintenance of Effort (MOE) requirements that are flexible
24 for the use of funds in any manner reasonably calculated to achieve TANF's
25 statutory purpose,
- 26 • Allowing states options to collaborate and contract with religious organizations for
27 family assistance services, within the boundaries of state and local laws,

- 28 • The federal government continuing to provide full financial support for the TANF
29 block grant and contingency fund, which provides additional financial support for
30 qualifying states during an economic downturn,
- 31 • Allowing flexibility for states to pursue successful strategies to move people into
32 nonsubsidized employment,
- 33 • NCSL strongly supports maintaining the language of the “The Brown
34 Amendment,” a critical component of TANF that explicitly gives state legislatures
35 specific authority to appropriate their state’s TANF, child care and welfare-to-work
36 funds.

37 NCSL opposes:

- 38 • Federal regulatory actions that would limit state flexibility, constrain state policy
39 choices or leave states facing financial penalties for not meeting federal work
40 participation rates,
- 41 • Congressional proposals to reduce the TANF block grant and other social
42 services block grants,
- 43 • The preemption of state authority or mandates on states that would compromise
44 the spirit of the state-federal partnership.

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

50 **Individual Development Account (IDA)**

51 NCSL supports:

- 52 • Federal efforts to provide incentives for the creation of Individual Development
53 Accounts (IDAs) as a tool to promote financial self-sufficiency that complements
54 state efforts to reform public benefit programs and to support working families'
55 efforts to move out of poverty,

- 56 • Changes in the federal tax code that would expand opportunities for IDAs,
57 including a tax credit for financial institutions that participate with matching funds
58 and for private entities that invest in nonprofit organization that administer IDAs,
59 and
- 60 • Examining and eliminating barriers in the TANF program, including those
61 associated with the Cash Management Improvement Act, to simplify the
62 administration of IDAs.

63 **Rewarding Work and Reducing Poverty**

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

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

- 70 ○ Eliminate the work participation standard states must meet that requires a
71 higher work participation standard for the two-parent portion of their
72 assistance caseload, which will help strengthen families by removing a
73 barrier to marriage,
- 74 ○ Allow states to count all recipient work effort including allowing states
75 greater flexibility to define what activities count as work, such as job
76 training and preparation, education and treatment for alcohol and other
77 substance use disorders, and mental illness, and activities to meet the
78 requirements of a domestic violence plan,
- 79 ○ Retain the 30-hour work participation rate as the standard,
- 80 ○ Continue to provide states credit for those who leave public assistance
81 programs because they have achieved economic self-sufficiency,
- 82 ○ Provide states the option of including education that leads to employment
83 as part of the first 20 hours of work with the purpose of meeting state work

- 84 participation rates and giving states the flexibility to count post-secondary
85 programs that lead directly to employment,
- 86 ○ Extend the time limit on post-secondary education programs from 12
87 months to 24 months,
 - 88 ○ Retain the 20-hour requirement for a parent with a child under 6 years of
89 age,
 - 90 ○ Allow states flexibility to define “education” and give credit to those
91 engaged in Adult Basic Education and English as a Second Language,
 - 92 ○ Continue to support use of TANF funds for subsidized employment
93 programs, and
 - 94 ○ Permit states flexibility to define sanctions for noncompliance with public
95 assistance program rules including work requirements.

96 **Time Limits**

97 NCSL supports:

- 98 • States having the option to extend benefits or exempt parents who are working
99 and receiving benefits from federal time limits,
- 100 • Providing states flexibility to determine their own time limits,
- 101 • Distinguishing cash support from non-cash support and separating housing from
102 other forms of assistance,
- 103 • Improving coordination between TANF and the SSI and SSDI programs
- 104 • Allowing states to decide to maintain separate state programs under MOE or
105 segregate their MOE spending in an existing program with greater flexibility for
106 funds and,
- 107 • Maintaining the ability of states to exempt 20% of their caseload, as defined by
108 the state, from federal time limits.

109 **Data Collection and Reporting Requirements**

110 NCSL opposes the establishment of a national error rate for TANF and Child Care and
111 Development Block Grant (CCDBG) programs under the Improper Payments Act.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: MEDICAID AND CHIP PROGRAMS**

3 **TYPE OF POLICY: CONSENT**

4 **Medicaid Guiding Principles**

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

10 NCSL also urges Congress and the Administration to seek the counsel and expertise of state
11 and territory legislators as new Medicaid initiatives are being developed. NCSL urges federal
12 partners to provide states adequate time to review and ultimately implement any new changes.

13 NCSL urges the federal government to improve relations between states and the Centers for
14 Medicare and Medicaid Services (CMS) through improved technical assistance and CMS
15 stakeholder engagement with states. NCSL also urges the federal government to consider the
16 diversity of state needs, and the diversity, complexity, and size of each state's Medicaid
17 program when scaling new programs and allowing states to voluntarily participate in new state
18 options through state plan amendments.

19 **Block Grants**

20 NCSL urges Congress and the Administration to provide states flexibility when exploring block
21 grant programs. Any proposals must refrain from establishing unfunded mandates and any
22 cost shifting requirements for implementing a block grant program in states and territories.

23 **Waivers**

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

28 when appropriate and encourages federal efforts to streamline waiver applications, reviews
29 and approvals.

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

32 **Emergency Assistance and Countercyclical Assistance**

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

41 **Medicaid Managed Care**

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

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

52 **Children's Health Insurance Program (CHIP)**

53 NCSL supports an on-time, multi-year authorization of CHIP and encourages the federal
54 government to continue providing flexibility to carry out the program's operation.

55 NCSL recommends the following for the program:

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

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: HEALTH INSURANCE REFORM**

3 **TYPE OF POLICY: CONSENT**

4 **Principles for Federal Health Insurance Reform**

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

13

14 **Implementations of Health Reforms at the Federal Level**

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

22

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

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

- 27 • increase access to and affordability of health care services, including mental health, to
28 the uninsured or underinsured,

- 29
- improve the quality and cost-effectiveness of our health care system and the flexibility to
30 test new models that do so,
 - increase access to the broad range of long-term care services including home and
31 community-based services (HCBS) that will enable constituents to live in their own
32 homes or communities that provide personalized and a high-quality care,
 - support for health insurance plans that work to integrate physical, behavioral and social
33 determinants of health with the aim of reducing costs and improving overall health
34 outcomes for individuals, and
 - explore a broad range of approaches and financing mechanisms to improve our health
35 care system including reinsurance programs.
 - allow states to continue their work on addressing issues which include but are not
36 limited to surprise medical billing, out-of-network and in-network billing practices and
37 transparency for health care prices and health insurance plans and/or Certificate of
38 Need regulated by states. This includes programs providing patients with the
39 information they need to be active consumers in healthcare pricing across providers and
40 services. When pursuing any changes to medical billing practices, NCSL urges federal
41 partners to not supersede states' ongoing work or authority in state regulated health
42 plans, to involve states in a timely way when drafting any potential changes to medical
43 billing practices, to be transparent, and to provide adequate time for states to implement
44 any changes.
- 45
- 46
- 47
- 48

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: SUPPORTING FEDERAL LEGISLATION TO**
3 **EMPOWER STATES TO PROTECT CHILDREN**
4 **AND YOUTH IN RESIDENTIAL CARE**

5
6 **TYPE OF POLICY: CONSENT**

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

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

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

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

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

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

25 WHEREAS, an estimated \$23 billion dollars of public funds are annually used to place
26 youth in residential programs and facilities and the cost per child, per day for residential
27 treatment ranges from \$250-\$800; and

