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

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

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

WHEREAS, the Investing in our Communities Act as introduced in the 116th Congress restores the ability for states to advance refund their tax-exempt municipal bonds, which was eliminated by the Tax Cuts and Job Act of 2017; and

NOW, THEREFORE, BE IT RESOLVED that the National Conference of State Legislatures urges Congress to pass legislation that restores the ability of states to finance public infrastructure that is cost-effective and consistent with NCSL principles of preserving fiscal viability and tax reform.
The Internet defies a detailed one-size-fits-all approach to public policy and regulation. America's federal and state lawmakers, as well as policy makers from other countries should be guided by principles that foster the Internet's development while protecting the security and privacy of individual users.

Our nation's state legislatures are well-aware of the impact that access to the Internet and electronic commerce have on the economic vitality of our states and communities. State legislatures also recognize that the marketplace for electronic commerce is global, not just in the United States. State legislatures share the concern of many in Congress that ill-conceived over-regulation and taxation of the Internet and electronic commerce services could harm our nation's ability to compete globally. However, state legislatures also recognize that they have an obligation to act, when and if necessary, to protect the general welfare of their constituents. As the use of the Internet continues to expand, any future or existing regulations must be balanced against market forces in a competitive and technologically neutral manner, as government must not choose the winners or losers of the digital age.

Nothing in this policy statement is to be construed as limiting or affecting the right of any state to regulate alcohol according to its local norms and standards pursuant to the 21st Amendment.

NCSL opposes unnecessary or unwarranted federal legislation or regulation that would impede efforts by states to promote access to the Internet, enhance competition or increased consumer choice, or ensure the security of personal information of consumers conducting electronic commerce transactions.
The National Conference of State Legislatures (NCSL) supports the following principles in formulating laws and regulations that impact the Internet and electronic commerce:

**Data Privacy and Security**

With the proliferation of data online, including the internet of things and mobile devices, the regulation of the collection, sales, and transmission of consumer data is increasingly a priority for state and federal lawmakers. NCSL recognizes the importance of consumer data privacy and security protections, as well as the role of the states as leaders in establishing those protections for their constituents.

In response to many high-profile security breaches and violations of consumer privacy, data privacy and security have become the subject of increasing regulation, most notably the General Data Protection Regulation (GDPR) in Europe. States and the federal government are working to protect against data breaches, mishandling of data, and non-transparent sale of consumer data in a way that balances myriad competing interests and allows for innovation while safeguarding the rights of consumers.

Congress has yet to enact any significant or comprehensive legislation that addresses consumer data privacy and security protection. Meanwhile, state activity in the areas of data privacy and security has significantly increased in the past few years and states will not hesitate to act in the absence of federal legislation.

NCSL opposes blanket state preemption in federal data privacy and security legislation. However, because of the interstate nature of the internet and data transmission, NCSL recognizes the need for uniformity in the regulatory environment. Although data privacy and security legislation has traditionally followed a sector-by-sector approach, NCSL further urges Congress to consider comprehensive legislation in setting any national standard.

NCSL strongly urges Congress to engage in regular and meaningful consultation of state lawmakers when considering federal privacy and security legislation. State lawmakers should be included in hearings, review of draft language, principle setting, and other Congressional activity intended to impact state regulatory regimes.
If Congress develops a national standard, NCSL strongly encourages consultation with states and recognition of state expertise in addressing the varied interests of each state’s unique constituency. In any federal legislation, NCSL urges Congress to prioritize transparency and informed privacy decisions, and to carefully consider the best method for consumer notice, disclosure, and consent. NCSL further encourages Congress to consider issues of third-party access and sales, disposal of data, consumer rights to control data, and the burden of protecting consumer data. States have also engaged in significant deliberation over the applicability of consumer protections to various data types, including how to define personal data and how categories of data collectors or sellers should be regulated. NCSL supports recognition by Congress of states’ expertise on these issues and opposes any legislation that preempts state law without meaningful consideration of state priorities or established consumer protections.

NCSL also recognizes the rapidly evolving nature of data collection and urges Congress to consider biometric data, location data, and technologies like facial recognition and artificial intelligence when considering federal legislation.

States should retain the right to establish their own legal rights of action, enforcement regimes, and oversight authority. NCSL urges Congress to protect the right of the states to enforce data privacy provisions in any federal legislation.

**Telemarketing**

NCSL recognizes the increase in telemarketing activity and robocalls across the nation and the work of the Consumer Financial Protection Bureau and Federal Communications Commission on expanding consumer rights in this area. NCSL encourages Congress to pass legislation to protect consumers from harassment and predatory telemarketing activity, including requiring telephone service providers to, at no cost to the customer:

1. Make robocall mitigation technology available to any customer;
2. Implement call authentication technology to identify likely spoofed calls; and
3. Offer call blocking technology.
Free Speech

The Internet allows people to communicate and share ideas with others with an ease never before possible. Federal government policy should rigorously protect freedom of speech and expression on the Internet, but not restrict states or local governments from oversight protecting freedom of speech. New technologies should adequately enable individuals, families and schools to protect themselves and students from communications and materials they deem offensive or inappropriate. State law enforcement, with federal assistance and resources, must be able to enforce criminal statutes against predators that use the Internet to harm or abuse children.

Self-governance

NCSL requests that Congress to maintain the current self-governance approach that allows the competitive marketplace to drive broadband and broadband-related applications development and deployment. Congress should avoid adopting new mandates and provide the Federal Communications Commission (FCC) with defined and limited authority to oversee, but not proactively intervene in, the broadband Internet marketplace consistent with principles that focus on assessing whether the market continues to ensure that consumers can:

1. Receive meaningful information regarding their broadband service plans;
2. Have access to their choice of legal Internet content, recognizing the limits on bandwidth and quality of service of their service plan;
3. Run applications of their choice, subject to the needs of law enforcement and the limits on bandwidth limits and quality of service of their service plans, as long as they do not harm the provider’s network or interfere with other consumers’ use of the broadband service; and
4. Be permitted to attach any devices they choose to their broadband connection at the consumer’s premise, so long as they operate within the limits on bandwidth and quality of service of their service plans and do not harm the provider’s network, interfere with other consumers’ use of the broadband service, or enable theft of services.
Growth
Public policies must be designed to foster continuing expansion of useful and affordable bandwidth, encourage development of innovative technologies and promote broad universal access. Federal and state governments must work together to ensure that all Americans, regardless of where they live, have competitive access to high-speed broadband technologies. Government must work to guarantee open and competitive markets for broadband services.

