Policy Directives and Resolutions for Consideration

2023 Legislative Summit
Indianapolis, Indiana

DEBATE CALENDAR

Table of Contents
LAW CRIMINAL JUSTICE AND PUBLIC SAFETY
POLICY: INCREASING VISA CAPS AND LEGAL IMMIGRATION TO END LABOR SHORTAGE .................................................................................................................. 1

NATURAL RESOURCES AND INFRASTRUCTURE
POLICY: NATIONAL APPLIANCE EFFICIENCY STANDARDS .......................................................... 3
POLICY: RECOVERING AMERICA'S WILDLIFE .................................................................................. 5
POLICY: SURFACE TRANSPORTATION FEDERALISM ....................................................................... 7
WHEREAS, there is currently a labor shortage in key U.S. industries and increased cultural and ethnic diversity is a recognized benefit to our society; and

WHEREAS, the pandemic highlighted the need for a diverse and robust workforce able to withstand shocks and unforeseen circumstances, particularly in industries such as healthcare, manufacturing, agriculture, education, and trade industries that continue to experience shortages, amounting in total to over 10 million unfilled jobs; and

WHEREAS, immigrants tend to be of optimal working age and eager to find employment; and

WHEREAS, employment-based visa holders are non-citizen workers that complement U.S. workers and help to fill labor gaps in critical industries; and

WHEREAS, employment-based visa holders benefit the country not only with their gainful employment but also by contributing to the tax base, as they pay federal, state, Social Security, and Medicare taxes proportional to their wages; and

WHEREAS, according to the United States Department of State, permanent employment-based immigration is statutorily limited to 140,000 principals and dependents annually. To illustrate the low number of visas available in certain sectors, the number of H-2B visas is statutorily limited to 66,000, and the number of H-1B visas is limited to 65,000 with an additional 20,000 visas available for those with a master’s degree or doctorate. There are countless other industries with statutory visa caps that are not commensurate with workforce needs; and
WHEREAS, these visa caps are often met within the first few months of each year; and
WHEREAS, many visa recipients must reapply yearly and these applications can be lengthy and burdensome; and
NOW, THEREFORE, BE IT RESOLVED, the National Conference of State Legislatures urges Congress to significantly increase the statutory visa caps and simplify the application and reapplication processes to allow employment-based visa recipients to easily maintain their visa status; and
LET IT BE FURTHER RESOLVED, the National Conference of State Legislatures urges Congress and the Administration to create legal pathways to immigration and streamline the process for immigration into our country in order to fortify the labor market and achieve economic prosperity.

WHEREAS, an average U.S. household saves about $500 per year on utility bills because of these existing standards; and,

WHEREAS, U.S. businesses save about $23 billion annually because of these existing standards, money that can be invested in jobs or spent in local economies; and,

WHEREAS, efficiency standards stimulate innovative technologies, which are beneficial to American manufacturers in a competitive global environment; and,

WHEREAS, lower energy and water use helps mitigate the need for new utility infrastructure.

NOW, THEREFORE, BE IT RESOLVED, that the NCSL urges the Congress and the Department of Energy (DOE) to fully fund and continue this highly successful program; and,

BE IT FURTHER RESOLVED, that the NCSL strongly urges DOE to amend standards as stipulated by law and in accordance with the review schedule dictated by Congress; and,
BE IT FURTHER RESOLVED that Congress continue to require DOE to regularly review standards for appropriate updates and to resist any attempt to repeal existing standards.
WHEREAS, habitat loss, wildlife diseases, invasive species, pollution, and the impacts of climate change pose significant threats to fish and wildlife species; and

WHEREAS, over 1,600 United States’ native species are federally protected under the Endangered Species Act and estimates suggest one in five native species is at risk of extinction; and

WHEREAS, State Wildlife Action Plans have identified nearly 12,000 Species of Greatest Conservation Need (SGCN), including federal and state endangered and threatened species and other rare and at-risk fish and wildlife species; and

WHEREAS, current funding is far below what is necessary to conserve the species most at-risk; and

WHEREAS, the Blue Ribbon Panel on Sustaining America’s Diverse Fish and Wildlife Resources recommended that up to $1.3 billion a year of existing revenue from energy and mineral resources development on federal lands and waters be redirected to the Wildlife Conservation Restoration Program; and

WHEREAS, the Recovering America’s Wildlife Act would provide the additional funding, providing state wildlife agencies the money necessary to accelerate implementation of State Wildlife Action Plans; and

WHEREAS, the additional funding will help states to address at-risk wildlife before they require protection under the federal Endangered Species Act which can be more costly and disruptive.
NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislators urges the President of the United States and Members of Congress to act to pass and sign into law the Recovering America’s Wildlife Act, and

BE IT FURTHER RESOLVED, that copies of this resolution be immediately transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress.
The National Conference of State Legislatures (NCSL) calls on Congress to work closely with states to develop a shared, long-term vision for financing and funding surface transportation systems that will enhance the nation’s prosperity and the quality of life of all Americans.