28 WHEREAS, many of these placements are funded solely by State General Funds or
29 private funds from parents and as such are not subject to the conditions of participation
30 under Medicaid or utilization review by commercial insurance; and

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

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

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

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

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

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

53 WHEREAS, the 2021 National Disability Rights Network's report showed that "Physical
54 abuse, often masked as punishment or a control tactic, is not uncommon in [residential

55 facilities]" and that "children in [residential facilities] report sexual assault at the hands of
56 staff"; and

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

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

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

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

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

78 WHEREAS, Senators Jeff Merkley (D-Oregon), John Cornyn (R-Texas), and Tommy
79 Tuberville (R-Alabama) and Representatives Ro Khanna (D-California) and Buddy
80 Carter (R-Georgia) introduced federal legislation, currently referred to as the "Stop
81 Institutional Child Abuse Act" to assist states in protecting children and youth from
82 abuse in residential facilities; and

83 WHEREAS, states need access to information about best practices, facility safety and
84 quality and mechanisms to hold contractors to account for state funded services that fail
85 to meet contract standards and harm children and youth; and

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

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

96 NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State
97 Legislatures urges Congress to pass the bipartisan legislation currently referred to as
98 the "Stop Institutional Child Abuse Act" to provide children and youth with protection
99 from all forms of abuse and to empower States to demand accountability from providers
100 to whom they entrust their children through greater oversight, transparency and
101 accountability for residential care.

102 Expires August 2024

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: CONTINUED ACCESS TO FEDERAL TAX**
3 **INFORMATION BY STATE CHILD SUPPORT**
4 **CONTRACTORS**

5 **TYPE OF POLICY: CONSENT**

6 Whereas, a federal-state partnership governs the child support program under Title IV-D
7 of the Social Security Act, in which the federal government provides a policy framework,
8 states and tribes oversee ongoing operations and administration, and all partners share
9 funding responsibilities

10

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

14

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

17

18 Whereas, the Internal Revenue Code includes a provision that limits federal tax
19 information that can be accessed by state child support contractors, with enforcement of
20 the provision held in abeyance since at least 2009 but scheduled to begin in October
21 2024

22

23 Whereas, contractors play critical roles in most states in supporting and operating the
24 child support program, including paternity establishment, establishment and
25 enforcement of orders, modifications of support orders, customer service contact
26 centers, parenthood initiatives, document management, and development and
27 management of information technology

28

29 Whereas, states that use contractors include a contractual obligation to safeguard and
30 protect federal tax information, provide training to contractors and hold contractors to
31 the same standards to which the Internal Revenue Service holds the states

32
33 Whereas, implementation of the Internal Revenue Code provision would harm the child
34 support program and the families it serves by limiting contractor access to information
35 necessary to locate parents, to establish paternity, to confirm employment and income
36 to establish and collect fair support obligations, and, overall, limit the ability to maintain
37 current services

38
39 Therefore, let it be Resolved that the National Conference of State Legislatures urges
40 that:

- 41 1. Congress adopt bipartisan legislation to modernize the Internal Revenue Code
42 and include direct access to federal tax information by tribal child support
43 agencies. Similar legislation passed the Senate during the 117th Congress (S.
44 534, Wyden (D-OR) - Thune (R-SD))
- 45 2. The Administration permanently allow the continued sharing of federal tax
46 information with state and tribal contractors, at state option, for use in the child
47 support program

48
49 Upon adoption of this resolution, a copy of this resolution shall be submitted to the
50 Secretary of the United States Department of Health and Human Services and the
51 Commissioner of the Office of Child Support Services in the Administration for Children
52 and Families, the Secretary of the United States Treasury, and the Chairs and Ranking
53 Members of the U.S. Senate Committee on Finance and the U.S. House Committee on
54 Ways and Means, the public welfare requiring it.

1 **COMMITTEE: LABOR AND ECONOMIC DEVELOPMENT**

2 **POLICY: APPRENTICESHIP RESOLUTION**

3 **TYPE: RESOLUTION**

4 WHEREAS, Employers continue to need highly skilled employees to fill jobs in nearly all
5 sectors in the economy,

6

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

10

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

14

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

18

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

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

26

27 WHEREAS, the success of traditional registered apprenticeship programs that are
28 financially sustainable and jointly managed create tens of thousands high wage and

29 high skilled jobs to ensure future generations of skilled apprentices for high demand
30 occupations in our country, and

31

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

35

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

38

39 THEREFORE, BE IT RESOLVED that the NCSL support federal initiatives and funding to
40 expand state registered apprenticeship programs into non-traditional occupations and
41 careers, considering best practices and policies found in other countries.

1 **COMMITTEE: LAW, CRIMINAL JUSTICE, & PUBLIC SAFETY**

2 **POLICY: FEDERALISM**

3 **TYPE: CONSENT**

4 Our American federalism creatively unites states with unique cultural, political, and
5 social diversity into a strong nation. It is built on the concepts of shared sovereignty and
6 delineated powers. The Tenth Amendment is the cornerstone of constitutional
7 federalism and reserves broad powers to the states and to the people. Federalism
8 protects liberty, enhances accountability and fosters innovation with less risk to the
9 nation. NCSL strongly urges federal lawmakers to maintain a collaborative federalism
10 that respects states' roles and empowers states to appropriately implement federal
11 standards, permit diversity without causing division, and foster unity and coordination
12 among states without enshrining uniformity. To revitalize federalism, the three branches
13 of the national government should carefully examine and refrain from enacting
14 proposals that would limit the ability of state legislatures to exercise discretion over
15 basic and traditional functions of state government.

16

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

23

24 By retaining power to govern, states can more confidently innovate in response to
25 changing needs. As Justice Brandeis wrote: "It is one of the happy incidents of the
26 federal system that a single courageous state may, if its citizens choose, serve as a
27 laboratory; and try novel social and economic experiments without risk to the rest of the
28 country." *New State Ice Co. v. Liebmann*, 285 U.S. 262 (1932)

29 It is a suitable role for the federal government to encourage innovation by states. Our
30 country's founders did not contemplate a perfect union, but rather a more perfect union,
31 meaning, there must be room for policy experimentation and different methods of self-
32 government at the state level. . States are inherently capable of moving more quickly
33 than the federal Congress to correct errors observed in policy and can be more
34 sensitive to public needs.

35
36 The Supreme Court has sent a strong message to Congress that its powers under the
37 Commerce Clause have boundaries (*United States v. Lopez*, (1995). Congress must
38 heed the wisdom of *Lopez* and not exercise its commerce powers without a compelling
39 need to do so. The Supreme Court has recognized the negative practical effect that
40 federal overreach under the dormant Commerce Clause would have on states in our
41 global economy, and that such overreach would “cast a shadow over laws long
42 understood to represent valid exercises of the States’ constitutionally reserved powers.”
43 (*National Pork Producers Council v. Ross* (2023) The Supreme Court should add to the
44 ability of states to respond to pressing social and economic problems by interpreting the
45 dormant Commerce Clause in a restrained manner sensitive to the states
46 constitutionally derived authority in the federal system.

47
48 NCSL dedicates itself to restoring balance to federalism through changes in the political
49 process and through thoughtful consideration and broad national debate of proposals to
50 amend the Constitution or to clarify federal law that are specifically intended to redress
51 the erosion of state powers under the Constitution. NCSL does not endorse any
52 specific proposal for or against constitutional change or call for a constitutional
53 convention. NCSL continues to support all civil rights laws in force in this country.