Information Technology
Information technology (IT) is a global industry. A strong American IT industry enhances and strengthens the economic well-being of our states and nation. States and the federal government must work together to ensure a climate that allows America’s IT companies to continue to perform research and technology development, to generate innovative new products and services and to solve customer problems. States must have the unfettered ability to continue to seek ways to use IT to better the lives of their residents. Therefore, NCSL opposes any attempt by the federal government to restrict or penalize states’ efforts to utilize information technology services and products that allow states to provide more efficient government services to residents at lower costs to taxpayers.

Internet Gambling
Congress must respect the sovereignty of states to allow or to prohibit Internet gambling by their residents.

The Wire Act of 1961 prohibits using an interstate wire communication to transmit bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest. The law also made it illegal to use interstate wire communications transmissions to provide remuneration for winning bets or wagers or for information assisting in the placing of bets or wagers.

In 2018, the Supreme Court’s ruling in Murphy vs. National Collegiate Athletic Assn. allowed states to legalize and regulate sports betting for the first time, and many states have passed or are considering legislation that allows online gaming. Additionally,
states currently engage in online gaming markets, interstate online poker pools, online lottery sales, and interstate lottery pools, among other online gaming activities. States and bettors also use the internet for marketing and payment processing. Some states currently utilize technology that restricts sportsbooks and users to operate within state lines.

The Department of Justice has issued several memos on the application of the Wire Act that may impact the ability of states to operate and regulate a variety of online betting and gaming activities. In 2019, the Office of Legal Counsel in the Department of Justice issued a revision of their 2011 opinion. The revision stated that the restrictions in the Wire Act apply to any form of gambling that crosses state lines, and may impact many currently legal state gambling activities, including the passing of data through intermediaries. The revision creates uncertainty in the regulatory environment and may cause disruption in state markets as litigation follows.

NCSL recognizes the importance of state sovereignty in the operation and regulation of online gaming and the importance of a predictable and stable regulatory environment. NCSL encourages Congress and the Department of Justice to engage in regular and meaningful consultation of state lawmakers and regulators when considering bills, opinions, or other actions that may disrupt current state markets or affect the ability of states to regulate online gaming. NCSL recognizes that states are best suited to regulate online gambling and encourages the Department of Justice to revise its current interpretation of the Wire Act to recognize state sovereignty in regulating these activities and provide market stability.

NCSL also urges Congress to clarify the Wire Act to protect the ability of states to operate and regulate online gambling activities as they see fit, including currently legal activities threatened by the revision of the OLC opinion. NCSL further recognizes that the Wire Act contains language that is out of date and does not reflect the reality that states, markets, consumers, and regulators operate in the age of the internet and digital commerce. NCSL supports a revision of the Wire Act that updates the Act to more accurately represents current technology and communications capabilities.
Electronic Commerce and Taxation

Government policies should create a workable infrastructure in which electronic commerce can flourish. Policy makers must resist any temptation to apply tax policy to the Internet in a discriminatory or multiple manner that hinders growth. Government tax systems should treat transactions, including telecommunications and electronic commerce, in a competitively neutral and non-discriminatory manner. The federal government and America’s industries should work with state legislatures in ensuring equal tax treatment of all forms of commerce and should encourage state efforts to achieve simplification and uniformity through the streamlining of state and local sales and telecommunications tax systems.

NCSL supports the reform of the discriminatory taxation of communications services and believes that if state and local governments were to take such action, the need for the federal moratorium on Internet access would cease to exist.

VIDEO FRANCHISE REFORM

Innovation and convergence of existing technologies are radically expanding communications and information services, blurring distinctions between telephone, Internet services, cable, wireless and satellite. These rapid changes often outpace abilities of federal, state and local regulatory regimes to adapt. It is important that video regulatory policy assure that like services are treated alike, investment is encouraged, and services are in a non-discriminatory manner.

State Administration Will Preserve State Authority

Local jurisdictions are the creation of either state constitutions or law. The powers that these political subdivisions of the state exercise were granted to them over time by state legislatures. Those local jurisdictions that have franchise authority have it as a result of state legislation or the state constitution. Therefore, any attempt by Congress to preempt current local franchise authority is a preemption of state sovereignty.

While NCSL rarely advocates the consideration of legislation in state legislatures, NCSL has at times, when states are facing a crisis or a serious threat of federal preemption, urged state legislatures to take action. NCSL endorses efforts that remove barriers to
entry for or inequity of regulation among video competitors and foster additional consumer choices in the video marketplace ultimately ensuring competitive neutrality.

Government should encourage competition and consumer choices for broadband and video services and promote the deployment of broadband services and technologies, as well as including options for public-private partnerships where applicable.

Fees and Taxation of Video Providers

Franchise fees today are levied, imposed or collected as a percentage of gross revenues, used for general revenue purposes and not based on the actual direct and identifiable costs of any benefit to the entity that pays the fee. To the extent such fees are intended as payment for use of public rights-of-way, that fee should be limited to the actual, direct and identifiable cost of such use, and that portion of the fee should be applied only to those who use the rights-of-way. Franchise fees should be collected and administered by one central agency per state.
NCSL recognizes that intellectual property (IP) rights and innovation are important drivers of job creation and America’s economic growth. According to the U.S. Department of Commerce 2016 report, over 45 million jobs are directly and indirectly supported by IP-intensive industries as significant drivers of GDP, exports, and wages in every state, and the average worker in an IP-intensive industry earns 30 percent higher wages than those of non IP-intensive industries. IP-intensive industries drive American exports accounting for approximately $1 trillion (74 percent of total U.S. exports).

Given the important role that IP plays in sustaining a long-term economic growth, policymakers should prioritize innovation and protecting intellectual property. Protecting and enforcing the IP rights of businesses is critical to advancing global economic recovery, driving competitiveness and export growth, and creating high-quality jobs. IP protections, though vital, must be balanced with other priorities, including the right of citizens to access affordable drugs and medical devices and the ability of state governments to contain Medicaid costs. Balanced efforts to promote innovation through intellectual property protection and affordable healthcare are critical to improving the nation’s long-term competitiveness in a global market, and to achieving certain socioeconomic improvements in the quality of American life.