The federal government plays a vital role in supporting a national surface transportation system that meets national defense needs, addresses fairly and equally the mobility needs of all Americans and facilitates interstate commerce. NCSL supports the continuation and preservation of a federal-aid surface transportation program. The federal program should direct spending to national priorities while allowing for state and insular area flexibility in local and regional variations. It is also essential that the federal-aid surface transportation program incorporate requirements and foster goals of other national policies that impact transportation decision-making.

Recent federal reauthorizations have recognized the unique contributions of each transportation mode to the productivity of the states and the nation, and to the ability of this nation to compete globally in the emerging and existing international economies. These laws contemplate an integrated transportation system for the movement of both goods and people, with increased emphasis on adopting technologies that improve productivity. NCSL urges Congress to provide states enhanced programming flexibility to meet a multitude of national goals. States should have maximum flexibility in deciding how to generate and leverage transportation revenues and how to use state and federal dollars. The ability of states to maintain flexibility in decision making and comply with environmental and other mandates is dependent upon regulatory flexibility as well as adequate and reliable funding. Such flexibility to move funds among programs allows states to better align limited federal dollars to individual state needs.
**National Vision**

The surface transportation system in the United States needs a new vision to guide it beyond the Interstate Highway era into the 21st century and the needs and challenges that lie ahead. Congress should look at surface transportation anew, authorizing a new program that better meets current and future needs for interstate mobility.

Congress must clearly articulate this new national vision for surface transportation. In doing so, Congress should consider the following as federal objectives:

- Interstate commerce and freight mobility,
- Interstate movement of people,
- National defense and homeland security,
- Safety,
- Environmental and air quality preservation and improvements,
- Research and innovation, and
- Economic productivity.

Congress should focus federal programs and funds on these interstate goals. In doing so, Congress should heed the Tenth Amendment and not intervene in or interfere with state-specific transportation priorities.

**Funding and Financing**

A federal trust fund, financed by user fees, should be retained as the primary method of funding federal-aid surface transportation programs. It must provide states a sustained, reliable source of transportation funding. It is critical that the Highway Trust Fund (HTF) retain spending firewalls that ensure that user fees will be deposited in the HTF to be used on surface transportation and will not be subject to non-transportation federal discretionary spending. NCSL supports states having maximum flexibility in the use of funds they receive from the HTF. Additional surface transportation financing and investment priorities include the following:

- User fees previously collected and diverted from the HTF must be reclaimed.
• Transit agencies, including commuter rail operations, should be exempt from federal fuel or energy taxes.

• Unobligated revenues should not be allowed to accumulate in the HTF. Moreover, federal highway spending should not be artificially reduced so that HTF revenues will accumulate unspent, thereby appearing to lower the federal deficit.

• Annual appropriations should equal authorized spending levels. Obligation ceilings should be set and maintained to reflect gross receipts, plus interest earned.

• Any federal user fee or container fee assessed for transportation security or infrastructure should provide for state flexibility in project selection and may include private sector input when programming projects funded by a security or infrastructure user fee or container fee.

• User fees designated for deposit in the HTF should be made available for flexible transportation usage by states. States should have flexibility in the use of funds for intercity passenger rail service, including Amtrak. The federal match should encourage state efforts in specific programs of national significance, but not discourage flexibility in state or insular area transference of categorical funds. Despite separate federal authorizing legislation for Amtrak, Congress must ensure that surface transportation authorizing legislation acknowledges and fully supports the role of passenger rail for ensuring interstate mobility. States that invest in or otherwise support passenger rail services to complement highway mobility options should be rewarded and encouraged.

• Any examination undertaken on the advisability and feasibility of establishing a federal capital budgeting program should preserve the ability of states to set surface transportation infrastructure priorities.