54
55 Pre-emption

56 Congress must allow states flexibility to shape public policy. Creative solutions to public
57 problems can be achieved more readily when state laws are accorded due respect.
58 Every preemptive law diminishes other expressions of self-government; therefore,
59 NCSL maintains that state laws should never be preempted without substantial

60 justification, compelling need, and broad consensus. Our federalism anticipates
61 diversity; our unity does not anticipate uniformity. While proponents of pre-emption may
62 claim expected benefits, any benefit must be balanced against the potential loss of
63 accountability, innovation, and responsiveness.

64
65 Preemption may be warranted in specific instances when it is clearly based upon
66 provisions of the U.S. Constitution authorizing such preemption and only when it is
67 clearly shown (1) that the exercise of authority in a particular area by individual states
68 has resulted in widespread and serious conflicts imposing a severe burden on national
69 economic activity or other national goals; (2) that solving the problem is not merely
70 desirable, but necessary to achieve a compelling national objective; and (3) that pre-
71 emption of state laws is the only reasonable means of correcting the problem.

72
73 The authority of Congress under the Supremacy Clause to preempt state legislation is
74 exercised by the federal government assuming responsibility for regulating under
75 federal law. In addition, the Supremacy Clause allows the federal government to offer
76 states the option of regulating pursuant to federal standards. The power of Congress to
77 thus pre-empt state authority must not be expanded to permit the federal government to
78 commandeer states to administer federal programs.

79
80 Congress shall provide reasonable notice to state legislative leaders and governors of
81 any congressional intent to preempt and shall provide them with opportunity for formal
82 and informal comment prior to enactment. To ensure that Congress knows the effects of
83 its decisions on states, members of Congress shall investigate which of their state's
84 laws would be preempted by federal legislation before they vote on the pre-emptive
85 legislation. Congress shall develop processes and seek early and regular consultation
86 with state legislatures to fully understand the fiscal and other policy impacts of
87 proposed bills on states. NCSL supports the creation of congressional
88 intergovernmental committees or subcommittees and maintains that Congress shall refer
89 bills that affect state powers and administration to these intergovernmental committees
90 or subcommittees.

91

92 States should not be undercut through the regulatory process. It is not acceptable for
93 unelected federal agency officials to exercise legislative authority through regulation that
94 preempts the decisions of the elected legislatures of the sovereign states. Any agency
95 intending to preempt state laws and rules must have the express statutory authority
96 from Congress to preempt. The Executive Order on Federalism (E.O. 13132) provides
97 guidance for agency examination of intergovernmental impact. NCSL urges the
98 codification of E.O. 13132 and enforcement of its provisions. NCSL also advocates
99 against agency circumvention of rule-making procedures through interim final rule-
100 making and urges its prohibition . NCSL supports the creation of an appropriate
101 congressional committee to review agency regulations to identify unjustified intrusions
102 into state sovereignty.

103

104 State Contracts

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

108

109 Grant Conditions and Mandates

110 When national policymakers ignore the fiscal impact of proposals that are to be
111 implemented at the state level, it confronts states with an impossible choice – ignore
112 federal law and face stiff financial penalties or underfund other important state priorities
113 in order to comply with federal unfunded mandates. Ignoring state impact also creates a
114 rift in intergovernmental relations between states and the federal government. The
115 federal government must be accountable for its policy decisions that ultimately affect the
116 level of services states provide or the level at which states are compelled to tax their
117 citizens. NCSL believes that states must retain the predominant role in shaping policies
118 for which they will allocate the predominant share of resources.

119 Among the distortions caused by the excessive power of the national government is the
120 separation of decisions to tax from decisions to spend. The intractable federal debt
121 makes federal spending decisions more difficult and increases state reliance on

122 mandates or grant conditions to accomplish congressionally set goals. NCSL maintains
123 that the federal government must fully appropriate designated funds before application
124 of penalties to states contained in authorized programs. Where statutes are ambiguous,
125 agencies must establish regulatory guidance before states become subject to
126 penalties. Federal resources shall be adequate to offer meaningful encouragement to
127 state efforts and, at a minimum, to provide technical assistance and oversight.

128
129 In *New York v. United States*, the Supreme Court outlined guidelines appropriate for
130 limiting regulation under the Spending Clause. Conditions should be unambiguous and
131 should be reasonably related to the purpose of the expenditure. NCSL opposes
132 conditions on grants made to the states beyond such conditions that are necessary to
133 specify the purpose of the expenditure, except where the conditions, such as those
134 relating to civil and individual rights, may fulfill powers expressly delegated to Congress
135 by the Constitution. Existing grants should not automatically become subject to new
136 conditions.

137
138 NCSL believes that federal grants to states can achieve national goals without
139 disrupting state laws and procedures. NCSL supports federal legislation that respects
140 the role of the legislature and that does not create an unnecessary preference for state
141 executive decision-making. NCSL maintains that funds received by a state under
142 provisions of federal law shall be subject to appropriation by the state legislature,
143 consistent with the terms and conditions required under such federal law. Legislatures
144 shall also retain authority to designate implementing agencies and to review state plans
145 and applications for assistance. State court systems shall not be commandeered to
146 implement federal policies; in the event federal actions will result in an increased burden
147 on state courts, then the federal government shall also provide funds to implement
148 action by the courts.

149 NCSL opposes Congress placing responsibility for administrative oversight of grant
150 conditions in the federal courts by relying on beneficiaries to enforce federal grant
151 requirements through lawsuits. In the event the courts are to be relied upon for
152 enforcement, then the federal government shall waive its sovereign immunity and

153 become subject to suit for failures in administration of programs. This policy does not
154 relate to access to federal courts for enforcement of constitutional rights.

155

156 Sovereign Immunity

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

164

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

173

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

179 Criminal Jurisdiction

180 Federal expansion of criminal jurisdiction, while not specifically preempting state laws,
181 diminishes the role of state legislatures by permitting federal and state prosecutors to
182 circumvent state law. The choice to prosecute in federal court based upon federal
183 penalties entails a choice to by-pass state legislative responsibility. NCSL opposes the

184 federalizing of state criminal offenses because federalism is weakened and because the
185 role of federal courts as courts of limited jurisdiction is thereby undermined. NCSL
186 recognizes that specific crimes may be appropriate for federal action if a systemic
187 failure makes state action impossible or ineffective; such crimes may include those that
188 have complex international or interstate implications, which relate to the protection of
189 civil rights, or where conflicts prevent effective state or local prosecution. NCSL deems
190 inadequacy of state resources to be an insufficient reason for federal takeover of
191 criminal jurisdiction.

192

193 Courts

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

197

198 Conclusion

199 NCSL endorses periodic examination by Congress of the state of American federalism.
200 Members of Congress shall expand formal and informal communications with their state
201 legislatures in order to defend federal legislation that diminishes state powers and to
202 explore less intrusive means of achieving national goals. In exploring the dimensions of
203 federalism, Congress shall consider the need for statutory and constitutional remedies
204 to restore balance. Together, we should revive appreciation for the principle that sharing
205 power between levels of government enhances America's ability to develop responsive
206 policy in a changing world.

