



## Policy Directives and Resolutions for Consideration

### 2017 NCSL Legislative Summit

#### Boston, Massachusetts

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**COMMITTEES: COMMUNICATIONS, FINANCIAL SERVICES, AND  
INTERSTATE COMMERCE  
BUDGETS & REVENUE**

**POLICY: NCSL SUPPORTS AND URGES ENACTMENT OF THE  
REMOTE TRANSACTIONS PARITY ACT**

**TYPE: DEBATE RESOLUTION**

**WHEREAS**, the 1967 *Bellas Hess* and the 1992 *Quill* Supreme Court decisions denied states the authority to require the collection of sales and use taxes by out-of-state sellers that have no physical presence in the taxing state; and

**WHEREAS**, the combined weight of the inability to collect sales and use taxes due on remote sales through traditional carriers and the tax erosion from electronic commerce threatens the future viability of the sales tax as a stable revenue source for state and local governments; and

**WHEREAS**, a report from the National Taxpayers Union has estimated that from 2015 to 2025 states will be unable to collect \$340 billion in sales taxes that are owed from out-of-state purchases; and

**WHEREAS**, the Remote Transactions Parity Act is bi-partisan legislation that was introduced in the United States House of Representatives, which authorizes each member state under the Streamlined Sales and Use Tax Agreement to require all sellers not qualifying for a small-seller exception to collect and remit sales and use taxes with respect to remote sales, and allows a state that is not a member state under the Agreement to require sellers to collect and remit sales and use taxes with respect to remote sales sourced to such state if the state adopts and implements certain minimum simplification requirements; and

**WHEREAS**, unlike federal proposals, such as the Online Sales Simplification Act (OSSA), which would determine a product's taxability based on the location of the seller, the Remote Transactions Parity Act does not preempt or impose new requirements on states that choose not to comply with the legislation's requirements and simplifications; and

**WHEREAS**, unlike federal proposals, such as the Online Sales Simplification Act (OSSA), which would determine a product's taxability based on the location of the seller, the Remote Transactions Parity Act does not: impose new taxes on consumers, fundamentally change how states raise revenue, establish tax havens, or jeopardize the viability of consumption taxes as a revenue source for states; and

**WHEREAS**, it has been over **four** years since the United States Senate overwhelming passed similar legislation, the Marketplace Fairness Act, yet the Remote Transactions Parity Act has not even received a hearing, despite the fact that it has ~~65 cosponsors~~ and enjoys broad support in the committee of jurisdiction and congress; and

**THEREFORE, BE IT RESOLVED**, that the National Conference of State Legislatures (NCSL) appreciates the leadership of U. S. Senators Richard Durbin (Ill.), Mike Enzi (Wyo.), Lamar Alexander (Tenn.) and Heidi Heitkamp (N.D.) for championing this issue in the Senate; and

**BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures appreciates the leadership of Congresswoman Kristi Noem (SD) and her colleagues for reintroducing the Remote Transactions Parity Act and urges Congress to pass the legislation, co-sponsored in the House by Congressman Steve Womack (Ark.), Congressman John Conyers (Mich.), Congresswoman Jackie Speier (CA.), Congressman Peter Welch (Vt.), and dozens of their colleagues; and,

**BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures opposes federal remote sales tax legislation that preempts the laws of states that choose to not comply with the legislation's requirements; and,

**BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures opposes federal remote sales tax legislation that does not establish parity at the point of purchase, which is necessary to level the playing field between remote sellers and in-state businesses;

**BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures supports amending the Remote Transactions Parity Act to allow states to collect sales taxes on all transactions regardless of the platform on which the sales occurred;

**BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures opposes the No Regulation Without Representation Act, H.R. 2887, which would prevent states from collecting taxes they are currently collecting, including various business taxes, and would preempt hundreds or thousands of state laws that serve to protect the general welfare of the citizens of each state, and

**BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures opposes federal remote sales tax legislation that does not establish a destination sourcing tax regime, and,

**BE IT FURTHER RESOLVED**, while the National Conference of State Legislatures supports a federal framework for the collection and remittance of sales taxes, should the Supreme Court of the United States overturn the 1992 Quill decision, NCSL will be reluctant to support a federal legislation that would restrict the ability of states to enforce their tax laws; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution be sent to the President of the United States and to all of the members of the 115<sup>th</sup> Congress.

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

3 **POLICY: BANKING AND FINANCIAL REGULATIONS OF**  
4 **MARIJUANA**

5 **TYPE: RESOLUTION**

6 **WHEREAS**, twenty-nine states, Washington, D.C., Guam, and Puerto Rico have  
7 legalized certain forms of cannabis usage; and

8 **WHEREAS**, Arkansas, North Dakota, and Florida most recently passed measures  
9 permitting the use of medical marijuana; and

10 **WHEREAS**, Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, and  
11 Washington are creating substantial regulatory regimes with respect to the cannabis  
12 industry to ensure compliance with laws related to the growth, sale and usage of  
13 cannabis; and

14 **WHEREAS**, these new regulatory schemes relating to cannabis have created a  
15 significant expansion of the cannabis industry authorized under state law; and

16 **WHEREAS**, business enterprises need access to financial institutions that provide  
17 capital, security, efficiency, and record keeping; and

18 **WHEREAS**, cannabis remains illegal at the federal level as a Schedule I drug under the  
19 federal Controlled Substances Act; and

20 **WHEREAS**, the federal Bank Secrecy Act and its implementing regulations impose  
21 substantial administrative and operational burdens, compliance risk and regulatory risk  
22 that serve as a barrier to banks and credit unions providing banking services to  
23 businesses and individuals involved in the cannabis industry; and

24 **WHEREAS**, providing banking services to cannabis related businesses entails  
25 additional risk to banks and credit unions arising from the fact that cannabis is a  
26 Schedule I drug under the Controlled Substances Act, substantially increasing risk of

27 civil or criminal liability; and

28 **WHEREAS**, the majority of financial institutions have determined that there has been  
29 insufficient federal guidance for providing banking services to cannabis related  
30 businesses; and

31 **WHEREAS**, federal guidance for the banking industry in working with cannabis related  
32 businesses is inadequate to create a regulatory environment as it does not change  
33 applicable federal laws, imposes significant compliance burdens and is subject to  
34 change at any time; and

35 **WHEREAS**, without banking options, cannabis related businesses are forced to operate  
36 exclusively in cash; and

37 **WHEREAS**, a large and growing cash-only industry attracts criminal activity and creates  
38 substantial public safety risks; and

39 **WHEREAS**, a cash-only industry reduces transparency in accounting and makes it  
40 difficult for the state to implement an effective regulatory regime that ensures  
41 compliance; and

42 **WHEREAS**, the inability of cannabis related businesses to pay taxes in a form other  
43 than cash, which may only be remitted in person, creates a large burden on state to  
44 develop new infrastructure to handle the influx of cash, and on the business owners  
45 who may have to travel long distances with large sums of cash; and

46 **WHEREAS**, states have been forced to take expensive security measures to mitigate  
47 public safety risks to taxpayers utilizing the system, state employees and the public at  
48 large; and

49 **WHEREAS**, states do not have any control over the enforcement of federal laws and  
50 cannot enact legislation that provides banks and credit unions with protections  
51 necessary to overcome federal law; and

52 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State  
53 Legislatures believes that the Controlled Substances Act should be amended to remove  
54 cannabis from scheduling thus enabling financial institutions the ability to provide

55 banking services to cannabis related businesses; and

56 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures  
57 acknowledges that each of its members will have differing and sometimes conflicting  
58 views of cannabis and how to regulate it, but in allowing each state to craft its own  
59 regulations we may increase transparency, public safety, and economic development  
60 where it is wanted.