NCSL calls upon all levels of governments to work cooperatively with the private sector, nonprofits, and academia to create, develop and implement robust pro-IP awareness and enforcement. NCSL also supports efforts to ensure the Intellectual Property Enforcement Coordinator within the Executive Office of the President has sufficient
staff, budget, and authority to fulfill the obligations and achieve the goals outlined in the
Prioritizing Resources and Organization for Intellectual Property Act of 2008 (PRO-IP Act) and the National IP Strategy. NCSL further supports robust and balanced IP protection and enforcement provisions in trade agreements, protecting U.S. jobs and wages while ensuring that excessive monopoly protections do not saddle states or individuals with burdensome costs that limit healthcare options or endanger public health. Finally, NCSL supports existing efforts to shut down the top illegal rogue websites globally that are willfully selling counterfeit goods and facilitating digital theft.
WHEREAS, states actively establish, fund and promote broadband internet policies, authorities and projects across the country;

WHEREAS, broadband is fundamental in furthering the education, economic development, and health of all Americans;

WHEREAS, states want to close the digital divide and ensure equal access to broadband internet across all regions of the state;

WHEREAS, under the Federal Communications Commission’s (FCC) statutory authority, the Communications Act of 1934 and the Telecommunications Act of 1996 acknowledge the dual but collaborative role state and federal government have in providing, regulating and promoting communications services;

WHEREAS, on January 31, 2017, FCC Chairman Ajit Pai announced the formation of the Broadband Deployment Advisory Committee (“BDAC”), a federal advisory committee tasked with providing advice and recommendations to the FCC on how to identify and remove regulatory barriers to accelerate the deployment of high-speed broadband internet access;

WHEREAS, FCC Chairman Pai has appointed 36 members of the BDAC, only two (2) BDAC members represent state or local entities;
WHEREAS, the BDAC released on December 6, 2018 a Model Code for States, Competitive Access to Broadband Infrastructures, Removing State and Local Regulatory Barriers, and a Model Code for Municipalities;

WHEREAS, serving as of an advisory body to the FCC, the BDAC’s recommendations hold influence over FCC efforts to identify and remove regulatory barriers to broadband infrastructure deployment;

WHEREAS, the BDAC membership should equally reflect constituencies significantly impacted by the recommendations, and therefore a greater number of state government representatives should be on the BDAC;

NOW, THEREFORE, BE RESOLVED, the FCC should increase the representation of state legislators in BDAC membership;

BE IT FURTHER RESOLVED, NCSL urges the FCC to work collaboratively with states to identify methods for accelerating the deployment of high-speed broadband internet access;

BE IT FURTHER RESOLVED, NCSL opposes FCC efforts to pre-empt the traditional authority of states around rights-of-way, pole attachments and policies governing telecommunications facilities;

BE IT FINALLY BE RESOLVED, to submit this resolution to the Federal Communications Commission and the Chairman, Ajit Pai.
COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES AND INTERSTATE COMMERCE

POLICY: SUPPORTING THE DEVELOPMENT OF A BALANCED NATIONAL SPECTRUM POLICY THAT INCLUDES UNLICENSED ACCESS IN THE 5GHZ BAND TO MEET THE DEMAND FOR WIRELESS TECHNOLOGIES

TYPE: RESOLUTION

WHEREAS, states have an interest in policies that preserve and encourage continued private investment to deploy broadband technologies, support small and minority businesses and entrepreneurs’ participation in the digital economy, and equip minority communities with the skills and education to take advantage of these technologies; and

WHEREAS, Wi-Fi spectrum in the 2.4 GHz band has become highly congested, especially in densely populated urban areas making it difficult for Wi-Fi providers to deliver the kinds and quality of service that consumers have come to expect and will only accelerate as the number of wireless devices continues to grow; and

WHEREAS, the 5 GHz band has enormous potential to support continued growth in unlicensed wireless services, including the next generation of Wi-Fi which will create a platform for technological innovation, investment, and economic growth; and

WHEREAS, the Federal Communications Commission (FCC) acknowledges the critical role that next generation Wi-Fi technologies can have on consumers; and

WHEREAS, Wi-Fi is essential to unleashing the enormous economic potential of the internet in communities where broadband adoption lags; and

WHEREAS, while according to the Pew Research Center, more Americans are gaining access to broadband in their homes, adoption rates for African Americans and Latinos still lag those of whites by 10 to 20 percentage points respectively and when accounting...
for income only 54 percent of those with a household income under $30,000 had high
speed broadband or a computer at home increasing the importance of Wi-Fi for these
communities; and

WHEREAS, broadband access through Wi-Fi is critical to empowering minority and
minority women entrepreneurs to develop, grow and improve productivity of their
businesses as well as strengthening U.S. competitiveness nationally and worldwide; and

WHEREAS, unlicensed Wi-Fi is a critical issue that, if left unresolved, will hinder the
broadband industry’s ability to grow, innovate and compete and limiting access to this
important resource will jeopardize consumers ability to access Wi-Fi; and

WHEREAS, NCSL agrees that the proliferation of smartphones, tablets and other
mobile devices with Internet access has grown significantly, placing a greater demand
on both licensed and unlicensed spectrum, and adding additional capacity is essential
to support continued innovation and achieve the potential to transform many different
areas of the American economy by providing a platform for innovation and is likely to
have a substantial impact on jobs, growth and investment; and

WHEREAS, NCSL strongly believes that ensuring the long-term success of unlicensed
services in the 5 GHz band for Wi-Fi will enable the broadband industry to provide
reliable and affordable services to broadband customers, particularly given communities
of colors’ high usage of mobile broadband technology as a primary means of connecting
to the Internet with the majority of these connection now being Wi-Fi connections; and

NOW, THEREFORE, BE IT RESOLVED, that NCSL supports the Federal
Communications Commission’s move to allocate additional 5 GHz band spectrum for
unlicensed use in order to meet increased demand for wireless technologies; and
BE IT FINALLY RESOLVED, that NCSL send a copy of this resolution to the President of the United States, Members of Congress, the Federal Communications Commission, State Legislatures and Governors.
Whereas, smart community technologies can strengthen America’s cities, states and regions by improving the overall quality of life, economic opportunity, and security for those who live in America’s communities; and

Whereas, the development and deployment of smart community technologies in the communication, energy, and transportation sectors provides new opportunities to increase overall public health and facilitates economic growth across urban and rural communities; and

Whereas, such smart community innovation encompasses a range of technological solutions to modernize and improve the delivery of state and local government services; and

Whereas, smart community technologies can achieve community goals, such as increasingly clean and efficient transportation, improved energy management, integration of distributed and renewable energy resources, increase access to better quality broadband connectivity and enhanced transportation mobility; and

Whereas, partnerships between state and local governments and the private sector can support ‘smart community’ innovations across all communities and help overcome resource constraints and impediments, and facilitate the efficient coordination of services; and

Whereas, these public-private partnerships can help accelerate smart community advancements and new technology deployments that benefit residents and constituents
across cities, states, and regions; and ensure that smart community technologies are efficiently integrated and provide maximum benefit to the communities they serve; and

Whereas, the infrastructure of the communications, energy, and transportation sectors are not only interconnected, but serve as the foundational elements to enable the deployment of new smart community technologies in all communities; and

Therefore, agencies, such as the department of transportation, federal communications commission, federal aviation administration, the department of agriculture and the department of energy should fund grant programs and opportunities for state and local governments that support efficient investments in smart communities; and

Now, therefore, be it resolved, that NCSL believes that policymakers, as well as partners from the communications, energy and transportation sectors, should continue to work at the local, state, and federal levels to develop policies that facilitate and accelerate the development and deployment of smart community technologies that can maximize benefits for all communities at the local, state, and regional levels.