1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: HOMELAND SECURITY AND EMERGENCY**
3 **MANAGEMENT**

4 **TYPE: CONSENT**

5 The National Conference of State Legislatures maintains that response to natural
6 disasters and terrorist attacks begins at the local level where the event occurs, and
7 involves state and federal response as local, then state, resources are overwhelmed by
8 the magnitude of the event. NCSL urges Congress and the Administration to partner
9 with NCSL and other organizations representing state and local government to prepare
10 our nation for national disasters and threats to homeland security. NCSL urges
11 Congress and the administration to:

- 12 • Continue to channel funding directly to the states to ensure compliance with
13 statewide strategies for maximum coordination and require that such funds be
14 subject to the state legislative oversight or the state appropriation process;
- 15 • Recognize the roles of state legislatures in the development of future guidance
16 frameworks and Congressional legislation;
- 17 • Consult with state entities when creating or amending post-disaster relief
18 programs and applications in order to streamline their procedures to deliver
19 appropriated funds to governments and individuals struggling to recover from
20 devastating disasters;
- 21 • Provide state flexibility among grant program categories for spending-planning,
22 training, equipment, and exercises allowing transfer of funds across categories;
- 23 • Continue to provide a minimum grant in states that appear to have low risk,
24 vulnerability, and criticality factors, in order to sustain the basic response
25 infrastructure for public safety and public health emergencies;
- 26 • Consult with NCSL and state legislatures regarding each state's cost for the
27 development and implementation of performance standards and other
28 accountability measurements related to grant programs;

- 29 • Ensure that funding for any new grant programs complements, and DOES NOT
30 replace, existing funding sources for other key programs such as first responder
31 programs;
- 32 • Permit citizen rescue and aid efforts to assist in disaster recovery pursuant to
33 state Good Samaritan laws without fear of federal penalties; and
- 34 • Where practicable, allow states to purchase surplus emergency management
35 equipment from the federal government following response and recovery efforts.

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

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

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

56 The Department of Homeland Security (DHS) DHS should work closely with NCSL,
57 individual state legislatures, state emergency management and public safety leaders to
58 meet the goal of fully funded and fully operating Fusion Centers that blend relevant law
59 enforcement and intelligence information analysis and coordinate security measures to

60 reduce threats in their communities and to continue to improve the quality and quantity
61 of analytical intelligence products that are provided to state and local governments.

62 **Cybersecurity**

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

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

73 **Border Security and Enforcement**

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

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

84 **Emergency Management and Presidential Disaster Declarations**

85 NCSL believes effective emergency management involves both preparing for and
86 responding to disasters. According to a 2018 National Institute of Building Sciences
87 (NIBS) study, every \$1 invested in disaster mitigation by the federal government saves
88 communities \$6. Recognition that states need to allocate state funding and receive
89 federal funding before a disaster strikes is a necessity in order to sufficiently prepare for
90 disasters and ultimately save communities money. NCSL urges FEMA and Congress to

91 make federal disaster assistance available for a range of pre-disaster mitigation
92 activities – from flooding to wildfires and beyond - that will promote advance planning for
93 disasters and save both states and the federal government money in the long run.

94 Specifically, NCSL urges:

95 • Congress to pass legislation that will increase assistance for wildfire mitigation,
96 given the significant and increasing threat wildfires pose to air quality, water quality, and
97 the safety of residents in affected states.

98 • FEMA to co-locate federal with state emergency management staff to 1) better
99 administer disaster preparedness training on the state and local level and 2) learn from
100 state and local staff the disaster risk profile specific to the area rather than assuming a
101 one-size-fits-all approach.

102 • The Federal government to provide state emergency management personnel
103 proper access to federal lands for the purpose of mitigation activities, including but not
104 limited to forest maintenance and fuel load reduction.

105 In considering procedures for when disasters do occur, FEMA should not make
106 changes to existing systems in the absence of state consultation. Upon the issuance of
107 a Presidential Disaster Declaration (PDD), FEMA calculates federal aid to states based
108 on a per capita equation tied to state or local population pursuant to 44 C.F.R. Section
109 206.4. FEMA uses this per capita figure as one of several contributing factors when
110 deciding whether to grant public assistance to a state. NCSL urges FEMA to exercise
111 caution when determining whether to alter this existing formula. While NCSL
112 appreciates FEMA's goals of reducing disaster costs overall and incentivizing pre-
113 disaster planning and mitigation, any changes in the current statutory scheme must be
114 constitutional, and must not contain burdensome cost shifts to states, or unwarranted
115 preemption of state law. NCSL urges FEMA to engage in extensive consultation with
116 state legislators in order to alleviate any intergovernmental issues that could aggravate
117 the federal-state-local relationship. NCSL would oppose changes to the existing disaster
118 declaration framework that would slow down the distribution of federal funds that
119 contribute to state recovery from natural disasters.

120 NCSL calls upon the Administration to:

- 121 • Consult with states and requests transparency in its review and reform
122 standards, policies, and procedures.
- 123 • When determining aid per capita for states, recognize and respect individual
124 designations of localities within states. Likewise, when FEMA considers whether to
125 recommend a disaster declaration for any given state, NCSL urges consideration of
126 inordinately extensive impact to localities.
- 127 • Avoid federal action, such as stringent licensing requirements, that would
128 discourage Good Samaritan aid or inhibit liability protections for voluntary civilian aid at
129 the state level.
- 130 • Exercise the greatest level of flexibility possible in granting FEMA public
131 assistance disaster relief funds that respect the distinctiveness of different states.
- 132 • Remain united in prioritizing the efficient appropriation of needed aid to disaster-
133 stricken states and territories.
- 134

1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: DEFERRED ACTION FOR CHILDHOOD ARRIVALS**
3 **PROGRAM CODIFICATION**

4 **TYPE: CONSENT**

5 **WHEREAS**, the Deferred Action for Childhood Arrivals (DACA) program, established by
6 executive order in 2012, safeguarded individuals who applied for protection under the
7 program from deportation. These individuals entered the country under the age of 16
8 prior to June 15, 2012, have continuously resided in the United States since 2007, have
9 no prior serious criminal history, and have either served in the United States Armed
10 Forces, completed, or are currently enrolled in high school or a GED program; and

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

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

19 **WHEREAS**, DACA has been subject to near constant litigation in the federal court
20 system regarding the constitutionality of the program. Congress has failed to pass
21 legislation addressing this population causing instability that forces Dreamers and
22 DACA recipients to live in fear of someday being arrested and deported to a country
23 which, in many cases, they do not remember living in; and

24 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
25 urges Congress to pass legislation that grants Dreamers and DACA recipients a
26 pathway to citizenship..

1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: HUMANE TREATMENT OF ASYLUM SEEKERS AT**
3 **SOUTHERN BORDER AND PORTS OF ENTRY**

4 **TYPE: CONSENT**

5 **WHEREAS**, the United States has a vested interest in securing its borders; and

6 **WHEREAS**, promoting legal immigration is paramount to the prosperity of the United
7 States; and

8 **WHEREAS**, the right to seek and enjoy asylum from persecution is a commonly
9 accepted human right in the international community that the United States upholds;
10 and

11 **NOW, THEREFORE, BE IT RESOLVED**, the National Conference of State Legislatures
12 urges Congress and the Administration to invest in procedural and technological
13 improvements to its ports of entry and judicial system in order to facilitate a safe,
14 efficient, timely, and humane immigration process for asylum seekers.

1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: PATHWAY TO CITIZENSHIP FOR REFUGEES**

3 **TYPE: CONSENT**

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

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

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

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

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

19 **WHEREAS**, TPS recipients often do not have a clear pathway to citizenship. Those who
20 have resided in the United States for long periods of time and have built a life for
21 themselves in the country would face an uncertain future. Pursuant to *Sanchez v.*
22 *Mayorkas*, the Supreme Court held that TPS recipients who entered the US without
23 inspection must return to their country of origin to have their visa application processed

24 by a consular post. This is a process that would prevent most TPS holders from gaining
25 approval to re-enter the US for multiple years; and

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

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

32 **NOW THEREFORE BE IT FURTHER RESOLVED**, the National Conference of State
33 Legislatures urges Congress and the Administration to develop a fair and consistent
34 process to evaluate and approve TPS applications on an expedited basis, without
35 forcing applicants to return to the dangers in their home country while they await the
36 outcome of their application.