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

3 **POLICY: NCSL SUPPORTS AND URGES ENACTMENT OF THE**  
4 **REMOTE TRANSACTIONS PARITY ACT**

5 **TYPE: DEBATE RESOLUTION**

6 **WHEREAS**, the 1967 Bellas Hess and the 1992 Quill Supreme Court decisions denied  
7 states the authority to require the collection of sales and use taxes by out-of-state  
8 sellers that have no physical presence in the taxing state; and

9 **WHEREAS**, the combined weight of the inability to collect sales and use taxes due on  
10 remote sales through traditional carriers and the tax erosion from electronic commerce  
11 threatens the future viability of the sales tax as a stable revenue source for state and  
12 local governments; and

13 **WHEREAS**, a report from the National Taxpayers Union has estimated that from 2015  
14 to 2025 states will be unable to collect \$340 billion in sales taxes that are owed from  
15 out-of-state purchases; and

16 **WHEREAS**, the Remote Transactions Parity Act is bi-partisan legislation that was  
17 introduced in the United States House of Representatives which authorizes each  
18 member state under the Streamlined Sales and Use Tax Agreement to require all  
19 sellers not qualifying for a small-seller exception to collect and remit sales and use  
20 taxes with respect to remote sales, and allows a state that is not a member state under  
21 the Agreement to require sellers to collect and remit sales and use taxes with respect to  
22 remote sales sourced to such state if the state adopts and implements certain minimum  
23 simplification requirements; and

24 **WHEREAS**, unlike federal proposals, such as the Online Sales Simplification Act  
25 (OSSA), which would determine a product's taxability based on the location of the  
26 seller, the Remote Transactions Parity Act does not preempt or impose new  
27 requirements on states that choose not to comply with the legislation's requirements  
28 and simplifications; and



29 **WHEREAS**, unlike federal proposals, such as the Online Sales Simplification Act  
30 (OSSA), which would determine a product's taxability based on the location of the  
31 seller, the Remote Transactions Parity Act does not: impose new taxes on consumers,  
32 fundamentally change how states raise revenue, establish tax havens, or jeopardize the  
33 viability of consumption taxes as a revenue source for states; and

34 **WHEREAS**, it has been over three years since the United States Senate overwhelming  
35 passed similar legislation, the Marketplace Fairness Act, yet the Remote Transactions  
36 Parity Act has not even received a hearing, despite the fact that it has 65 cosponsors  
37 and enjoys broad support in the committee of jurisdiction and congress; and

38 **NOW, THEREFORE BE IT RESOLVED**, that the National Conference of State  
39 Legislatures (NCSL) appreciates the leadership of U. S. Senators Richard Durbin (Ill.),  
40 Mike Enzi (Wyo.), Lamar Alexander (Tenn.) and Heidi Heitkamp (N.D.) for championing  
41 this issue in the Senate; and

42 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures  
43 opposes federal remote sales tax legislation that preempts the laws of states that  
44 choose to not comply with the legislation's requirements; and

45 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures  
46 opposes federal remote sales tax legislation that does not establish parity at the point of  
47 purchase, which is necessary to level the playing field between remote sellers and in-  
48 state businesses;

49 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures  
50 opposes federal remote sales tax legislation that does not establish a destination  
51 sourcing tax regime, and

52 **BE IT FURTHER RESOLVED**, that a copy of this resolution be sent to the President of  
53 the United States and to all of the members of the 115th Congress.

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

3 **POLICY: RESOLUTION SUPPORTING INTELLECTUAL**  
4 **PROPERTY (IP) RIGHTS AND PROTECTIONS TO**  
5 **PROMOTE PRODUCTIVITY, COMPETITIVENESS and**  
6 **JOBS**

7 **TYPE: DEBATE RESOLUTION**

8 **WHEREAS**, intellectual property (IP) rights and innovation are primary drivers of job  
9 creation and America's economic growth; and

10 **WHEREAS**, over 45 million jobs are directly and indirectly supported by IP-intensive  
11 industries, according to the U.S. Department of Commerce 2016 report, as significant  
12 drivers of GDP, exports and wages in every state of the Union; and

13 **WHEREAS**, IP-intensive industries are responsible for \$6.6 trillion in private sector  
14 output (GDP); and

15 **WHEREAS**, according to the U.S. Chamber of Commerce, the average worker in an IP-  
16 intensive industry earns 30 percent higher wages than those of non IP-intensive  
17 industries; and

18 **WHEREAS**, IP-intensive industries drive American exports accounting for  
19 approximately \$1 trillion (74 percent of total U.S. exports); and

20 **WHEREAS**, given the important role that IP plays in sustaining a long-term economic  
21 growth, policymakers should give high priority to fostering innovation and protecting  
22 intellectual property; and

23 **WHEREAS**, protecting and enforcing the IP rights of businesses are critical to  
24 advancing global economic recovery, driving competitiveness and export growth, and  
25 creating high-quality jobs; and

26 **WHEREAS**, IP protections, though vital, must be balanced with other priorities,  
27 including the right of citizens to access affordable drugs and medical devices and the  
28 ability of state governments to contain Medicaid costs; and

29 **WHEREAS**, the National Conference of State Legislatures believes that balanced  
30 efforts to promote innovation through intellectual property protection and affordable  
31 healthcare are critical to improving the nation's long-term competitiveness in a global  
32 market, and to achieving certain socioeconomic improvements in the quality of  
33 American life;

34 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State  
35 Legislatures calls upon all levels of governments to work cooperatively with the private  
36 sector, nonprofits, and academia to create, develop and implement robust pro-IP  
37 awareness and enforcement; and,

38 **BE IT FURTHER RESOLVED**, the National Conference of State Legislatures supports  
39 efforts to ensure the Intellectual Property Enforcement Coordinator within the Executive  
40 Office of the President has sufficient staff, budget, and authority to fulfill the obligations  
41 and achieve the goals outlined in the Prioritizing Resources and Organization for  
42 Intellectual Property Act of 2008 (PRO-IP Act) and the National IP Strategy; and

43 **BE IT FURTHER RESOLVED**, the National Conference of State Legislatures supports  
44 robust and balanced IP protection and enforcement provisions in trade agreements,  
45 protecting U.S. jobs and wages while ensuring that excessive monopoly protections do  
46 not saddle states or individuals with burdensome costs that limit healthcare options or  
47 endanger public health;

48 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures  
49 supports existing efforts to shut down the top illegal rogue websites globally that are  
50 willfully selling counterfeit goods and facilitating digital theft; and

51 **BE IT FURTHER RESOLVED**, that a copy of this resolution be sent to the President of  
52 the United States and all members of the 115th Congress.

53 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**  
54 **INTERSTATE COMMERCE**

55 **POLICY: NCSL SUPPORTS PASSAGE OF THE FEDERAL**  
56 **DIGITAL GOODS & SERVICES TAX FAIRNESS ACT**

57 **TYPE: RESOLUTION**

58 **WHEREAS**, digital goods and services are online purchases that are downloaded  
59 directly by, or services that are provided electronically to, consumers that can transcend  
60 numerous state and local boundaries across the United States; and

61 **WHEREAS**, the exponential growth of digital commerce has demonstrated the  
62 importance of digital products to the American economy; and

63 **WHEREAS**, state policymakers recognize that the continued deployment of broadband  
64 infrastructure and adoption of broadband services is vital to economic growth and  
65 participation in the global economy; and

66 **WHEREAS**, digital goods and services are a major driver of the rapidly growing 21st  
67 Century digital economy and as such, fair and rational tax policies are needed that will  
68 not impede the continued growth of this segment of the economy; and

69 **WHEREAS**, due to the complex nature of the way digital commerce is transacted,  
70 current state and local tax laws governing the taxation of sales transactions are  
71 outdated and ill equipped to address many of the issues that surface in taxing today's  
72 "borderless" digital economy; and

73 **WHEREAS**, as state and local governments continue to seek to modernize their tax  
74 base to include various forms of digital commerce, doing so without establishing a  
75 national framework could potentially subject consumers to multiple states claiming the  
76 right to tax the same transaction or subject such transactions to discriminatory taxation  
77 at rates higher than the rates imposed on the in-state sales of similar goods or services;  
78 and

79 **WHEREAS**, establishing a national framework would clearly identify which state and  
80 local jurisdiction can tax a digital transaction, providing much needed certainty to

81 consumers, providers required to collect such taxes and state and local governments  
82 seeking to tax such goods and services in a fair, uniform and rational manner; and