Now, be it further resolved, that NCSL supports additional federal funding toward the development of smart communities, and that the department of transportation should re-launch the 2015 smart city challenge, and expand the number of communities eligible to receive awards across the nation
With passage of the Every Student Succeeds Act (ESSA), the federal government is now prohibited from mandating, directing, controlling, coercing, or exercising any direction or supervision over academic standards that the states develop and adopt. Thanks to the tireless and fierce advocacy efforts by state legislators and other state and local leaders, there is no longer a need for this policy directive, and the language in this Directive is no longer timely and members will consider a motion to repeal the Directive. However, the language asserting state legislative objection to federal interference is proposed to be added by amendment to the policy directive on State-Federal Partnerships in Elementary and Secondary Education, the conferences overarching policy directive on K-12 education.

The Committee repealed the policy directive Common Academic Standards.
Elementary and secondary education policy is defined broadly by state constitutions, specified by state statutes and implemented by state agencies, school boards and local school districts. State legislators believe that the federal role should be as a supportive partner instead of an intrusive, top-down role. A healthy state-federal partnership in the vital task of educating America's children:

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

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

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

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

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

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

- Preserves and respects state flexibility to implement and administer new block
  grants. If categorical federal education programs are consolidated into block
  grants, these grants should:

  - Include legislative language stating that block grant funding should
    be expended according to state law,
Not limit states to the kinds of activities funded under corresponding block grants for past categorical programs, and

Provide adequate federal funding to assure the continuation of services.

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

Acknowledges the constitutional and statutory authority over education policy that rests with the state legislatures by ensuring state legislators are represented in all “timely and meaningful” consultation requirements in the creation or reauthorization of any federal law relating to elementary and secondary education.
Behavioral health describes both mental health and substance use disorders (SUD). NCSL supports efforts that examine the issues of behavioral health through the comprehensive and holistic approach of the four pillars-prevention, intervention, treatment and recovery.

NCSL supports federal legislation, funding and programing that would:

- Provide block grants to states with flexibility to address the most pressing behavioral health issues in their states,

- encourage federal proposals that supports states working to further integrate behavioral health and primary care services and promotes providers to work easily together in this model,

- remove the unnecessary barriers created by 42 CFR Part 2 by allowing providers to communicate with one another. NCSL recognizes that it was originally attended in stopping discrimination, but it has become a barrier to accessing care and has further increased stigma, and

- reduce stigma and treat behavioral health conditions in a wholistic and integrated way.
Ryan White CARE Act

Federal grants supporting state efforts to provide prevention, care and treatment to people with at risk of or living with HIV/AIDS should provide maximum flexibility to states to enable them to develop programs that best meet the needs of their residents.

NCSL supports:

- Continued and adequate funding for states through the Ryan White C.A.R.E. Act and through cooperative agreements with the CDC and federal partners,

- permitting states to demonstrate, in their state plan, that they have addressed the needs of all populations within their boundaries, in lieu of federal statutory mandates, and

- ongoing federal resources to provide for the development and distribution of prevention and treatment medications. It is important the funding keep pace with the approval and availability of new prevention drugs and treatment therapies.

NCSL opposes:

- The imposition of state matching or maintenance of effort requirements in these programs.
COMMITTEE: HEALTH AND HUMAN SERVICES

POLICY: GENERAL GUIDING PRINCIPLES: FEDERALISM AND HEALTH, HUMAN SERVICES (HHS), MEDICAID AND CHIP PROGRAMS

TYPE: DIRECTIVE

Explanation: The committee voted to repeal this Directive and voted to introduce a new resolution based on this language and theme of the policy issues.
Guiding Principles:
The underlying goal of the Medicaid program should be to achieve mutually agreed upon goals, improved outcomes for patients, and flexibility in administration of programs and savings for states, territories and local governments. NCSL supports accountability and transparency from their federal partners and welcomes public feedback and participation in Medicaid oversight and we also understand that flexibility requires accountability and transparency on their part. We ask the federal government to consider that not all state legislative sessions are on a year-round basis, and ask them to be sensitive to state, territories and local governments’ legislative schedules and resources when making changes to Medicaid programs.

NCSL also urges Congress and the Administration to seek the counsel and expertise of state and territory legislators as new Medicaid initiatives are being developed. It is important that federal agencies take the state and territory consultation requirement seriously when drafting legislation and regulations to implement changes. Federal partners must give states a fair amount of time to review and ultimately implement any new changes. We also caution against uniform proposals and changes as they can compromise the effectiveness of programs by making it difficult for states and territories to respond to local conditions.

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

Block Grant and Cost Shifting Proposals:
When Congress and the Administration are exploring block grant programs, flexibility needs to be a key principle. Any proposals should refrain from establishing unfunded mandates and any cost shifting requirements for implementing a block grant program in states and territories.

**Waivers:**
NCSL supports Congress and the Administration in their ongoing efforts to grant waivers, where appropriate, and in permitting states and territories to develop innovative programs and service-delivery systems in health, and human services. Successful waiver programs should be brought to scale and integrated into the underlying program when appropriate and encourages federal efforts to streamline waiver applications, reviews and approvals.

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

**Medicaid Managed Care:**
NCSL urges the Centers for Medicaid and Medicare Services (CMS) to work with states and territories as stakeholders to continue to provide support in the operation and upholding of quality standards for Medicaid managed care entities contracting with states and territories.
NCSL encourages federal partners to recognize and support the work of states and territories with their Medicaid managed care stakeholders in the following areas:

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

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

As CHIP funding winds down from its previously increased Federal Medical Assistance Percentages (FMAP) rate to participating states and territories, we encourage federal partners to recognize states may require additional flexibilities for running the CHIP program as a result. As these FMAP rates come back down to their original rates, and the CHIP maintenance-of-effort (MOE) runs to ensure a source of health care cover for children, NCSL recommends the following for the program:
• support for states to develop and test systems of coverage for low-income children and explore ways for states to share examples of best practices with each other,

• eliminate any burdensome waiting periods for CHIP enrollment to ensure a reduction in gaps of coverage for children, and

• continued efforts to streamline and facilitate the CHIP and Medicaid application process.