1 **COMMITTEE: LAW, CRIMINAL JUSTICE, AND PUBLIC SAFETY**

2 **POLICY: VOTER REGISTRATION LIST MAINTENANCE**

3 **TYPE: CONSENT**

4 **WHEREAS**, the official record of all eligible voters in a state, voter registration rolls are
5 the foundation of free, fair, and secure elections;

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

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

11 **WHEREAS**, Federal/State coordination can help identify and remove ineligible or
12 deceased voters and update eligible voters' records;

13 **LET IT BE RESOLVED**, to increase voter confidence, NCSL urges the United States
14 Congress to collaborate with the states to ensure fair and effective list maintenance.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: AUTONOMOUS VEHICLES**

3 **TYPE: CONSENT**

4 The automobile is on the cusp of a technological transformation with the potential to
5 both revolutionize personal mobility and provide immeasurable safety benefits. As
6 vehicles that operate on public roads are subject to both state, federal and local
7 jurisdiction, the National Conference of State Legislatures (NCSL) understands the
8 need to clearly define state and federal roles as well as avoid unnecessary federal
9 preemption and burdensome federal mandates.

10

11 **State Authority to Regulate Autonomous Vehicle Testing**

12 NCSL agrees that the National Highway Traffic Safety Administration (NHTSA) should
13 be the sole entity setting federal motor vehicle safety standards (FMVSS) for
14 autonomous vehicles, equivalent to their current role for conventional vehicles.

15 However, NCSL strongly believes that states are the sole authority when it comes to
16 vehicle use—which includes vehicle registration; driver licensing and education; traffic
17 laws, regulations and enforcement; and insurance and liability. NCSL is opposed to
18 congressional or administration proposals that would seek to preempt this authority from
19 states by prohibiting states from prescribing certain standards or regulations related to
20 autonomous vehicle testing, including requirements related to the presence of a human
21 driver.

22

23 **FMVSS Exemptions**

24 NCSL recognizes, appreciates, and agrees that authority to issue exemptions of
25 FMVSS remains solely in the realm of the Secretary of Transportation. However, NCSL
26 strongly encourages the Secretary (or applicable designated agency) to ensure that any
27 exemption of existing motor vehicle safety standards provides a safety level at least
28 equal to the safety level of the standard. Further, as exemptions are granted, NCSL
29 implores the department to provide such information to states, in a timely manner.

30 **Advisory Councils**

31 NCSL requests that state legislators be appointed to or included in any congressional or
32 administration task force, council, or other advisory group related to the development of
33 autonomous vehicles. NCSL encourages congressional and administration task forces
34 to work with NCSL to help ensure the appropriate states are included.

35

36 **Cybersecurity Information Sharing**

37 Cybersecurity is a vital aspect of autonomous vehicles. As vehicles begin to
38 communicate with each other (vehicle-to-vehicle or V2V) as well with infrastructure
39 (vehicle-to-infrastructure, V2I, and V2X), the potential risk of cyberattacks and security
40 breaches greatly increases. NCSL urges both the administration and Congress to both
41 share any threat information with state governments and to work with states to ensure
42 that such threats and affected vehicle populations do not become endemic. A
43 collaborative effort is vital in ensuring such safety.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: MICROPLASTICS RESEARCH**

3 **TYPE: CONSENT**

4 A resolution of the National Conference of State Legislatures, urging the federal
5 government to fund research on microplastics in the environment.

6

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

10

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

12

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

15

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

18

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

21

22 **WHEREAS**, microplastics have been found in human stools; and

23

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

26

27 **WHEREAS**, water resources, including drinking water, and soils and sediments are
28 rarely tested or monitored for microplastics; and

29

30 **WHEREAS**, questions still remain as to the sources of microplastics in the environment,
31 including the contributions from wastewater treatment facilities; and

32

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

35

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

39

40 **BE IT FURTHER RESOLVED** that a copy of this resolution be sent to the U.S Attorney
41 General, to the President of the United States, and all members of Congress.

1 **COMMITTEE:** **NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY:** **STATE SUPPORTED GRADE CROSSING**
3 **ELIMINATION AND SEPARATION PROGRAM**

4 **TYPE:** **CONSENT**

5 **WHEREAS**, the National Conference of State Legislatures wishes to support sound
6 public policies that encourage states to take matters into their own control to protect
7 human life, preserve mobility and enhance economic development by creating state-
8 funded, highway-railroad grade crossing safety enhancements, including roadway
9 separations and eliminations; and

10

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

13

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

17

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

20

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

23

24 **WHEREAS**, the National Association of County Officials (NACo), National League of
25 Cities (NLC), and American Association of State Highway and Transportation Officials
26 (AASHTO) have previously urged Congress to support improved rail safety programs,
27 including supporting additional founding to local governments, state, and railroads to
28 further improve grade crossings and separations allowing for safer interactions between
29 road and rail traffic; and

30

31 **WHEREAS**, rail interstate networks between cities and regions provide essential
32 transportation flow for American goods and passengers; and

33
34 **WHEREAS**, these rail interstate networks are essential to the American economy but in
35 cities, towns, villages, and states throughout the country, their localized presence can
36 cause negative externalities including road congestion for extended periods of time at
37 rail crossings; and

38
39 **WHEREAS**, the federal Infrastructure Investment and Jobs Act includes approximately
40 \$3 billion in funding to be administered by the Federal Railroad Administration over the
41 next 5 years to build new grade separations and eliminate more road-rail crossings
42 throughout the nation; and

43
44 **WHEREAS**, some state legislatures have created their own, dedicated state grade
45 crossing separation, elimination, and safety enhancement program to leverage those
46 federal dollars in order to unlock new economic development, safety enhancements,
47 and railroad fluidity opportunities throughout each state; and

48
49 **WHEREAS**, 23 U.S.C. Section 130's Railway Highway Crossing Program was
50 introduced in 1987 and over the past 35 years has annually funded several hundred
51 million dollars of federal match for at-grade crossing enhancements, eliminations, and
52 separations that have driven down vehicular and pedestrian fatalities, injuries, and
53 collisions; and

54
55 **WHEREAS**, as part of IIJA, Congress increased incentive payments for grade crossing
56 closures from the previous cap of \$7,500 to the new level of \$100,000 within the federal
57 Section 130 Grade Crossing Safety Fund; and

58
59 **WHEREAS**, also as part of IIJA, Congress expanded the eligible activities under the
60 Section 130 Program to now cover replacement of functionally obsolete warning

61 devices that were improved once before in the early years using Section 130 Program
62 funds.

63

64 **NOW THEREFORE BE IT RESOLVED**, the National Conference of State Legislatures
65 encourages Congress to continue to create, expand, and enhance state and local grade
66 crossing protection funds which have the effect of improving safety, mobility and
67 economic development potential for both the railroads and motoring public throughout
68 the country.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: AVIATION**

3 **TYPE: CONSENT**

4 Aviation is a key component of a balanced transportation system and is vitally linked to
5 regional growth and economic development efforts. The development and preservation
6 of a balanced system of airports, which is responsive to the needs of all sectors of the
7 nation, is the mutual responsibility of federal, state and local governments. Given this
8 mutual responsibility, the National Conference of State Legislatures (NCSL) urges
9 Congress and the administration to actively engage state legislatures in discussions on
10 the development and preservation of our system of airports and to avoid federal
11 mandates, preemption of state authority and where possible provide states maximum
12 flexibility.