83 **WHEREAS**, establishing a national framework as set forth in the Digital Goods and  
84 Services Tax Fairness Act as introduced in the 114<sup>th</sup> Congress preserves state  
85 sovereignty as the decision to tax digital commerce or not remains solely with the  
86 states; and

87 **WHEREAS**, the Mobile Telecommunications Sourcing Act (P.L. 106-252) established  
88 uniformity in sourcing mobile telecommunications services for state and local tax  
89 purposes using similar concepts to those contained in the Digital Goods and Services  
90 Tax Fairness Act as introduced in the 114<sup>th</sup> Congress; and

91 **WHEREAS**, NCSL has worked with other state and local organizations as well as  
92 members of the Download Fairness Coalition to develop the principles contained in the  
93 legislation and is poised to assist states as needed in complying with the federal  
94 legislation; and

95 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State  
96 Legislatures urges Congress to introduce and pass legislation that provides a  
97 framework for the taxation of digital goods and services consistent with NCSL principles  
98 in conjunction with or after consideration of the Remote Transactions Parity Act, to  
99 establish a national framework providing certainty and uniformity for state and local  
100 governments in the taxation of digital goods and services, while protecting consumers  
101 from multiple and discriminatory taxation and supporting the continued growth of the  
102 digital economy.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

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

4 **TYPE: DEBATE DIRECTIVE**

5 NCSL believes that the work of designing and sustaining a system of support for low-  
6 income families must be a bipartisan partnership among the federal, state, and local  
7 governments and community stakeholder organizations to reduce poverty of low-income  
8 families and alleviate the problem of homelessness. NCSL urges the federal  
9 government to continue to provide flexibility to states to innovate with programs and  
10 services that move low-income families to financial independence, build self-sufficiency,  
11 diminish the long-term effects of poverty, and enable states to find solutions for the  
12 problem of homelessness. NCSL also believes that the federal government should  
13 encourage and support state efforts to address the underlying causes of poverty and  
14 support preventive strategies that improve outcomes for families and children living in  
15 poverty.

#### 16 **Measures of Poverty and Child Well-being**

17 NCSL believes that the federal, state, and local government partnership should be  
18 supported to address the underlying causes of poverty, and to employ prevention  
19 strategies to improve outcomes for children and low-income families living in poverty. It  
20 is critical that anti-poverty efforts use measures that accurately capture economic  
21 needs, resources, and other factors that accurately depict elements which impact or  
22 influence the economic health of families. NCSL supports efforts to create new  
23 measures alongside the current poverty measure which was created in 1963 by Mollie  
24 Orshansky, based on food expenditures. NCSL supports efforts to include the value of  
25 non-cash benefits and tax credit, count costs for health care, transportation, child care,  
26 housing and utilities, and geographic cost of living differences.

27 NCSL believes that the current measure alone does not give state policymakers the  
28 ability to accurately measure the effectiveness of ongoing and new initiatives to combat

29 poverty. NCSL does not believe new poverty measures should be used to determine  
30 eligibility or level of assistance. New measures should emphasize the importance of  
31 strategies and actions that address the needs and opportunities of families and  
32 individuals rather than causing debate about the “perfect” measure.

33 NCSL supports bipartisan bicameral efforts to provide for a comprehensive child well-  
34 being measure that documents the effect of growing up in poverty.

### 35 **Anti-Poverty Efforts**

36 NCSL believes that any new federal initiative on poverty should identify key goals for  
37 state efforts, but allow states flexibility in deciding which goals to emphasize and how to  
38 harness state and community efforts to address those goals. Part of this framework  
39 should include outcome-based measures (well-being measures based in family and  
40 community conditions) that federal and state efforts measure and report. Accountability  
41 should be focused on these outcome measures, rather than program structure and  
42 rules.

43 States need flexibility to restructure their human services, workforce, health care and  
44 educational programs to address poverty strategically and in ways adapted to their  
45 goals and circumstances.

46 Federal efforts should:

- 47     ▪ be designed to avoid shifting costs to the states,
- 48     ▪ foster and enable state-based initiatives and strategies that reach across the full  
49       range and government, business and community based efforts to effectively reduce  
50       poverty,
- 51     ▪ alleviate the effects of growing up in poverty, and
- 52     ▪ build states’ workforce training, economic and job development efforts.

53 NCSL opposes charitable choice legislation that preempts state and local laws, is  
54 retroactive in its application, undermines existing state-federal grant programs and  
55 partnerships by offsetting their funding, creates new rights for states to be sued in  
56 federal court, and mandates participation on the states per federal guidelines.

57 **Earned Income Tax Credit (EITC)**

58 NCSL supports the federal EITC as a means of reducing poverty among working poor  
59 families, and ensuring that the benefits of work surpass the benefits of public  
60 assistance. NCSL believes that increasing public awareness is essential to the success  
61 of this program. NCSL strongly urges the federal government to work with states as  
62 partners to develop new and creative outreach strategies and information for eligible  
63 taxpayers. NCSL supports:

- 64 ▪ federal efforts to increase the value of the credit, adjust the credit for family size, and  
65 eliminate the marriage penalty,
- 66 ▪ expanding the EITC to single workers, especially noncustodial parents, to have the  
67 same impact on low-skilled workers,
- 68 ▪ continuation of federal practices that allows states to use Temporary Assistance for  
69 Needy Families (TANF) and State Maintenance-of-Effort (MOE) funds for the state  
70 EITC, and this support should not be counted as “assistance” under the welfare law,  
71 nor should federal data reporting for assistance programs apply.

72 NCSL objects to increases to the credit that result in cost shifts to states. NCSL  
73 encourages the administration to provide states the maximum flexibility to administer  
74 their EITC programs, and believes the federal government should simplify the  
75 application for the federal EITC, which will reduce the paperwork burden and reduce  
76 errors.

77 **Temporary Assistance for Needy Families (TANF)**

78 NCSL supports the purposes of the TANF block grant, which provides grant funding to  
79 the 50 states, the District of Columbia and the territories for a wide range of benefits,  
80 services, and activities. It provides states the flexibility to meet specified goals of the  
81 program including:

- 82 ▪ Providing assistance to needy families so that children can be cared for in their own  
83 homes or in the homes of relatives,



- 84   ▪ Ending dependence of needy parents on government benefits through work, job  
85       preparation, and marriage,
- 86   ▪ Reducing the incidence of out-of-wedlock pregnancies, and
- 87   ▪ Promoting the formation and maintenance of two-parent families.

88 NCSL opposes federal regulatory actions that would limit state flexibility, constrain state  
89 policy choices or leave states facing financial penalties for not meeting federal work  
90 participation rates. States must be able to adopt a variety of goals for their TANF  
91 programs within a broad federal structure, including welfare to work and welfare  
92 avoidance programs for youth and low-wage workers.

93 NCSL supports:

- 94   ▪ The concept that individuals receiving public assistance should be engaged in efforts  
95       toward self-sufficiency. NCSL urges the federal government to support the success  
96       that states have had with strategies to get welfare recipients into unsubsidized jobs  
97       in the private sector.
- 98   ▪ Regulations that authorize states to deem compliant individuals with disabilities who  
99       fail to meet the work threshold or activity standards which TANF requires.
- 100   ▪ Permitting states to determine if individuals applying for Social Security Income (SSI)  
101       meet the SSI threshold for an exclusion from the work rate calculation because they  
102       are unable to work prior to a Social Security Administration (SSA) determination.
- 103   ▪ Excluding individuals unable to work due to temporary disabilities and ineligible for  
104       SSI from the work rate calculation.
- 105   ▪ State options to collaborate and contract with religious organizations for family  
106       assistance services, within the boundaries of state and local laws.

107 NCSL urges the federal government to work with states on any changes made to the  
108 TANF to ensure the continuance of innovation in state and county programs. NCSL  
109 opposes the use of earmarks, preemption of state authority, or mandates on states as  
110 they compromise the spirit of the state-federal partnership. In addition, NCSL believes  
111 that altering regulatory standards on work requirements without partnering with states in

112 their development could constrain state flexibility. NCSL urges Congress and the U.S.  
113 Department of Health and Human Services (HHS) to provide states with sufficient  
114 flexibility in making strategic TANF policy decisions to design their own programs in  
115 accord with community needs.