• Prioritize formula-based funding which allows federal funds to be distributed through a predictable and stable manner, allowing for efficient project and multi-year program delivery wherein transportation needs and projects are identified by states, metropolitan planning organizations and local elected officials for funding prioritization.
Federal formulas designed to distribute discretionary highway funds should consider all state, insular area, and local efforts to fund highways and not be limited to fuel taxes raised.

An increase in federal highway transportation funding is needed in the short-term to provide sufficient funding for the next authorization to meet the new vision and until a new, more stable long-term funding mechanism for surface transportation can be put in place. Any fees or taxes imposed on carbon-based fuels used by vehicles should be recognized as a traditional source for transportation funding and should remain dedicated to the Highway Trust Fund. Congress must migrate the Highway Trust Fund from a gas tax to a new national funding stream. In order to accomplish this, Congress must examine innovative ways that capture all system users. Congress should encourage pilot programs in states for experimentation with approaches, methods and mechanisms. Any system should ensure the privacy of users.

As the U.S. Department of Transportation (DOT) establishes the National Motor Vehicle Per-Mile User Fee Pilot as required by Congress in the Infrastructure Investment and Jobs Act, NCSL encourages the following:

- DOT should ensure that state legislators are represented on the Federal System Funding Advisory Board. Since the early 2000s, state legislatures have been at the forefront of discussions to explore possible replacements for the motor fuel tax, often leading the call for studies and demonstration projects.
- The framework of the National User Fee Pilot Program should rely heavily upon existing state expertise and in coordination with states who are considering, and who have established alternative transportation funding mechanisms.

Apart from the existing Highway Trust Fund flows for transit, NCSL discourages expansion of federal-local funding streams without appropriate coordination with state legislatures as these complicate state-local relationships, financial arrangements, and state match expectations for transportation programs. States possess expertise with federal regulatory and statutory requirements, providing for efficient delivery of projects and ensuring that federal requirements are followed.
• Congress should continue to encourage and expand incentive-based programs, such as the Urban Partnerships program, to spur local and regional transportation innovation in full coordination with state authorities and to promote the use of tolling, congestion pricing, public transit, telecommuting, real-time traffic and other advanced technologies (also known as intelligent transportation systems), and other strategies in a comprehensive approach to achieve interstate mobility goals through urban congestion reduction.

• All funding and financing options must be available to state legislatures for state and federal-aid programs. All current federal restrictions on states' authority to toll should be removed so that states can optimize resources for capacity expansion, operations and maintenance while ensuring free flow of goods and people. Tolling, value-pricing and public-private partnerships (PPPs) should remain state provinces and are not appropriate federal funding and financing mechanisms.

• Federal guidelines should be designed to accommodate private sector support. The level of private sector participation is best determined by state and local authorities, and private participation should not be a prerequisite for receiving federal funds. Statutory or regulatory barriers to state and locally-granted revenues should be removed. States should continue to have flexibility in creating legislative and programmatic frameworks for public-private partnerships (PPPs), and full authority to select and engage in PPP projects.

• Congress should not mandate or prescribe state use of toll revenues or tolling mechanisms, though Congress may seek to incentivize states to avoid redirection of toll revenues to non-transportation uses.

• Congress should continue Transportation Infrastructure Finance and Innovation Act (TIFIA), Grant Anticipation Revenue Vehicles (GARVEE), private activity bond, and State Infrastructure Bank (SIB) programs. Congress should expand credit-based and loan guarantee programs to incentivize private sector investment—particularly for freight mobility by rail, highway and waterway—in projects sponsored by the public sector.
Congressional earmarks on transportation spending or for transportation projects should represent additional funding, should be distributed from non-formula funds, and should not redirect base funding. Earmarks should fit within a national objective as defined in the surface transportation program’s new vision and must appear in a state DOT’s plan.

Technology

NCSL endorses the U.S. Department of Transportation’s goal of deploying advanced technologies known as intelligent transportation systems for consumers of passenger and freight transportation across the nation. Intelligent Transportation Systems are advanced wireless technologies that maximize the safety, mobility and environmental performance of the surface transportation system. These services should be integrated, interoperable, intermodal and voluntary.

NCSL recognizes that the private sector and the federal government should lead in the development and bringing to market of reliable and affordable ITS. The federal government should also set national standards for original equipment manufacturers to install the necessary technology so that states can take full advantage of the efficiencies and safety benefits of intelligent transportation systems. Congress should require the Secretary of Transportation to initiate a rulemaking proceeding that new motor vehicles be equipped with platforms for interoperable systems that enable vehicle-to-vehicle and vehicle-to-roadside communications for the purposes of active safety and electronic tolling and tax collection and to provide a means of accelerating the deployment of this equipment in existing vehicles.