13

14 **Finance**

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

- 20 • continue a General Fund contribution, due to military and federal usage of airport
21 facilities and services. Maintain the Airport and Airway Trust Fund, financed by
22 existing dedicated user taxes and charges, as the primary method of funding
23 federal-aid aviation projects. Any federal aviation fees collected from airline ticket
24 taxes that are diverted to non-aviation purposes should be rededicated or
25 repealed. NCSL supports federal grant assurance provisions barring diversion of
26 airport revenue to non-airport purposes;
- 27 • maintain the current structure of federal aviation taxes which equitably distributes
28 the financial burden on all users;

- 29 • continue to fully fund the Airport Improvement Program (AIP) at authorized levels
30 annually on a multi-year basis to help support needed safety, security, capacity
31 and noise projects;
- 32 • authorize states to use AIP funds for increased security measures required by
33 federal law at a 100-percent federal share;
- 34 • provide states maximum flexibility in the prioritization and administration of trust
35 fund allocations, this includes aviation-related planning activities being an
36 allowable expense;
- 37 • remove the Trust Fund from the federal unified budget;
- 38 • create a mechanism to guarantee that all revenue dedicated to the Trust Fund is
39 spent each year for its intended purpose and that Trust Fund revenue is
40 classified as "mandatory" spending and operate as a "pay-as-you-go" program;
- 41 • remove statutory or regulatory barriers to state and locally-generated revenues
42 that support airport activities;
- 43 • reduce aircraft noise and a continued set-aside of AIP funds for noise abatement
44 projects;
- 45 • continue the Passenger Facility Charges (PFCs) as a supplementary revenue
46 source to finance airport needs;
- 47 • exempt from federal tax laws airport municipal bonds; and
- 48 • allow the use of innovative financing methods, such as state infrastructure banks
49 and revolving loans, whenever possible to enable states to meet the funding
50 needs of smaller airports.

51

52 **State Block Grant Program**

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

56

57 **Development**

58 NCSL supports a coordinated national plan of development as long as state plans for
59 investment are included. As part of the development of the National Airspace System

60 Architecture, the FAA should make every effort to consider state input. The economies
61 of many parts of the country are dependent on the modernization of the nation's aviation
62 system. Federal policies should support state efforts to address capacity problems
63 through expansion. NCSL supports the increased use of former and current military
64 airports to provide immediate capacity relief for the aviation system.

65

66 **Regulation**

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

72

73 **Federal-Aid Program**

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

78

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

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

86

87 As the agency continues its work to integrate UAS rules and laws, NCSL recognizes
88 FAA's general authority over the national airspace but believes it is imperative to
89 preserve the authority of state governments to issue reasonable restrictions on the time,
90 manner and place of UAS operations as they relate to states' traditional police powers,

91 including to protect public safety and security, personal privacy, property rights and
92 manage land use. In response to Congress imposing a nationwide registration
93 requirement for UAS operators, NCSL supports the delegation of this authority to states
94 in order to more effectively and efficiently capture all users. Further, NCSL strongly
95 believes in the need for federal and state governments to work together to manage the
96 organized deployment of recreational and commercial UAS and that states should be
97 allowed to conduct enforcement of federal UAS rules if they so choose and that the
98 federal government should ensure adequate resources be available to states for proper
99 enforcement.

100

101 **Other**

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

105

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

109

110 **Airport Infrastructure Funding**

111 The National Conference of State Legislatures (NCSL) fully supports the goal of ensuring
112 that airports have sufficient funding to meet their infrastructure needs, both to restore or
113 replace critical facilities that are coming to the end of their useful lives and to build new
114 infrastructure to enhance safety, security, and capacity to allow for expansion of air
115 service and increased opportunities for competition among airlines. To achieve this goal,
116 it is essential that Congress maintain existing levels of federal grant funding, and raise
117 the federal cap on Passenger Facility Charge (PFC) user fees, which are locally imposed
118 and dedicated to capital improvements within the local airport system. Therefore, NCSL
119 believes that Congress should continue to fully fund the Airport Improvement Program
120 (AIP) at authorized levels annually on a multi-year basis and increase the federal limit on
121 individual Passenger Facility Charge (PFC) user fee to keep up with inflation, to help

122 ensure that airport operators have sufficient funding to implement needed safety,
123 security, capacity and noise projects at their airports.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: ENERGY SECURITY**

3 **TYPE: CONSENT**

4 In order to fully secure the further benefits that only a national energy policy can ensure,
5 NCSL urges Congress to direct the U.S. Department of Energy through the national
6 laboratories and technology centers to develop a national energy strategy for moving
7 the United States toward independence from non-North American energy sources. The
8 development of this strategy should be done in partnership with state governments and
9 universities to leverage the work which has already been done and should encompass
10 short, medium and long-term goals designed to help transition the nation to a more
11 secure and financially stable future configuration that is drastically more independent of
12 non-North American energy sources

13

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

- 18 • Promote enhanced efficiency and conservation in the use of our energy
19 resources.
- 20 • Establish a diversified national energy.
- 21 • Encourage and assist in the development of enhanced oil and gas refining
22 capacity and technology.
- 23 • Support domestic energy production and reduce imports.
- 24 • Regularly reviews and updates CAFE standards.
- 25 • Accelerate research and development of advanced clean energy technologies.
- 26 • Promote the development of an infrastructure to support the distribution of clean
27 energy technologies.
- 28 • Ensure energy resources are used in a sustainable and environmentally sound
29 manner.

- 30 • Support investment in the national academic and job training systems to advance
31 science and engineering curricula for the purpose of creating a highly skilled and
32 trained workforce.
- 33 • Address the limitations of the visa system that restricts entry to the United States
34 of leading scientists and engineers from around the world.
- 35 • Address the capital, material and labor deficiencies affecting our ability to
36 manufacture and deploy advanced clean energy technologies.
- 37 • Accelerate the deployment and use of alternative transportation fuels to begin to
38 eliminate the nation's dependence on foreign sources of oil.

39

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

- 42 1. Develop and implement state and federal energy policy planning processes.
- 43 2. Deploy new energy efficiency and other demand-side options, as well as
44 deploying new and conventional supply-side technologies.
- 45 3. Provide sufficient funding to states as they develop energy policies on an
46 individual or regional basis.
- 47 4. Provide assistance, when requested, as states attempt to solve their energy
48 problems.

49

50 **NCSL Believes**

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

54

55 Congress should facilitate the development of state-created regional mechanisms like
56 interstate compacts and regional reliability boards designed to address transmission
57 reliability, problems related to the interconnectedness of the energy grid, environmental
58 impact of generating electricity, and other regional energy.

59

60 Energy facility siting should remain under state jurisdiction devoid of federal mandates
61 and preemption; Electric facility siting authority should remain under state authority.

62

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

65

66 To the extent to which federal activity has restricted state authority over electric facility
67 siting, specifically electricity transmission lines, the federal government should work
68 together with the states to ensure a seamless system of regulatory action and minimize
69 the necessity for the federal backstop to be used.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: NATIONAL ENERGY**

3 **TYPE: CONSENT**

4 The National Conference of State Legislatures urges the federal government to
5 continue working cooperatively with state, local, and tribal governments to develop,
6 implement and maintain an expansive, integrated, environmentally-sensitive and cost-
7 effective national energy policy.