#### 116 **Individual Development Account (IDA)**

117 NCSL supports federal efforts to provide incentives for the creation of Individual  
118 Development Accounts (IDAs) as a tool to promote financial self-sufficiency that  
119 complements state efforts to reform welfare and to support working families' efforts to  
120 move out of poverty. NCSL urges the federal government to continue to allow states to  
121 have the flexibility to use TANF funds for IDA programs.

122 NCSL supports changes in the federal tax code that would expand opportunities for  
123 IDAs including a tax credit for financial institutions that participate with matching funds  
124 and for private entities that invest in nonprofits that administer IDAs. NCSL urges HHS  
125 to examine and eliminate barriers in the TANF program, including those associated with  
126 the Cash Management Improvement Act, to simplify administration of IDAs.

#### 127 **TANF Funding**

128 NCSL strongly opposes congressional proposals to reduce the welfare block grant in  
129 TANF, the Social Services Block Grant (SSBG), Low Income Home Energy Program  
130 (LIHEAP) or any related welfare program. NCSL urges Congress to continue to provide  
131 full financial support for the TANF block grant, ~~supplemental grants~~, and the  
132 contingency fund, which provides additional financial support for qualifying states during  
133 an economic downturn.

134 NCSL believes that MOE requirements should continue to retain flexibility for the use of  
135 funds in any manner "reasonably calculated" to achieve TANF's statutory purpose.

136 NCSL opposes regulatory actions that restrict TANF's use to a narrow list of programs  
137 and eliminates their use to meet work participation rates, or attach federal requirements  
138 to separate state programs should be stopped.

#### 139 **Inflationary Adjustment**

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

#### 146 **State Legislative Authority** ("The Brown Amendment")

147 A critical component of the 1996 law explicitly gave state legislatures the specific  
148 authority to appropriate their state's TANF, child care, and welfare-to-work funds. This  
149 authority invests state legislators fully in the TANF program and increases state  
150 oversight of TANF funds. NCSL strongly supports maintaining this language.

#### 151 **Rewarding Work and Reducing Poverty**

152 NCSL believes that work is a critical component of welfare reform and federal law  
153 should support state efforts to create a continuum of self-sufficiency. Federal policy  
154 should facilitate and inform and encourage state-based and/or community and local  
155 comprehensive strategies.

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

- 159     ▪ Eliminate the work participation standard states must meet that requires a higher  
160         work participation standard for the two-parent portion of their assistance  
161         caseload, which will help strengthen families by removing a barrier to marriage.
- 162     ▪ Allow states to count all recipient work effort.
- 163     ▪ Provide states greater flexibility to define what activities count as work, especially  
164         the combination of activities such as work, job training and preparation,  
165         education and treatment for alcohol and other substance abuse, and mental  
166         illness, and activities to meet the requirements of a domestic violence plan.
- 167     ▪ Retain the 30-hour work participation rate as the standard.

- 168       ▪ Continue to provide states credit for those who leave welfare. If the current  
169       caseload reduction credit is reduced or eliminated, it must be phased out to give  
170       states time to adjust to any changes.
- 171       ▪ Provide states the option of including education leading to employment as part of  
172       the first 20 hours of work with the purpose of meeting state work participation  
173       rates and give states the flexibility to count post-secondary programs that lead  
174       directly to good jobs.
- 175       ▪ The time limit on post-secondary education programs should be extended from  
176       12 months to 24 months.
- 177       ▪ Retain 20-hour requirement for a parent with a child under six.
- 178       ▪ The focus on work should not come at the exclusion of necessary basic or  
179       vocational education that would enhance skills, job retention and earnings. NCSL  
180       has always urged the federal government to leave the decision on when and how  
181       education should count for each client up to the states, like other TANF benefit  
182       and services decisions. The current policy that limits the amount of time and caps  
183       the number of clients engaged in vocational education does not consider state  
184       decision making. State legislators support efforts to expand the length of time a  
185       recipient can be in vocational education, and to lift or increase the cap on a  
186       percentage of the caseload that can be counted. NCSL supports giving states  
187       more flexibility to define education, and to give credit to those engaged in Adult  
188       Basic Education and English as a Second Language and post-secondary  
189       education.
- 190       ▪ Continue to support states ability to use TANF funds for subsidized employment  
191       programs.
- 192       ▪ Permit states the flexibility to define sanctions for noncompliance with welfare  
193       rules including work requirements.

194   NCSL supports:

- 195     ▪ The adoption of credits to reward state success in moving families to employment.  
196         Such credits would benefit states that focus their efforts to get recipients into jobs  
197         that promote long-term self-sufficiency.
- 198     ▪ Continued state flexibility to address issues of drug use among TANF recipients, and  
199         opposes new federal mandates in this area.

## 200     **Time Limits**

201     NCSL believes that federal policy should always encourage work, educational or career  
202     training goals. When a parent is working, and receiving benefits, states should have an  
203     option to extend or exempt these workers and their families from the federal time limits.  
204     NCSL believes the current policy should continue to:

- 205     ▪ Provide states flexibility to determine their own time limits.
- 206     ▪ Allow states to decide to maintain separate state programs under MOE or segregate  
207         their MOE spending in an existing program, to use the funds with greater flexibility.
- 208     ▪ Maintain the ability of states to exempt 20 percent of their caseload, as defined by  
209         the state, from federal time limits.

210     NCSL supports efforts that would distinguish cash support from non-cash support.  
211     Currently housing, food and cash count as "assistance" and NCSL urges Congress to  
212     separate housing from other forms of assistance.

213     NCSL urges Congress and the administration to carefully examine how the SSI and  
214     SSDI programs can be better coordinated with the TANF program and state efforts to  
215     help everyone achieve the maximum level of self-sufficiency possible.

## 216     **Data Collection and Reporting Requirements**

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

## 219     **Welfare Waivers**

220     NCSL strongly believes that states need flexibility for further innovation, and that states  
221     should be given options for policy changes, rather than waivers for policy changes

222 which require further evaluation. NCSL strongly believes that states must be able to  
223 continue current federal waivers as well as receive new federal waivers for welfare  
224 reform. The elimination of current state waivers will substantially undermine current  
225 state programs.

### 226 **Other Work Supports**

227 NCSL believes that work associated expenses such as uniforms, tools and texts are an  
228 additional barrier to employment. NCSL urges the federal government to provide  
229 adequate funds and eligibility disallowance for work expenses. NCSL encourages the  
230 federal government to link programs that assist low-income families with housing needs  
231 and self-sufficiency efforts so that those who return to employment are not in danger of  
232 losing their housing assistance and can earn their way out of poverty.

### 233 **Financing Welfare Reform**

234 NCSL strongly opposes federal efforts to finance welfare reform through cost-shifting to  
235 the states through:

- 236 ▪ unfunded mandates,
- 237 ▪ transfer of support for needy populations to state government through elimination of  
238 programs for legal immigrants, persons misusing substances, homeless families and  
239 families in crisis, and benefit funding by the federal government and transferring the  
240 burden to state-funded, nonprofit programs, and public hospitals,
- 241 ▪ capping current open-ended entitlements, and
- 242 ▪ unrealistic assumptions about savings from recipients leaving welfare or receipt of  
243 child support enforcement.

### 244 **State-Federal Partnership for Anti-Poverty Efforts**

245 NCSL believes that federal policy should facilitate and inform state efforts, and urges  
246 the federal government to consider the impact of any new welfare strategies on other  
247 state and federal systems that serve children and their families. There must be  
248 coordination with the myriad employment and training, and retraining programs, and  
249 community revitalization programs.

250 NCSL urges that the federal government ~~to~~ include funds for technical assistance to  
251 states as part of any national reform efforts. NCSL believes adequate implementation  
252 time is necessary, especially if states must make changes in state law to comply with  
253 new federal requirements. Regulations must be issued in a timely fashion and continue  
254 to promote state flexibility.