Principles for Federal Health Insurance Reform

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

Implementations of Health Reforms at the Federal Level:

Any implementation of health reforms at the federal level should require state action to comply and must allow a reasonable amount of time for state legislatures to debate and enact any necessary legislation for their constituents. Where states already have similar legislation in place, a process for declaring "substantial compliance" should also be developed. Federal partners should also recognize health insurance programs in the states and territories are where innovations in health insurance and healthcare delivery happen and to utilize states models of health insurance and care moving forward.
Federal Demonstration Authority for States to Experiment with Innovative Health Care Reform Initiatives

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

- Increase access to health care services to the uninsured or underinsured,

- improve the quality and cost-effectiveness of our health care system and the flexibility to test new models that do so,

- increase access to the broad range of long-term care services including home and community-based services (HCBS) that will enable constituents to live in their own homes or communities that provide personalized and a high-quality care,

- support for health insurance plans that work to integrate physical, behavioral and social determinants of health with the aim of reducing costs and improving overall health outcomes for individuals, and

- explore a broad range of approaches and financing mechanisms to improve our health care system including reinsurance programs.

- Allow states to continue their work on addressing issues which include but are not limited to surprise medical billing, out-of-network and in-network billing practices and transparency for health care prices and health insurance plans and/or Certificate of Need regulated by states. This includes programs providing patients with the information they need to be an active consumer in healthcare pricing across providers and services. We also encourage federal partners as they pursue any changes to medical billing practices to not supersede states ongoing work or authority in state regulated health plans, and to involve states in
a timely way when drafting any potential changes to medical billing practices and transparency along with adequate time to states to implement any changes.
NCSL supports efforts to minimize “benefits cliffs” or “the cliff effect,” which refers to the sudden decrease in or elimination of public benefits that can occur with a small increase in personal earnings. When income increases families sometimes lose some or all economic supports, including Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Medicaid and health care, child care assistance, housing and school breakfast and lunch programs.

NCSL strongly encourages federal partners to work with states to find a timely solution that would remove barriers for individuals to enter or remain in the workforce and increase their household income. NCSL supports federal efforts, in conjunction with states, that would explore how to better align TANF, SNAP, Child Care and Medicaid as work supports, from eligibility and enrollment to recertification, training and employment – and how to better align these work supports to mitigate benefit cliffs and increase family financial security.
WHEREAS, EB-5 is the designation for the fifth employment-based preference immigrant visa category established by Congress in 1990; and

WHEREAS, Congress established the Immigrant Investor Pilot Program in 1992 to create regional centers which aid foreign investors, by directing and professionally managing their investments while concentrating pooled investments in defined distressed economic zones; and

WHEREAS, EB-5 allocates 10,000 visas annually to foreign investors and their families who invest at least $1 million (or $500,000 in a targeted employment area) which must generate at least 10 jobs; and

WHEREAS, EB-5 has become a vital source of regional economic development funds; and

WHEREAS, from FY1992 to present, qualified foreign investors from the EB-5 Program has generated more than $33.3 billion in capital investments for American communities; and

WHEREAS, that investment has supported over 171,000 American jobs, according to a Department of Commerce study; and
WHEREAS, at the end of Q1 FY2019, there were more than 13,000 pending applications filed for EB-5 investors, representing nearly $6.5 billion in potential direct investments and 208,000 American jobs; and

WHEREAS, according to the latest economic impact study, the EB-5 Program accounted for nearly $12 billion in foreign direct investment between FY2014 and FY2015, contributing $55 billion to the U.S. economic output and supporting more 355,000 American jobs; and

WHEREAS, the EB-5 Program had record-breaking capital formation in FY2015 and Q1 FY2016 with over $4.3 billion and $628.5 million in foreign direct investment respectively; and

WHEREAS, on February 15, 2019 Congress passed legislation to reauthorize the EB-5 Regional Center Program through September 30, 2019; and

WHEREAS, states and localities are working with private parties to use EB-5 foreign direct investment to finance job creating projects; and

WHEREAS, the rationale behind the EB-5 Program is to create jobs, so those jobs, including construction jobs lasting less than two years, should meet or exceed local wage, benefit and health and safety standards and help strengthen the communities deemed to be in need of economic stimulus and workforce development; and

WHEREAS, the law allows for state and local level input in designating targeted employment areas for EB-5 development, and incentivizing state and local oversight and cooperation on specific projects within those targeted employment areas would help ensure compliance with community and industry labor standards; and
WHEREAS, the EB-5 Program is in need of reform to increase accountability and transparency and enhance program integrity, including through requirements that Regional Centers publicly disclose annually for each project details on job creation methodology, prevailing wage, living wage, and other labor standards, if applicable;

WHEREAS, USCIS should annually publish a list of New Commercial Entities approved for EB-5 investment;

WHEREAS, USCIS should effectively monitor EB-5 projects to prevent fraud and ensure that jobs are created, and workers are protected by having clear requirements prior to regional center designation and project approval, as well as by conducting regular oversight, including site visits to projects;

WHEREAS, any effort to extend or make permanent the EB-5 regional center program must balance investment in urban centers and rural areas in recognition of the potential benefits of the program in both; and

WHEREAS, without Congressional action the EB-5 regional center program will sunset on September 30, 2019.

NOW, THEREFORE, BE IT RESOLVED, that The National Conference of State Legislatures urges Congress to reform the EB-5 program to ensure integrity and appropriate oversight during reauthorization of the EB-5 regional center program through legislation, ensuring any reform of the EB-5 regional center program maintains the ability to deliver job-creating capital to American communities, including mechanisms to ensure the creation of quality jobs, close loopholes, prevent Federal officials or their family members from personally profiting off the program, bar developers and contractors found to have violated local, state and federal laws, including labor laws, from receiving EB-5 funding, improve processing systems to address backlogged petitions, streamline approvals for all applications, and enhance
program integrity measures through improved reporting requirements and oversight that is not unduly burdensome.
Veterans Affairs
NCSL recognizes that the U.S. Department of Veterans Affairs (VA) provides benefits and services to veterans of America’s armed forces, including a number of specialized programs for disabled, minority, homeless, and women veterans. NCSL supports and urges Congress and the President to protect VA funding of benefits for veterans from budget cuts.
NCSL further urges Congress to provide funding to streamline the VA processes for securing all benefits in a timely manner for those veterans coming home from deployment, including appropriate health care for physical injuries and psychological wounds.

Federal Impact Aid
NCSL recognizes that School districts with military installations are potentially disadvantaged because of their inability to levy taxes against the federal government. NCSL recognizes the importance of Federal Impact Aid to help off-set the loss of tax revenue and supports continued funding of the program.

Federal Funding Cuts and Base Realignment and Closing (BRAC)
When closing, or considering property transfers in a BRAC, NCSL supports federal grant incentives for community involvement during the re-development of bases.