Congress should incentivize states to explore and deploy technology for intelligent infrastructure, making it a high priority and performance measurement benchmark in the restructured federal surface transportation program. Privacy protections must be developed and incorporated into all policies and practices governing use of intelligent transportation systems and technologies. ITS should not be mandated except for
legitimate governmental purposes. Any information collected with such technology should be governed by state laws.

The federal government should encourage states to cooperate with the private sector in the development of real-time traffic information systems.

**Planning**

Congress must work with state legislators to establish in the next authorization a robust and cooperative state-federal system to set system plans and priorities for federal investment. Transportation program plans developed by entities other than those created by the states must be coordinated with state legislatures to ensure that proposals fit into state programmatic and funding plans.

The federal government is uniquely situated to identify and collect data of importance to the development of, maintenance of, and planning for a national transportation system. Congress should incentivize states to share data with the federal government and not use mandates to elicit participation in data collection and analysis.

NCSL supports a negotiated rule-making led by U.S. Department of Transportation (USDOT), or another collaborative process congressionally mandated and facilitated by the Transportation Research Board or American Association of State Highway and Transportation Officials (AASHTO), in which NCSL and state legislatures are fully represented to determine the necessary level of and standards for uniformity among states in data collection efforts.

**Performance Measures**

NCSL encourages the federal government to establish a cooperative process through which performance measures can be crafted for gauging the success of programs. Federal funding should not be directly linked to performance measures; instead, a pilot program should be established in which states can voluntarily participate to gain incentives such as additional funding or reduced regulatory burdens upon
Successful deployment and use of performance measures. Performance measures should be framed as goals for which states may determine the specific measures and benchmarks.

Federal monitoring and compliance standards should accurately reflect compliance effort and unique state circumstances.

**Freight and Interstate Commerce**

Ensuring the safe and timely movement of goods across the nation is an appropriate federal transportation priority. Robust state-federal consultation should evaluate freight flows and collaboratively plan the routes and development necessary to maintain and expand the highway freight corridors.

Rail capacity expansion should be coordinated with the states to ensure intermodal cooperation and maximum public benefit.

The federal government should incentivize states to explore methods of separating highway freight traffic from passenger traffic for the purposes of efficiently moving interstate commerce and public safety.

Federal engagement with, and investment through, the states to ensure effective and efficient movement of freight through ports or other commerce choke-points is appropriate.

**Environmental Issues**

The federal government has a role to play in ensuring that national environmental policy meshes with national transportation policy while assuring efficient and cost-effective approaches to both goals.

- Efforts to streamline regulatory review processes must continue so that construction projects can again be realized on-time and on-budget. Congress should allow and enhance states' programmatic permitting.
• Incentives to states to achieve environmental quality standards through transportation projects should replace prescriptive federal regulation and punitive funding actions.

Safety
NCSL supports a continued federal role in helping to set national performance and safety goals. Safety programs should be expanded to incorporate emerging safety issues while respecting state sovereignty. Due to current prescriptive federal restrictions, many states are prevented from accessing certain federal funding for transportation safety. We urge Congress and USDOT to provide additional flexibility to states so as to ensure all states gain full access to federal funding for transportation safety.

Federal transportation safety programs should promote comprehensive safety programs in the states. NCSL opposes the use of federal sanctions or redirection penalties to enforce federal safety standards. Federal mandates that are enforced through the use of "reprogramming" sanctions should be repealed. Any existing federal compliance standards should reflect overall state effort to promote safety.

Research and Innovation
NCSL acknowledges that federal leadership and investment in transportation related research and innovation is needed and appropriate. In particular, NCSL supports federal research that promotes fuel efficiency, alternative fuels, high-mileage vehicles, safety and technology. Findings and best practices identified through federal research should be shared fully with states in an unbiased, nonpartisan and scientific manner.

Indian Programs
Transportation is an important service program that provides the infrastructure upon which American Indian tribes’ initiatives can be achieved. NCSL recognizes the unique and extensive transportation funding needs on Indian lands. In an effort to ensure that these needs are adequately addressed, NCSL supports a direct planning relationship
between Indian Nations and state departments of transportation. NCSL further supports the continuation of the Federal Lands Program and its work with Indian reservations.