255 **Alleviating Homelessness** (updated and pulled from the Homeless Directive)

256 NCSL believes a collaborative strategy among all levels of government is the most  
257 effective strategy to address homelessness, and the federal government, in cooperation  
258 with state efforts, must assume a leading role. NCSL urges Congress to continue  
259 funding for programs that were originally authorized in the McKinney-Vento Homeless  
260 Assistance Act including:

- 261 ▪ Projects for Assistance in Transition from Homelessness (PATH),
- 262 ▪ Grants for the Benefit of Homeless Individuals,
- 263 ▪ Runaway and Homeless Youth Program,
- 264 ▪ The Basic Center Program, which provides short-term shelter and services to youth  
265 under age 18,
- 266 ▪ The Transitional Living Program, and
- 267 ▪ The Street Outreach Program, which provides supports to runaways and homeless  
268 youth.

269 In addition, NCSL believes that McKinney-Vento Homeless Assistance Act funds should  
270 be used to augment existing state programs and to address individual state needs. To  
271 operate these programs in the most cost-effective and efficient manner states must be  
272 given flexibility with funding and program administration. NCSL encourages Congress  
273 and federal agencies to work with states to support their efforts by:

- 274 ▪ Providing a consistent program funding stream,
- 275 ▪ Disseminating information on available McKinney funding,
- 276 ▪ Providing technical assistance, operational guidance and training, and  
277 administrative support, and

- 278       ▪ Actively making available to states, localities and non-profit agencies, under-  
279       utilized or vacant federal properties as potential sites for shelter or other  
280       services.
  
- 281       ▪ NCSL supports the efforts of the U.S. Interagency Council on Homelessness  
282       that leads the national effort to prevent and end homelessness in America. The  
283       Council drives action among 19 federal member agencies, and fosters  
284       partnerships at every level of government and with the private sector to achieve  
285       the goals of the federal strategic plan to prevent and homelessness.



1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

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

3 **TYPE: DEBATE DIRECTIVE**

4 NCSL supports federal efforts to protect and promote the welfare of all children; prevent  
5 child abuse, neglect, or exploitation; establish a system of family support services;  
6 permit children to remain in their own homes or return to them whenever it is safe and  
7 appropriate, or promotes kinship and guardianship placements when it is not; promotes  
8 safety, permanency, and well-being for children in a range of foster care alternatives or  
9 with adoptive families; strives to ensure educational stability for foster care children; and  
10 provides training to ensure a well-qualified child welfare workforce.

11 NCSL believes the primary goal of child welfare services should be to ensure the safety  
12 of children, to support the integrity of the family unit, and lessen the need for long-term  
13 intervention. Supportive services to families is critical in reducing the number of children  
14 in the foster care system and NCSL urges Congress to continue federal support of:

- 15 ■ programs that preserve the family unit, or reunify families after child welfare service  
16 intervention is required, and
- 17 ■ state initiatives and creative approaches in developing cost effective alternatives to  
18 foster care.

19 States must be able to rely on clear federal guidance, technical assistance, and support  
20 for training to successfully and efficiently implement this comprehensive system of child  
21 welfare services. However, states should be afforded flexibility to better administer and  
22 coordinate service delivery of these programs coupled with their various supporting  
23 systems including children's mental health services, the juvenile justice system, and other  
24 programs offering Temporary Assistance for Needy Families (TANF), housing  
25 assistance, educational services, and health care delivery.

26 NCSL also supports federal efforts to improve and encourage judicial processes in child  
27 welfare cases to support state efforts to sustain the integrity and efficiency of these

28 programs through interagency training, budgeting, planning and conflict resolution as  
29 well as integrated data systems.

30 NCSL opposes any efforts to earmark or restrict the use of federal funding and urges  
31 the Department of Health and Human Services (HHS) to permit states to determine the  
32 use of funding within their communities. In addition, any caps on administrative funds  
33 should not categorize the vital work done by caseworkers as an administrative cost.

#### 34 **Foster Care**

35 NCSL urges the federal government to support the Foster Care program as an open-  
36 ended entitlement program under the Title IV-E of the Social Security Act. These funds  
37 support out-of-home care, administrative costs, training for state agency staff and foster  
38 care advocates, adoptive and foster care parents. NCSL opposes any proposals to cap  
39 Title IV-E expenditures. In addition, technical assistance efforts are needed to help  
40 states understand the complicated reporting system, find effective ways to maximize  
41 federal dollars, and enhance revenues for innovative service techniques.

42 Specifically, NCSL urges the federal government to:

- 43 ▪ Promptly pay state claims,
- 44 ▪ Refrain from imposing stringent time limitations on the submission of state claims,
- 45 ▪ Monitor and review state performance fairly while giving states tools for  
46 improvement,
- 47 ▪ Continue to emphasize services and other programs designed to help children at  
48 risk of foster care placement remain with their families,
- 49 ▪ Define and support the separation of states' reporting foster care administration  
50 activities from child placement activity amounts,
- 51 ▪ Entrust states to determine when and if a congregate care setting is appropriate for  
52 foster care placement,
- 53 ▪ Support the concept of giving priority to custody and placement with family members  
54 over placement in a foster home with non-relatives, unless determined by the court  
55 that placement in the foster care system is in the best interest of the child. Federal

56 funds should also be made available to support services for caretaker relatives.  
57 NCSL opposes federal actions that would eliminate federal reimbursement for  
58 relative foster care that is non-licensed or limits state flexibility in allowing a relative  
59 to care for these children,

- 60 ▪ Support states in assisting youth 18-21 who are transitioning from foster care to self-  
61 sufficiency, and offer flexibility to expand services to different ages for foster care  
62 adoption and relative guardianship. Congress should support programs like the John  
63 H. Chafee Foster Care Independence Program, that funds education and training  
64 vouchers for youth aging out of foster care,
- 65 ▪ Increase the recruitment of and training for foster care and special needs adoption  
66 providers, and supportive services inclusive of respite care as appropriate.
- 67 ▪ Provide the necessary coordination of services to high risk children and families  
68 under the scrutiny of the child welfare system including:
  - 69 1. Health and mental health care,
  - 70 2. Drug and alcohol abuse treatment and services,
  - 71 3. Education and job training services, and
- 72 ▪ Promote policies that keep children in their own communities and schools, and
- 73 ▪ Not restrict state authority to determine the criteria for termination of parental rights if  
74 it should be necessary to do so,
- 75 ▪ Support states in addressing the challenges they face in meeting the needs of  
76 Native American children within the federal and tribal government requirements.

### 77 **Child Welfare Workforce**

78 NCSL is concerned about the supply and quality of the child welfare workforce, and  
79 supports federal efforts to develop that workforce including funding for training, student  
80 loan forgiveness, and funding to states to improve staff training and reduce caseloads.

### 81 **Information Services**

82 NCSL supports HHS efforts to develop a national information system to track data on  
83 families in the child welfare system to solicit critical child welfare data particularly with  
84 respect to outcomes for children and the impact of problems such as substance abuse  
85 and the effectiveness of treatment options.

## 86 **Adoption Assistance and Services**

87 Under Title IV-E of the Social Security Act, states, territories, or tribes with an approved  
88 Title IV-E plan are required to enter-into-an adoption assistance agreement with the  
89 adoptive parents of any child who is determined by the Title IV-E agency to have  
90 “special needs.” NCSL believes adoption incentive funds enable states to implement a  
91 range of programs including support for foster and adoptive parent, and other child  
92 welfare services. NCSL supports incentive criteria that considers the population of  
93 special needs children without defining them in terms of age alone. NCSL also supports  
94 assistance with post-legal adoptive and respite services that is critically needed for  
95 families adopting these children, many of whom may have health and mental health  
96 problems as they mature.

97 A state with a Title IV-E plan approved by HHS may seek federal reimbursement for a  
98 part of the cost of making payments agreed to under Title IV-E adoption assistance  
99 agreements and for related program administration costs, including training. NCSL  
100 urges HHS to reimburse states for program expenditures in a timely manner for claims  
101 owed to the state for adoption assistance. NCSL requests that Congress and the  
102 administration consider potential unintended consequences resulting from changes in  
103 the funding structure that might fundamentally alter the capabilities of the program.