Employment of Veterans
Regarding matters of labor and employment for veterans, the federal government should continue its partnership with states to assist veterans in their transition from military service to the civilian workforce. NCSL supports programs of the Small
Business Administration (SBA) that help veteran-owned businesses. NCSL also supports and encourages federal assistance, including training and tax credits, for employers who hire veterans into their workforce.

**Educational Assistance and GI Bill**

NCSL urges Congress to fund, as authorized, all programs associated with educational opportunities for returning veterans to have those benefits equivalent to the GI Bill of previous years.

**Preserve the Army National Guard and the Air National Guard**

The National Conference of State Legislatures (NCSL) recognizes that the Army National Guard (ARNG) and the Air National Guard (ANG) are vital tools for helping states manage and respond to emergencies and natural disasters at home and abroad. With congressional reauthorization pending, a strong ARNG ensures an operational resource and a strategic reserve for our active duty military branches in combat roles overseas, as well as adapting to complex missions domestically.

NCSL urges the federal government to maintain current funding levels for the ARNG in order to preserve their highly regarded capabilities and to ensure that they are always prepared for duties in the states and abroad in service to our country.

NCSL recognizes that any effort to reduce our nation’s federal deficit requires reductions across all federal agencies. However, reductions should not be made without a thorough review of the overall Army force structure across the active, Guard and Reserve components.

NCSL further urges that any congressional or Department of Defense review of the Army structure, including the role of the ARNG, includes appropriate input from state policy makers.

NCSL also opposes any effort to preempt domestic control of the ARNG from state authority.
Services being provided to our veterans should also include members of the ARNG to help them transition into society and have equal access to job training and other benefits.

Furthermore, NCSL supports equipment return, replacement, and upgrade to address destroyed material left abroad during deployment.

**Service Dogs for Veterans**

U.S. service members deployed into combat zones often face physical, mental, and emotional challenges as they make their return home. One of the tools being used to successfully support these veterans and mitigate the difficulties they face is service dogs. They not only assist in daily tasks for those with physical impairments – their use as support animals for soldiers with conditions such as post-traumatic stress disorder is growing as well.

NCSL recognizes the need to ensure that the use of these canine companions is supported and expanded across the country for our returning veterans, including members of the states’ National Guard. For this reason, NCSL supports federal policies that promote the use of these service animals. Specifically, NCSL commends the work being done on the Wounded Warrior Service Dog Act. This bill supports the study and use of service dogs for veterans – and NCSL urges its passage. NCSL further calls upon Congress to enact legislation that would permit the Veterans Administration to consider certain costs associated with a certified service dog as a reimbursable medical expense.

**Compact of Free Association**

The National Conference of State Legislatures (NCSL) urging Congress and the United States Department of Veterans Affairs to work together to develop a program or pass legislation to provide veterans from Compact of Free Association nations with access to high-quality medical care within their respective communities.
The United States government entered into a Compact of Free Association (COFA) agreement with the Federated States of Micronesia, Republic of Palau, Republic of the Marshall Islands, and Commonwealth of the Northern Mariana Islands.

Citizens of COFA nations are eligible to enlist in the United States armed services, and over the years, the United States has vigorously recruited Pacific Islanders from COFA nations to serve in the United States military.

Pacific Islanders from COFA nations have a long and distinguished history of military service stretching back to World War II.

Upon completing their military service and returning to their respective communities, veterans from COFA nations are unable to secure Department of Veterans Affairs services, especially Department-approved basic medical services, which are non-existent in their own communities.

Veterans from COFA nations must fly to Hawaii, at enormous cost to their personal financial well-being, to obtain proper medical care at Tripler Army Medical Center. NCSL urges Congress and the United States Department of Veterans Affairs to work closely to develop a program or pass legislation to provide veterans from Compact of Free Association nations with access to high-quality medical care within their respective communities.
NCSL acknowledges that a national debate on election reform continues and that any Congressionally mandated changes in election processes necessarily will impact state and local elections. State law controls the processes and the administration of matters pertaining to federal, state, and local elections. It logically follows that NCSL, as the national voice of the various state legislatures, should be at the center of this national debate. NCSL reaffirms its commitment to the Voting Rights Act of 1965 and all other civil rights legislation that ensures a person’s right to vote.

Given the states’ responsibility to conduct fair and accurate elections, NCSL maintains that it must be an equal partner with Congress or any federal agency or commission charged with regulating or establishing elections guidelines because even minor changes to federal election laws and policy will impact states in varying degrees. NCSL supports working in partnership with federal officials to ensure that federal election reform efforts do not unnecessarily preempt existing state policy. In this respect, NCSL believes that federal legislation and guidance documents that affect the states should be drafted with substantial input from those who would be responsible for their implementation. Federal legislation or guidance impacting state election policies or procedures should not curtail state innovation and NCSL believes that federal legislation should include reasonable timeframes for implementing state and local programs.

In light of nation state actors’ efforts to probe state elections systems, NCSL urges congress and the administration to partner with states on cybersecurity to ensure elections remain fair, accurate, and free from foreign interference.

NCSL acknowledges that public confidence in the election process is of utmost importance to state legislators. Therefore, NCSL opposes any federally mandated
elections standards that are either not accompanied by sufficient federal funding or are preemptive of sound, constitutional state policies and procedures. NCSL believes that such funding should be based on broad principles and supports a federal grant formula which awards money to states for broad-based purposes dealing with elections including cybersecurity and opposes any funding mechanism, which seeks to mandate specific requirements on the states.

In the specific area of cybersecurity, federal support of state actions is now required. In 2002 when HAVA was enacted, cybersecurity was a virtually unknown concern. Now it is paramount, and states do not have the resources or capacity to protect against cyber interference in election systems without federal assistance. Federal assistance must include accurate and timely communications to states about threats and known cyber events as well as sufficient federal funding. Therefore, NCSL supports additional federal formula grant funding to states for the following broad purposes:

- Improving the accuracy and security of election procedures and vote counts;
- Improving election technology, systems and ballot design;
- Facilitating states’ processes for voter registration, verification and maintenance of voter rolls;
- Educating citizens on representative democracy and election processes and systems;
- Providing greater access to states’ voter registration programs and polling places especially for rural and disabled voters; and
- Providing training and education opportunities for elections personnel.

NCSL recognizes the functions of the Election Assistance Commission (EAC) are important to the development of election equipment standards, dissemination of election-related statistics and information, and states benefit from the EAC’s skilled expertise in these areas. NCSL supports the structure and purpose of the EAC.