8
9 **Principles**

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

- 12 • Promotion of the most efficient and economical use of all energy resources.
- 13 • Promotion of energy conservation and efficiency and the development and use of
14 alternative and renewable energy supplies.
- 15 • Promotion and provision of incentives for the development and optimal use of all
16 energy resources and new facility infrastructure.
- 17 • Assurance that various domestic energy sources are continually developed,
18 maintained and stored to prevent supply emergencies and promote energy
19 independence.
- 20 • Consideration and assessment of environmental costs and benefits for all energy
21 resources, fuels and technologies in rendering legislative, regulatory and market
22 decisions regarding energy production and use.
- 23 • Provision of an affordable and reliable energy supply for all citizens.
- 24 • Examine the feasibility of, and where feasible, promote statewide or regional
25 minimum storage level requirements for heating oil for states dependent on this
26 fuel.
- 27 • Specification and balancing of clear lines of local, state and federal regulatory
28 authority.

- 29 • Promotion of continued investments in electric power grid infrastructure to make
30 it more efficient and resilient and recognize the value of the electric power grid as
31 an asset that must be maintained, improved and supported by all of those who
32 use and operate the grid.
- 33 • Development of both short- and long-term strategies to provide adequate energy
34 supplies, efficient utilization of those supplies and optimum cost effectiveness.
- 35 • Promotion of the education of school-age children regarding energy resources,
36 consumption, conservation, and production and regarding environmental
37 protection, safety and risks in energy production.
- 38 • Assurance of expanded energy research and development and broadening of the
39 citizenry's access to energy-related information.
- 40 • Assurance of participation of state and local officials in the development and
41 implementation of a national energy plan and strategy.
- 42 • Avoidance of mandates, particularly unfunded mandates, upon state and local
43 governments as well as avoidance of pre-emptive federal laws in developing a
44 national energy policy.

45

46 **Implementation**

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

- 49 • An assessment and forecast of our nation's energy future and its impacts.
- 50 • An evaluation and ranking of short and long-term energy options available to the
51 nation.
- 52 • An evaluation of possible energy futures which provide greater benefits to our
53 citizens.
- 54 • The development of recommendations for energy options and energy futures that
55 the nation should pursue, with the establishment of national targets or goals.
- 56 • An evaluation and recommendation of implementation mechanisms including, but
57 not limited to, incentives, technical assistance, educational programs, regulatory
58 standards or guidelines to achieve the targets or goals.

- 59 • Considers energy sources based on the lowest cost, cost benefit analysis,
60 revenue loss, cost to consumers, reliability, and environmental or other impacts.
61 Additionally, energy policy alternatives that would improve our energy security
62 without imposing significant new costs, while balancing the need for
63 environmental protection, should be implemented.
- 64 • A coordinated effort between state and federal government in the development of
65 producing a national energy policy where the federal government consults
66 closely with state legislatures, devising mechanisms to bring state legislatures
67 into the energy decision-making process as full participants on a continuing basis
68 and ensuring the inclusion of representatives of the legislative branch of state
69 government in all state-federal working groups dealing with energy policy.

70

71 **Conservation and Energy Efficiency**

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

- 76 • Corporate Average Fuel Economy Standards for automobiles and light duty
77 trucks, including sport utility vehicles and minivans.
- 78 • Energy efficiency provisions in model building codes (including lighting efficiency
79 standards and weatherization).
- 80 • "Whole-building" and life cycle costing approaches to construction and retrofitting
81 that integrate energy efficiency technologies and practices.
- 82 • Home appliance and heating and cooling unit efficiency standards.
- 83 • Waste recycling and reduction standards for industrial manufacturing.
- 84 • Standards for conservation in electrical production and supply including
85 cogeneration.
- 86 • Use of alternative energy.
- 87 • A national transportation policy that emphasizes various modes of transportation,
88 including passenger rail and transit, as well as promoting energy efficiency.

89

90 **New Source Review Program (NSR)**

91 NCSL urges the Environmental Protection Agency (EPA) to reform the NSR program to
92 achieve improvements that enhance the environment and increase production capacity,
93 while encouraging efficiency, fuel diversity and the use of resources without weakening
94 the requirements intended to reduce emissions from new or modified sources of air
95 pollution. Routine maintenance, repair or replacement activities which are not major
96 modifications should not trigger NSR requirements.

97

98 **Government Support for Renewable Energy and Energy Efficient Products and**
99 **Industries**

100 NCSL believes that the federal governments' leadership role in the purchase and use of
101 new energy efficient and renewable energy technologies and products should be
102 expanded and supports federal incentives for consumers to purchase energy efficient
103 products. The federal government should continue to establish incentives for energy
104 efficient fleet procurement industries and manufacturers of energy efficient products as
105 well as continue to encourage the use of innovative financing technologies to increase
106 energy efficiency in buildings such as performance contracting and long-term leasing
107 and purchase agreements for energy efficient products. All government-owned buildings
108 should make use of economical energy conservation programs, demonstrating state of
109 the art efficiencies whenever possible.

110

111 **Renewable Energy**

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

119

120 NCSL recommends that:

- 121 • Federal action should be flexible, allowing for a range of complementary
122 strategies at the state and federal level maintaining a strong role for state
123 government in any federal action.
- 124 • Federal legislation should provide states the authority and flexibility to work within
125 an overall framework that affords states the ability to choose from a range of
126 options & apply the law effectively in the most cost effective, timely and efficient
127 manner for each state.
- 128 • Federal legislation should not pre-empt state governments from enacting stricter
129 or stronger measures within their jurisdiction.
- 130 • Congress must authorize and appropriate sufficient funds for state and federal
131 governments to implement any federal legislation. These funds should be newly
132 authorized appropriations, not reprogrammed resources.

133

134 **Energy Emergency Preparedness**

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

138

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

- 141 • Initial efforts should focus on strategies to reduce the nation's dependence on
142 foreign oil to avoid future emergencies.
- 143 • Voluntary conservation is preferred to mandatory measures, wherever possible.
- 144 • When any mandatory responses are required, they should be phased in,
145 beginning with the least stringent measures, with gasoline rationing reserved for
146 only the most severe shortage.
- 147 • Minimize undue hardships on states and regions heavily dependent on motor
148 vehicle transportation with rationing allotments and allocation plans based on
149 state and regional needs and strategies rather than national averages.
- 150 • Priority shall be given to home heating needs including home heating oil and
151 propane, provided homes are adequately insulated.

152 NCSL believes changes need to be made at the national level by the federal
153 government to ensure that the country has sufficient, affordable supplies of energy, by
154 encouraging more efficient use of energy to reduce U.S. reliance on foreign oil. As such,
155 federal investments in both energy efficiency and research in developing new and
156 alternative energy technologies should figure significantly in a national energy policy.

157

158 **Coal**

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

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

182

183 **Crude Oil**

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

196
197 The federal government should manage United States imports by diversifying import
198 suppliers, pursuing a Pan American Energy Alliance with Western Hemisphere
199 producing nations, and expanding a dialogue with suppliers worldwide.

200
201 **Natural Gas**

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

207
208 **State Primacy in Regulation of Oil and Gas and Production Wastes**

209 Since oil and gas exploration and production occur in several different states in distinct
210 regions, NCSL believes that primary responsibility for the regulation of used oil and of
211 oil and gas exploration and production wastes is best handled by the affected state to
212 accommodate site-specific conditions and environmental considerations should not be
213 preempted by federal legislation or regulation. As such, NCSL supports the continuation

214 of exempting used oil and waste generated in oil and gas exploration and production
215 from classification as hazardous waste under the Resource Conservation and Recovery
216 Act (RCRA).