104 The Interstate Compact on Adoption and Medical Assistance, which has been adopted  
105 by 49 states and the District of Columbia and governs procedures by which Medicaid  
106 coverage and other supportive services of adopted children may be transferred between  
107 states. For adoption subsidies to be effective, adoptive parents must be assured that  
108 coverage will be provided, regardless of their state of residence. In some cases,  
109 interstate adoption may present the only opportunity to place a child. Differences in  
110 state law and policy create special concerns with respect to the apportionment of legal  
111 and financial responsibilities. NCSL urges HHS to support these efforts and work with

112 states in providing continuity of services for adoptive families when they relocate to  
113 another state.

#### 114 **Flexible Funding for Children's Services**

115 NCSL urges the federal government to provide states the flexibility they need to reform  
116 children's services systems and to meet locally determined community needs, and  
117 remove federal regulatory barriers that often impede state efforts. States should also be  
118 given options to use a portion of their funding for foster care maintenance payments for  
119 child welfare and family services, especially when utilization of foster care funds is  
120 reduced.

121 NCSL opposes a reduction or limitation of funding that caps Title IV-E for these  
122 programs as a condition of children's services proposals. NCSL urges Congress to  
123 consider delinking foster care eligibility from AFDC eligibility for all states and move  
124 towards reimbursement for all children in care, as the states determine.

#### 125 **Child Abuse and Neglect**

126 NCSL supports early identification, intervention and treatment of children who are  
127 victims of or at risk for child abuse, neglect or trafficking, and believes in the importance  
128 of efforts to reduce the incidence of abuse, whether it be physical, sexual, emotional, or  
129 any neglect relative to a child's health and welfare.

130 NCSL strongly supports the federal Child Abuse Prevention and Treatment Act and  
131 urges that it be fully funded at the levels authorized by Congress to assist states to  
132 respond to increased incidents of abuse and neglect.

133 NCSL encourages the federal government to support states in training mandatory  
134 reporters, and opposes federal preemption in defining who is a mandatory reporter.

#### 135 **Families with Addiction Treatment Needs**

136 NCSL urges the federal government to support the addiction treatment needs of families  
137 who come under the scrutiny of the child welfare system. State legislators are  
138 concerned that many women with substance use disorders are pregnant and current  
139 treatment programs are ill-equipped to provide services to this population.

140 NCSL supports:

- 141 ▪ Rehabilitation programs that include appropriate child care for children and addicted  
142 mothers, and federally-funded programs that do not deny access to drug and alcohol  
143 programs on-the-basis of pregnancy,
- 144 ▪ Federal incentives for partnerships between substance abuse and child welfare  
145 agencies to conduct cross system training of staff, improve screening and  
146 assessment procedures, provide comprehensive treatment and prevention  
147 programs, after care services, and improve data collection,
- 148 ▪ Federally-funded programs that recognize that public policy utilizing criminal  
149 penalties vs. rehabilitation and collaborative efforts can be a disincentive to women  
150 in seeking prenatal care, and these interventions must be properly funded and  
151 implemented to prevent substance use disorder before women become pregnant,  
152 and
- 153 ▪ The use of employee assistance professionals at the worksite to help impaired  
154 employees become more productive in the workforce and in society.

## 155 **Family Violence**

156 NCSL supports the federal efforts designed to assist states in their efforts to prevent  
157 family violence, provide immediate shelter and related services to victims, and offer  
158 trauma informed training and strategies and technical assistance to state and local  
159 agencies on program administration.

160 Federal incentives for coordination between child welfare systems, domestic violence  
161 agencies, and juvenile courts, and services to at-risk households, such as emergency  
162 crisis services, in-home services, and parent and family counseling should be  
163 continued.

164 Demonstration grants to support state efforts to increase the number of supervised  
165 visitation centers as a neutral location for protective temporary transfers of custody and  
166 on-site supervised visits of children should be continued.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: FOOD & DRUG ADMINISTRATION (FDA)**  
3 **REGULATION HEALTH PROGRAMS**

4 **TYPE: DEBATE DIRECTIVE**

5 **THE FOOD AND DRUG ADMINISTRATION SAFETY AND INNOVATION ACT**

6 The National Conference of State Legislatures (NCSL) supports efforts to improve the  
7 safety and quality of our drug supply including the FDA Safety and Innovation Act  
8 which:

- 9     ▪ Enhances the safety of the drug supply chain,
- 10    ▪ Provides incentives to drug manufacturers to develop new ~~antibiotics~~ effective  
11    pharmacotherapies,
- 12    ▪ Permanently authorizes the Best Pharmaceuticals for Children Act (BPCA) and  
13    the Pediatric Research Equity Act (PREA),
- 14    ▪ Takes initial steps to address drug shortages; and
- 15    ▪ Provides for expedited development and review of drugs for the treatment of  
16    serious or life-threatening conditions.

17 **Regulation of Internet Pharmacy** – NCSL supports Congressional actions through the  
18 Ryan Haight Online Pharmacy Consumer Protection Act to:

- 19    ▪ Establish disclosure standards for internet pharmacies,
- 20    ▪ Prohibit dispensing of prescription drugs over the internet to persons who have not  
21    been seen by a physician, and
- 22    ▪ Authorize state attorney generals to ~~shut down~~ shut down non-complying sites by  
23    using the federal court system.

24 Unfortunately, NCSL believes the provisions of the Act have not been sufficient to  
25 control rogue websites and urges Congress and the Administration to increase efforts to  
26 prosecute organizations in violation of the law

27 Safety and Quality of the National Drug Supply

28 NCSL believes state drug pedigree laws should not be preempted unless, a national  
29 standard is adopted that provides at least the same level of protections as the state  
30 laws. The FDA should assign a high priority to initiatives to both identify quantities and  
31 ensure the quality of raw drugs entering the United States that are then remanufactured  
32 for retail sale to consumers here. The potential for human error in processing ~~or~~ acts of  
33 terrorism, and the serious consequences of either call for a vigorous and vigilant  
34 response by the federal government.

## 35 **ACCESS TO AFFORDABLE PRESCRIPTION DRUGS**

36 **Importing Prescription Drugs** - NCSL believes that it should be a national priority to  
37 expand access to affordable prescription drugs. NCSL supports efforts to explore the  
38 feasibility of importing prescription drugs from other countries to move toward goal of  
39 containing costs and improving access to safe, and effective pharmaceuticals.

40 **Personal Use Policy** - NCSL is opposed to the “criminalization” of drug importation and  
41 the effect it may have on individuals with limited options. The current federal policy on  
42 drug importation is confusing at best. NCSL urges the FDA to clarify its “personal use”  
43 policy and how the policy is to be enforced. Ultimately if it is determined that drug  
44 importation is not the right approach, NCSL urges Congress ~~will~~ to make it a priority to  
45 explore ways to: (1) increase the number of individuals with health insurance, thereby  
46 increasing access to prescription drug coverage; and (2) increase the affordability of  
47 prescription drugs.

## 48 **Regulation of Compounding Pharmacy**

49 NCSL urges the FDA to work closely with state legislators, state public health officials,  
50 state boards of pharmacy and other important state and local officials, and providers  
51 and industry representatives to develop procedures and systems that retain state  
52 regulatory authority where appropriate and that will improve the overall safety of the  
53 nation’s pharmaceutical supply chain, and the regulation of compounding pharmacies.

## 54 **State Prescription Drug Monitoring Programs**

55 NCSL supports the five-year reauthorization of the National All Schedules Prescription  
56 Electronic Reporting Act (NASPER) adopted in the Comprehensive Addiction and



57 Recovery Act (CARA). NCSL is particularly interested in continued discussions to  
58 increase the effectiveness and interoperability of State Prescription Drug Monitoring  
59 Programs (PDMPs) and looks forward to working with federal partners to expand and  
60 improve the programs.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: GENERAL GUIDING PRINCIPLES: FEDERALISM AND**  
3 **HEALTH, HUMAN SERVICE (HHS), MEDICAID AND**  
4 **CHIP PROGRAMS**

5 **TYPE: DEBATE DIRECTIVE**

6 The partnership between the states, territories and the federal government on health,  
7 and human services is critically important. The underlying goal should be to achieve  
8 mutually agreed upon goals that produce improved outcomes and achieve program  
9 efficiencies and savings for federal, state, territories and local governments. It is equally  
10 important that the basic tenets of federalism carry throughout the partnership.