Continuity of Congress
NCSL acknowledges the possibility that a catastrophic national emergency may render the U.S. House of Representatives unable to conduct the business of the country due to
the death or permanent incapacitation of more than 100 of its members. Periodically, Congress introduces legislation that proposes a national uniform special elections process containing federal mandates for the timing of such elections without taking into account state laws and procedures for conducting special elections. Special elections have traditionally been a state responsibility that does not warrant federal intervention and all states have a special elections process in place that is procedurally best for that state. Therefore, NCSL supports federal legislation that allows for state flexibility with respect to the timing of and other rules governing special elections and opposes federal legislation that would preempt state laws governing special elections outright.
The U. S. Constitution requires that a federal decennial census be conducted every ten years. This responsibility is delegated to the U.S. Census Bureau.

Since the first census was conducted in 1790, states have relied on federal census data. Currently, these data are used to redraw congressional and state legislative district boundaries and also to help federal, state, and local governments develop informed, cost-effective policies that promote economic growth, the well-being of individuals and families, and public safety in all communities.

The Census Bureau must be able to fulfill the constitutional mandate that is critically needed by the states and valued by all Americans. Adequate funding for the decennial census is necessary for an accurate count of the nation’s population and is critical for the Census Bureau to maintain the level of preparedness and planning necessary to conduct each decennial census. NCSL has long partnered with the U.S. Census Bureau to provide state legislators and staff with timely information on census activity and to provide feedback on their services and research.

NCSL supports a full and complete census count and will work with the U.S. Census Bureau to conduct its decennial census, related research programs and outreach efforts. To help ensure a full and complete census count, the U.S. Census Bureau should assure all respondents that all personal information they provide to the Bureau will remain safe and not be disclosed contrary to law.
The National Conference of State Legislatures (NCSL) condemns the trafficking of persons. Combating human trafficking requires a strong partnership between the federal government and the states. Regardless of the form trafficking takes, it is the exploitation of survivors, both domestic and foreign born, who require protection and separation from their traffickers.

NCSL encourages improved interdisciplinary coordination among federal agencies responsible for or involved in the crime of trafficking in persons. Any federal/state partnership should include proper training for law enforcement and other criminal justice personnel who will be in contact with the survivors and perpetrators of human trafficking. The federal government must enforce laws that address foreign-born adults and minors brought into the United States via trafficking, smuggling or under false pretenses. This includes providing for effective prosecution and sentencing of traffickers as well as assistance to survivors of trafficking as outlined in the TVPA, who are in fact, victims of crime, including but not limited to survivors who require protection and separation from their traffickers, those who have had documents destroyed or withheld, and specialized assistance for the many survivors who are minors.

Services may also be necessary to help assist survivors with reintegration into society. Survivors of trafficking are often misidentified and treated as criminals rather than victims, especially commercially sexually exploited children, and do not receive adequate services. The federal government should provide resources and capacity to assist states in providing assistance to survivors of both sex and labor trafficking including access to assistance in post-conviction relief for crimes that were committed as a result of their trafficking.

NCSL also encourages improved federal outreach, consultation, coordination and assistance to states and territories, including state lawmakers, with regard to strengthening trafficking enforcement and assistance to trafficking survivors, including
minors. Such consultation and coordination should be conducted with an eye toward establishing and strengthening state/federal partnerships and not preempting existing state laws and policies or creating unfunded federal mandates. NCSL encourages specialized demonstration and discretionary grant programs that assist states in focusing on the growing intergovernmental concern of human trafficking on U.S. soil.

The United States is seeing an increase in trafficked persons who are foreign born and smuggled or brought in under false pretenses. The federal government needs to assist survivors whose traffickers have destroyed or withheld their documents as a means of coercion. NCSL supports the use of T and U visas to reduce barriers in the prosecution of traffickers. State legislators commend the Office of Refugee Resettlement (ORR) at HHS for work with states to assist survivors, particularly minors. NCSL encourages ORR to provide additional technical assistance to the states and include state legislators in their outreach and consultation efforts. ORR should take the lead in sharing its expertise in assisting trafficking survivors with DOJ, HHS and the states. NCSL supports bipartisan Congressional efforts to establish voluntary grant programs and demonstration projects to assist survivors of trafficking. NCSL urges Congress to fully fund the pilot projects authorized under HHS to provide safe and therapeutic shelters for minor survivors.

NCSL supports the enhancement of The National Criminal Information Center (NCIC) relative to children who are missing and exploited including children at high risk for sex trafficking. Federal funding will be necessary to ensure that states do not face an undue administrative burden. However, NCSL cannot support any federal legislation that would contain an unfunded federal mandate.

NCSL urges the Congressional Human Trafficking Caucus to discuss the intergovernmental issues surrounding human trafficking with state legislators. NCSL supports the creation of a multi-governmental Blue Ribbon Commission on combating human trafficking on U.S. soil.
WHEREAS, Hurricanes Harvey, Irma, and Maria, along with devastating Western wildfires and other natural catastrophes, totaling over $300 billion in damage made 2017 the costliest year on record for disasters in the United States, according to the National Oceanic and Atmospheric Administration; and

WHEREAS, Hurricane Michael on the east coast, the Camp Fire in California, and other major disasters made 2018 a deadly and expensive year from coast to coast; and

WHEREAS, Congress in 2019 took over six months to appropriate long overdue disaster aid. The delay featured a government shutdown, focus on tangential policy priorities, and a general absence of productive compromise; and

WHEREAS, even when Congress appropriates needed assistance in a relatively timely manner, the funds are further delayed due to inefficient disbursement to states and territories. In 2019, the Department of Housing and Urban Development took more than a year to provide guidance to disaster-stricken states and territories like Texas, Florida, California, and Puerto Rico which delayed the grant application process. Negotiations on aid for the next disaster season began and concluded before these funds were disbursed; and

WHEREAS, Disasters affect states and territories in every corner of the nation, from wildfires in California, Montana, Utah, and others to hurricanes in Florida, Texas, the Midwest and more; and

WHEREAS, Disasters affect every corner of affected communities – from homes, schools, roads, farms, prisons, electrical grids and hospitals suffering structural
damage, to the affected populations displaced across the country and the states that receive them, and more; and

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures (NCSL) implores Congress to remain united in prioritizing the efficient appropriation of needed aid to disaster-stricken states and territories; and

BE IT FURTHER RESOLVED, that NCSL urges the administration to make every effort to streamline their procedures to deliver appropriated funds to governments and individuals struggling to recover from devastating disasters.
Homeland Security
The National Conference of State Legislatures maintains that response to natural disasters and terrorist attacks begins at the local level where the event occurs, and involves state and federal response as local, then state, resources are overwhelmed by the magnitude of the event. NCSL urges Congress and the Administration to partner with NCSL and other organizations representing state and local government to prepare our nation for national disasters and threats to homeland security. NCSL urges Congress and the administration to:

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

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

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

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

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

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

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

Border Security and Enforcement

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

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

Emergency Management and Presidential Disaster Declarations

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

Specifically, NCSL urges:

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

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

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

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

NCSL calls upon the Administration to:

- Consult with states and requests transparency in its review and reform standards, policies, and procedures.
- When determining aid per capita for states, recognize and respect individual designations of localities within states. Likewise, when FEMA considers whether to recommend a disaster declaration for any given state, NCSL urges consideration of inordinately extensive impact to localities.
- Avoid federal action, such as stringent licensing requirements, that would discourage Good Samaritan aid or inhibit liability protections for voluntary civilian aid at the state level.
- Exercise the greatest level of flexibility possible in granting FEMA public assistance disaster relief funds that respect the distinctiveness of different states.
The automobile is on the cusp of a technological transformation with the potential to both revolutionize personal mobility and provide immeasurable safety benefits. As vehicles that operate on public roads are subject to both state, federal and local jurisdiction, the National Conference of State Legislatures (NCSL) understands the need to clearly define state and federal roles as well as avoid unnecessary federal preemption and burdensome federal mandates.

**State Authority to Regulate Autonomous Vehicle Testing**

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

**FMVSS Exemptions**

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

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

**Cybersecurity Information Sharing**

Cybersecurity is a vital aspect of autonomous vehicles. As vehicles begin to communicate with each other (vehicle-to-vehicle or V2V) as well with infrastructure (vehicle-to-infrastructure, V2I, and V2X), the potential risk of cyberattacks and security breaches greatly increases. NCSL urges both the administration and Congress to both share any threat information with state governments and to work with states to ensure that such threats and affected vehicle populations do not become endemic. A collaborative effort is vital in ensuring such safety.
WHEREAS, the Black Vulture is a scavenger and feeds primarily on already-dead animals; and,

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

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

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

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

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

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

WHEREAS, the authorized "sub-permittees" are bound by all the terms of the primary permit.

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures (NCSL), calls upon USFWS to make a transition in the statewide depredation permit process from pilot program to standard operational procedure in the management of Black Vultures; and,
BE IT FURTHER RESOLVED, that USFWS, in each state that is experiencing livestock predation/injury from Black Vultures, determine the appropriate state agriculture/wildlife agency or non-governmental organization (NGO) recognized for farm advocacy and award that agency/NGO the aforementioned permit.
WHEREAS, Chronic Wasting Disease (CWD) affects cervids such as deer, elk, and moose and has been detected in at least 24 states; and

WHEREAS, Elk Hoof Rot originally infected elk in Washington state but has recently spread to elk in Oregon and Idaho; and

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

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

WHEREAS, bills proposed in the United States Senate and House of Representatives would fund crucial CWD research and provide federal support to states to address and contain the spread of CWD.

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures urges swift enactment of federal legislation providing for research and response to emerging wildlife diseases, such as the Chronic Wasting Disease Management Act (H.R. 1550, 116 and S.689, 116) or the Chronic Wasting Disease Research Act (S. 1326, 116, and H.R. 2081, 116) that will provide federal resources that are crucial to effectively address this multi-state wildlife disease crisis and enable states to assure their wildlife populations are healthy.

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, as many rural hospitals have recently closed, air ambulance services have become increasingly necessary and are being used more frequently to transport patients to faraway hospitals in an emergency; and

WHEREAS, competition among air ambulance services have increased costs; and

WHEREAS, air ambulance services can cost patients tens of thousands of dollars out-of-pocket when companies do not accept a patient’s insurance, and emergency patients rarely have the capacity to choose their own air ambulance company; and

WHEREAS, some air ambulance companies refuse to reveal actual costs to insurers, and some insurers are unwilling to pay market value for the service; and

WHEREAS, federal government Medicare reimbursements cover only a small portion of the actual cost of an air ambulance, forcing air ambulance companies to charge patients more; and

WHEREAS, under the Airline Deregulation Act, states cannot regulate routes, services or prices of air ambulances.

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures (NCSL) supports state sovereignty in air ambulance regulation in order to protect patients from overwhelming financial burdens for emergency medical services; and,

BE IT FURTHER RESOLVED, that NCSL urges Congress to amend the Airline
Deregulation Act in order to provide states the authority to enforce insurance regulations on air ambulance providers to protect consumers.
Aviation is a key component of a balanced transportation system and is vitally linked to regional growth and economic development efforts. The development and preservation of a balanced system of airports, which is responsive to the needs of all sectors of the nation, is the mutual responsibility of federal, state and local governments. Given this mutual responsibility, the National Conference of State Legislatures (NCSL) urges Congress and the administration to actively engage state legislatures in discussions on the development and preservation of our system of airports and to avoid federal mandates, preemption of state authority and where possible provide states maximum flexibility.

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

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

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

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

• remove the Trust Fund from the federal unified budget;

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

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

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

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

• exempt from federal tax laws airport municipal bonds; and

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

State Block Grant Program

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

Development

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

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

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

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

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

**Other**

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

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

**Airport Infrastructure Funding**

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

• 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.
WHEREAS, Asian Carp are an invasive species whom are large and ravenous, prolific spawners, have relatively few predators due to their large size, and feed on plankton – the base of the food chain for native fish species;

WHEREAS, Asian carp pose a safety threat to recreational boaters, as they regularly leap into the air upon hearing boat motors;

WHEREAS, Asian Carp pose a significant threat not only to native fish populations and ecosystems, but also to state and local economies by harming recreational fishing, property values and recreational boating, and

WHEREAS, in previous years federal funding has been dedicated towards managing and preventing an increase in the population within Great Lakes, despite a significant Asian Carp invasion in the Mississippi River Basin and its tributaries.

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures (NCSL) urges Congress to authorize and appropriate additional funding to support state and interstate aquatic nuisance species management plans – we request that total of $25 million be appropriated to the appropriate federal agencies for Asian carp management to protect our nation’s rivers in addition to the Great Lakes; and

BE IT FURTHER RESOLVED, that these funds be directed towards placing Asian carp barriers on navigational locks of dams in the lower Mississippi river basin tributaries and towards programs that catch and remove these fish from these same waters; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the United States Congress, the U.S Fish and Wildlife Service, and the U.S. Army Corps of Engineers.
A resolution of the National Conference of State Legislatures, urging the federal government to fund research on microplastics in the environment.

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

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

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

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

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

WHEREAS, microplastics have been found in human stools; and

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

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

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

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

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

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Attorney General William Barr, President Donald Trump, and all members of Congress.