217

218 **Revenues from On-Shore and Outer Continental Shelf Drilling**

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

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

227

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

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

245 **Nuclear**

246 NCSL believes that,

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

- 276 interim used fuel storage facilities in willing host communities and states (with
277 consultation of all state, local and tribal officials and other interested parties).
- 278 • States must continue to have the right to monitor operating conditions at nuclear
279 power plants, waste storage and disposal facilities, and to exercise regulatory
280 authority where consistent with federal law.
 - 281 • Federal funding should complement private sector investments in the areas of
282 waste management technologies, nuclear fusion, and plant retrofit and life
283 extension.
 - 284 • The tax treatment of federal decommissioning funds should be updated to ensure
285 that existing funds are treated in the manner intended by the tax laws and to
286 reflect new business conditions.

287

288 **The Electric Power Grid**

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

- 291 • Reliable electricity supply depends in part upon modernization of the electric
292 power grid, and that in order to meet current and future demands for electricity,
293 investments in the electric power grid will need to be made.
- 294 • Electric power grid investments funded wholly or in part by retail ratepayer dollars
295 should be just and reasonable, and properly balance the needs of all consumers,
296 as well as the needs of electric utilities and grid operators.
- 297 • Electric power grid investments provide benefits to consumers. NCSL recognizes
298 the potential for electric power grid investments to provide for a more resilient
299 power system, increase operational efficiencies, increase electric grid reliability,
300 reduce outages, reduce outage restoration time, improve power quality, reduce
301 peak demand, improve overall system efficiency, provide consumers with new
302 information and tools to voluntarily control their own energy costs, integrate an
303 increasingly diverse set of energy resources and enable economic growth and
304 innovation.
- 305 • Electric utilities are responsible for ensuring that electric power grid technologies
306 are deployed in a manner consistent with reasonable and effective cyber and

307 physical security best practices. Systems should be designed to mitigate risks
308 and enhance the resiliency of the electric power grid, and preserve the accuracy,
309 integrity and privacy of data.

310

311 **Electricity**

312 NCSL believes that the federal government should promote

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

322

323 **Public Benefits/Environment:**

324 NCSL believes that:

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

338 otherwise, state flexibility in addressing market mechanisms in electric
339 restructuring plans.

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

346

347 **Consumer Protection and Education:**

348 NCSL believes that:

- 349 • The federal government should assist states to ensure the safety, reliability,
350 quality, and sustainability of services be maintained or improved, and that all
351 consumers have access to adequate, safe, reliable, and efficient energy services
352 at fair and reasonable prices, as a result of competition.
- 353 • States should retain the authority, with the assistance of the federal government
354 as needed, to protect consumers from anticompetitive behavior, undue
355 discrimination, poor service, market power abuses, and unfair service practices.
- 356 • States should maintain their authority to establish or require comprehensive
357 consumer education and outreach programs to minimize public confusion and
358 provide information so consumers are able to make informed choices and
359 participate effectively in a restructured market.

360

361 **Regulatory Authority**

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

366

367 NCSL strongly supports and urges the continuation of the state legislative oversight for
368 the approval and siting of all major energy conversion facilities, subject to minimum

369 federal standards established only after the fullest consultation with state governments,
370 both executive and legislative branch. State authority over the siting of energy facilities
371 should not be preempted by federal law.

372
373 NCSL acknowledges the need for a robust national transmission system that can
374 support new technology and allow for additional power production to be brought onto
375 the grid. NCSL urges Congress to allow provisions included in the 2005 Energy Policy
376 Act relating to state authority of liquefied natural gas terminal siting to be implemented
377 and studied before any attempt is made to expand the preemption to further limit the
378 state role in siting of these energy infrastructure components. NCSL opposes any such
379 expansion of these provision but urges Congress at a minimum to allow for the
380 complete implementation of the new standards before re-addressing the issue.

381

382 **Research and Development**

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

395

396 NCSL encourages federal development of alternative technologies that improve
397 renewable energy efficiencies, cut costs, and assist in integrating renewable energy into
398 existing energy systems. The implementation of federal standards for the deployment of
399 these new technologies should not undermine established programs at the state level to

400 integrate these resources into existing energy systems. NCSL also believes in the need
401 for a translation and distribution system for international technical and marketing papers
402 on renewable energy and that the U.S. should strive for excellence in the use,
403 manufacturing and marketing of renewable energy resources and technologies.

404

405 **Wave Energy and Tidal Energy**

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

409

410 NCSL requests that the federal government demonstrate global leadership and:

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

422

423 **Education and Information**

424 NCSL believes that it is essential that the federal government work to ensure that the
425 nation, including its elementary and secondary school-age children, are fully aware of
426 energy use and costs, production processes, alternative energy resources, the
427 importance of energy efficiency and conservation and the impact energy usage has on
428 our environment. NCSL recommends that the federal government initiate, expand and
429 appropriately fund public and private sector education efforts.

430

431 The federal government should promote both energy conservation education and fund
432 research into conservation technologies while federal funding of energy conservation
433 programs, including grants to states, should be enhanced. Such efforts should
434 emphasize that significant economic and environmental benefits can be achieved
435 through increased efficiency and conservation.

436

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

443

444 **Transportation**

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

- 448 • Incentives and adequate funding for mass transit, high speed rail, magnetic
449 levitation and other emerging transportation technologies.
- 450 • Fuel economy standards; and other market incentives for improving the energy
451 efficiency of automobiles and light trucks.
- 452 • Procurement policies favoring efficient vehicles.
- 453 • The encouragement of public-private partnerships.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: BEYOND VISUAL LINE OF SIGHT OPERATIONS**
3 **FOR UNMANNED AIRCRAFT SYSTEMS**

4 **TYPE: RESOLUTION**

5 **WHEREAS**, Drones as First Responders (DFR) is a program whereby first responders'
6 drones are pre-positioned in a service area, ready to be launched immediately in
7 response to an emergency call for service; and

8
9 **WHEREAS**, once overhead, the drone live-streams the video to responding first
10 responders and communications centers; and

11
12 **WHEREAS**, DFR has proven to be an efficient and effective way of providing public
13 safety with critical information increasing situational awareness and providing de-
14 escalation strategies keeping both first responders and the community safe; and

15
16 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State
17 Legislatures urges Congress to require the Federal Aviation Administration (FAA) to
18 establish a regulatory pathway for certification or approval of Beyond Visual Line of
19 Sight Operations (BVLOS) for Unmanned Aircraft Systems for first responders to
20 support DFR programs around the country.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: CHRONIC WASTING DISEASE**

3 **TYPE: RESOLUTION**

4 **WHEREAS**, Chronic Wasting Disease (CWD) affects cervids such as deer, elk, and
5 moose and has been detected in at least 29 states, according to the Center for Disease
6 Control’s (CDC) March 2023 survey; and

7
8 **WHEREAS**, the states currently grappling with CWD are incurring significant costs to
9 respond to the disease, often requiring the wildlife management agencies and research
10 universities to divert limited resources from other vital activities; and

11
12 **WHEREAS**, these diseases create great suffering and death of wildlife and threaten to
13 infect more animals and impact ecosystems and economies; and

14
15 **WHEREAS**, recent research indicates CWD may be spread by ticks, and has the
16 potential to jump into human populations; and

17
18 **WHEREAS**, the CDC recommends not eating CWD infected deer; and

19
20 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State
21 Legislatures urges Congress to provide states with additional flexible federal funds for
22 research and response to emerging wildlife diseases, in order to effectively address this
23 multi-state wildlife disease crisis and enable states to assure their wildlife populations
24 are healthy. These funds must be provided without federal mandates on state wildlife
25 management; and

26
27 **BE IT FURTHER RESOLVED**, the National Conference of State Legislatures supports
28 National Institutes of Health funding to examine human health impacts from CWD.

29