11 **State Sovereignty**

12 When federal law requires a declaration be made on the part of the state, or territory the  
13 law should simply require “the state” or “the territory” to take the action and allow the  
14 state and territory to determine the appropriate state and territory entity to fulfill the  
15 requirement. Alternatively, when a federal agency implements the law, the agency  
16 should also let the state or territory determine the appropriate entity or individual instead  
17 of making its own determination. Federal laws authorizing grants to states and territories  
18 should include legislative language stating that grant funding should be expended  
19 “according to state or territory law”. NCSL supports accountability and transparency and  
20 welcomes public feedback and participation. NCSL supports a strong role for state and  
21 territory legislatures in program oversight and urges the federal government to give  
22 states and territories flexibility with regard to public notice and the solicitation of public  
23 input related to program proposals, program design and benefits, administration and  
24 implementation

25 **Consultation with States**

26 NCSL also urges-Congress and the Administration to seek the counsel and expertise of  
27 state and

28 territory legislators as key health, and human services programs and initiatives are  
29 being developed. It is particularly important that federal agencies take the state and  
30 territory consultation requirement seriously when drafting legislation and developing  
31 regulations to implement programs. It is especially important that the agencies consider  
32 and detail the impact of federal regulations on state and territory governments. Finally,  
33 NCSL strongly urges Congress, when drafting legislation, and the Administration, when  
34 implementing laws, to respect the state and territory budget and legislative process and  
35 provide adequate time for states and territories to comply with federal requirements,  
36 which often requires the passage of state and territory legislation and the appropriation  
37 of funds.

### 38 **State Flexibility**

39 States and territories should be afforded maximum flexibility when implementing federal  
40 programs. We understand that this flexibility must be accompanied by accountability  
41 and transparency on the part of states and territories. Unnecessary uniformity  
42 compromises the effectiveness of programs by making it impossible for states and  
43 territories to respond to local conditions.

### 44 **Reporting and Data Collection Requirements**

45 Reporting requirements are important, but should be limited to requirements where  
46 there is a reasonable expectation that the data will be used to further program goals. In  
47 addition, efforts must be made to impose data collection and reporting requirements in  
48 the least burdensome way possible.

### 49 **Program Funding**

50 **Cost-Shifting** - NCSL opposes federal initiatives that would shift costs to states and  
51 territories by: (1) imposing unfunded mandates on states and territories; or (2) requiring  
52 states and territories to adhere to existing requirements while reducing the level of  
53 federal assistance.

54 **Block Grant Restrictions** - When individual programs and their funding are  
55 consolidated into a block grant, we urge Congress and the federal administration to

56 refrain from establishing set-asides and funding mandates that severely reduce the  
57 flexibility that states and territories expect from a block grant.

58 **Treatment of “Legacy States”** - Every effort should be made to fund programs in a  
59 way that is equitable across states and territories, while also recognizing and  
60 addressing the different circumstances among states and territories and the varying  
61 needs of their constituents. Too often, legacy states and territories—innovative states  
62 and territories that take the first step on a new approach—are disadvantaged when  
63 federal programs mirroring their own are enacted. These states and territories should  
64 receive special consideration and not be penalized for being innovative.

65 **Waivers** - NCSL urges Congress to authorize waivers and the Administration to grant  
66 waivers, where appropriate, to permit states and territories to develop innovative  
67 programs and service-delivery systems in health, and human services programs.  
68 Successful waiver programs should be brought to scale and integrated into the  
69 underlying program when and where appropriate, instead of requiring every state and  
70 territory to apply for the waiver.

71 **Technical Assistance** – NCSL supports technical assistance provided by our federal  
72 partners. This is an important component of the state-federal partnership and is critically  
73 important in facilitating strong relationships between federal, state and territory program  
74 administrators and state and territory elected officials.

## 75 **MEDICAID**

76 NCSL believes that the Medicaid program represents the state and territory federal  
77 partnership to improve the health of those vulnerable children and adults with  
78 healthcare needs in our communities.

79 **Funding** – Proposals to cap the Medicaid program fundamentally change the  
80 relationship between the states and territories and the federal government by  
81 inappropriately transforming a full partnership into a limited partnership, and shifting  
82 both costs and responsibility to state and territory governments without adequate  
83 authority to manage costs. If federal funds are capped, states and territories must be

84 authorized to reduce or limit services, eligibility and/or payments to beneficiaries and  
85 service providers.

86 **Provider Tax Limitations**

87 NCSL opposes further restrictions beyond those imposed in the Medicaid Voluntary  
88 Contributions and Provider-Specific Tax amendments of 1991 on states' or territories  
89 ability to impose provider-related taxes.

90 **Waivers** - NCSL urges the Administration to continue and to expand state and territory  
91 flexibility in the Medicaid program through demonstration programs, Section 1115  
92 waivers, and Section 1332 waivers. NCSL urges the Administration to permit bold,  
93 innovative programs to be tested and to provide technical support to states and  
94 territories as needed. Successful demonstration and waiver programs should be  
95 replicated.

96 **Emergency Assistance and Countercyclical Assistance** - NCSL urges Congress to  
97 study options to include a provision establishing emergency and countercyclical  
98 assistance to states within the Medicaid statute. The provision would become effective  
99 upon some triggering event, such as an economic downturn, natural disaster, act of  
100 terrorism, pandemic or other public health emergency, and provide additional financial  
101 assistance to states and territories through an enhanced federal match or some other  
102 mechanism that would revert back to the regular federal-state cost sharing formula  
103 when the triggering event has been resolved. This is a complex, but critical component  
104 to fiscal security for the Medicaid program. NCSL looks forward to working with  
105 Congress and the Administration to identify options and to establish and implement a  
106 program.

107 **Judicial Reforms** -NCSL urges the Administration and Congress to work with state and  
108 territory officials on developing strategies to reduce litigation by clarifying and simplifying  
109 Medicaid statutory provisions that are too vague or too prescriptive for states and  
110 territories to properly administer. NCSL also urges HHS to provide technical assistance  
111 to states and territories regarding Medicaid services/issues that are the subject of  
112 litigation in several states and territories so that states and territories may find ways to  
113 successfully provide the services in question without litigation. Under current law, it is

114 extremely difficult for states to vacate or modify the terms of consent decrees, which  
115 means policymakers are hobbled in their ability to govern responsibly. NCSL supports  
116 federal legislation that allows for periodic reexamination of consent decrees to which a  
117 state and territory is a party, other than consent decrees addressing school  
118 desegregation or other actions brought under Titles VI or VII of the Civil Rights Act of  
119 1964, upon motion of the state and territory. This would make it easier for states and  
120 territories to vacate or modify consent decrees as current state and territory  
121 circumstances may require.

### 122 **Medicaid Options**

123 NCSL urges the HHS Secretary to support and explore a broad range of approaches to  
124 provide affordable coverage for low-income people through the Medicaid program.

### 125 **Program Integrity Initiatives**

126 NCSL is pleased that the Administration has proposed to coordinate and consolidate  
127 some of the existing program integrity programs enacted over the years to address  
128 duplication of effort and conflicting elements of the programs. NCSL urges Congress  
129 and the Administration to make the necessary legislative and regulatory changes to  
130 improve the cost effectiveness of the federal program integrity initiatives, to lessen the  
131 administrative burdens associated with them, and ultimately to improve our collective  
132 effort to eliminate fraud, waste and abuse in the Medicaid program.

### 133 **Data Collection Requirements**

134 Data is important and necessary to ensure program integrity and to improve program  
135 quality. NCSL urges Congress and HHS to carefully consider data collection  
136 requirements imposed on state and local governments. The costs, both financially and  
137 in staff time, must be commensurate with the contribution the collected data will make to  
138 the overall effort to improve access and quality.

### 139 **Dual-Eligibles**

#### 140 **Federal Coordinated Health Care Office (Medicare-Medicaid Coordination Office)**

141 NCSL supports the establishment of the Federal Coordinated Health Care Office within  
142 the Centers for Medicare and Medicaid Services (CMS) office and looks forward to

143 working closely with its staff to improve access, care and services to this important  
144 group of Medicaid and Medicare beneficiaries.

#### 145 **State Demonstrations to Integrate Care for Dual Eligible Individuals - NCSL**

146 supports the new State Demonstrations to Integrate Care for Dual Eligible Individuals.  
147 These projects will help states and territories design and implement new approaches to  
148 better coordinate care for dual eligible individuals.

149 NCSL urges CMS to continue to provide funding and technical assistance to develop  
150 person-centered approaches to coordinate care with providers across the health care  
151 system for dual eligible individuals. NCSL is in support of these demonstration projects,  
152 and believes they provide maximum flexibility to states and territories to explore options  
153 that may improve the quality of life and health outcomes for dual eligible individuals.

#### 154 **Effective Management in the Medicaid Program**

155 NCSL urges Congress and the Administration to give states flexibility to effectively  
156 manage their Medicaid programs through innovative utilization and care management,  
157 service delivery, and contracting models.

#### 158 **Medicaid Managed Care**

159 NCSL urges CMS to: (1) work with states and territories as partners and stakeholders in  
160 establishing minimum operational and quality standards for managed care entities  
161 contracting with states and territories for the delivery of services and benefits to  
162 Medicaid or CHIP beneficiaries; (2) to develop a process for technical assistance and  
163 guidance to avert the imposition of punitive actions and sanctions that may impact a  
164 state's federal matching funds, as the state and territory begins implementing new  
165 requirements; (3) offer states and territories flexibility in administering their managed  
166 Medicaid and CHIP programs so that each program meets the unique characteristics  
167 and needs of the state and territory and its citizens; and (4) support state and territory  
168 innovation.

#### 169 **CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)**

170 NCSL continues to support CHIP and urges the Congress to ensure continued funding  
171 and state and territory flexibility in the operation of the program.

1 **COMMITTEE: NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY: BLACK VULTURE**

3 **TYPE: DEBATE RESOLUTION**

4 **WHEREAS**, the Black Vulture is a scavenger and feeds primarily on already-dead  
5 animals; and,

6

7 **WHEREAS**, they also feed on living animals, often attacking birthing animals; and,

8

9 **WHEREAS**, the species has proliferated over the last 30 years and broadened its  
10 geographical range; and,

11

12 **WHEREAS**, maintenance of the species must take into consideration that the Black  
13 Vulture is protected by the Migratory Bird Treaty Act; and,

14

15 **WHEREAS**, the US Fish & Wildlife Service (USFWS) is authorized, under certain  
16 conditions, to issue a depredation permit for Black Vultures; and,

17

18 **WHEREAS**, USFWS has developed pilot programs in Tennessee and Kentucky in  
19 which a single, statewide depredation permit is granted for each state; and,

20

21 **WHEREAS**, the holder of the statewide permit is authorized to include persons seeking  
22 relief from the damage caused by Black Vultures; and,

23

24 **WHEREAS**, the authorized “sub-permittees” are bound by all the terms of the primary  
25 permit.

26

27 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State  
28 Legislatures (NCSL), calls upon USFWS to make a transition in the statewide



29 depredation permit process from pilot program to standard operational procedure in the  
30 management of Black Vultures; and,

31

32 **BE IT FURTHER RESOLVED**, that USFWS, in each state that is experiencing livestock  
33 predation/injury from Black Vultures, determine the appropriate state agriculture/wildlife  
34 agency or non-governmental organization (NGO) recognized for farm advocacy and  
35 award that agency/NGO the aforementioned permit.

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

2 **POLICY:** **NATIONAL APPLIANCE EFFICIENCY**  
3 **STANDARDS**

4 **TYPE:** **DEBATE RESOLUTION**

5 **WHEREAS**, energy efficiency standards as promulgated by the U.S. Department of  
6 Energy following enactment of the Energy Policy and Conservation Act of 1975,  
7 National Appliance Energy Conservation Act of 1987 and 1988 (NAECA), Energy Policy  
8 Act of 1992, Energy Policy Act of 2005 and the Energy Independence and Security Act  
9 of 2007, for appliances, equipment, and lighting protect consumers, are a cost-effective  
10 means to reduce energy and water waste, lower utility bills and decrease pollutants and  
11 atmospheric emissions including greenhouse gas emissions; and,

12

13 **WHEREAS**, an average US household saves about \$500 per year on utility bills  
14 because of these existing standards; and,

15

16 **WHEREAS**, US businesses save between \$14 and \$23 billion annually because of  
17 these existing standards, money that can be invested in jobs or spent in local  
18 economies; and,

19

20 **WHEREAS**, federal efficiency standards create a national marketplace and help  
21 stimulate innovative technologies, which are beneficial to American manufacturers in a  
22 competitive global environment; and,

23

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

26

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

30

31 **BE IT FURTHER RESOLVED**, that the NCSL strongly urges DOE to amend standards  
32 when they are technically feasible and economically justified and do not eliminate  
33 customer choice of multiple efficient technologies as stipulated by law and in  
34 accordance with the review schedule dictated by Congress; and,

35

36 **BE IT FURTHER RESOLVED**, that Congress continue to require DOE to regularly  
37 review standards for appropriate updates and to maintain enforcement of existing  
38 standards.

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

2 **POLICY:** **ORGANIZED DEPLOYMENT OF UNMANNED**  
3 **AERIAL SYSTEMS (UAS)**

4 **TYPE:** **DEBATE RESOLUTION**

5 **WHEREAS**, the Federal Aviation Administration (FAA) anticipates there will be up to 4  
6 million UAS by 2020. Already the FAA has registered more than 750,000 UAS operators  
7 for use in the National Airspace, far more than the 200,000 manned aircraft in the  
8 United States; and,

9  
10 **WHEREAS**, the lack of formal rules and regulations pertaining to the use of UAS by  
11 hobbyists has resulted in a frontier mentality for use and judgment in that air space;  
12 and,

13  
14 **WHEREAS**, the FAA does not yet have the preventative enforcement tools for rules or  
15 laws when developed; and,

16  
17 **WHEREAS**, as of June 2017, every state has considered legislation addressing UAS,  
18 with 37 states having enacted laws; and,

19  
20 **WHEREAS**, the National Conference of State Legislatures (NCSL) having previously  
21 created a UAS Foundation Partnership to facilitate candid discussions between state  
22 policymakers, industry leaders and end-users, to identify options for maximizing the  
23 benefits of UAS while also addressing privacy, safety and 4th Amendment concerns;  
24 and,

25  
26 **WHEREAS**, the FAA continues its work to integrate UAS rules or laws into American  
27 airspace, state policymakers and their constituents are working to tap the potential of  
28 UAS for public and private applications; and,

29

30 **WHEREAS**, the U.S Court of Appeals for the District of Columbia eliminated an FAA  
31 requirement for UAS registration by hobbyists who operate their UAS purely for  
32 recreation; and,

33

34 **WHEREAS**, many examples of federal delegation of authority to states currently exist.

35

36 **NOW, THEREFORE, BE IT RESOLVED**, NCSL recognizes FAA's general authority  
37 over the national airspace but believes it is imperative to preserve the authority of state  
38 governments to issue reasonable restrictions on the time, manner and place of UAS  
39 operations as they relate to states' traditional police powers, including to protect public  
40 safety and security, personal privacy, property rights and manage land use; and,

41

42 **BE IT FUTHER RESOLVED**, NCSL believes without a federal UAS registration  
43 requirement states be allowed to implement their own such requirement; and,

44

45 **BE IT FURTHER RESOLVED**, NCSL strongly believes in the need for federal and state  
46 governments to work together to manage the organized deployment of recreational and  
47 commercial UAS and that states should be allowed to conduct enforcement of federal  
48 UAS rules if they so choose and that the federal government should ensure adequate  
49 resources be available to states for proper enforcement.