NCSL Standing Committee on Natural Resources and Infrastructure

POLICY DIRECTIVES AND RESOLUTIONS

2019 NCSL Legislative Summit
Nashville, Tennessee

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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 more than twenty states; and

WHEREAS, the states currently grappling with CWD 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, 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. 4454, 115) or the Chronic Wasting Disease Support for States Act (S. 2252, 115) that will provide federal resources that are crucial to effectively address this multi-state wildlife management crisis.

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.
The National Conference of State Legislatures (NCSL) urges the federal government to consult with state elected officials, their national representative organizations and existing interstate partnerships in developing a federal climate crisis response. As Congress and the administration examine proposals for reducing greenhouse gas emissions de-carbonization of the atmosphere, NCSL encourages the federal government to always take the following principles into account:

- Federal action should be flexible, allowing for a range of complementary strategies at the state and federal level maintaining a strong role for state, local and tribal government in any federal action.
- Federal legislation should provide states the authority and flexibility to work within an overall framework; to apply the law effectively to all sources of emissions and ensure achievement of climate change de-carbonization goals in the most cost effective, timely and efficient manner for each state.
- Federal legislation should not preempt state or local governments from enacting policy options that differ from federal choices or from enacting stricter or stronger measures within their jurisdiction.
- Federal legislation should afford states the flexibility to form regional cooperatives and implement innovative policies that advance federal efforts to reduce the effects of climate change identify the impacts of evolving atmospheric conditions and weather patterns and to facilitate public and private stakeholder investment in preventing, mitigating, and adapting to their associated risks and impacts, including flood resilience measures.
- Congress must authorize and appropriate sufficient funds for federal, state and local governments to implement any federal legislation. These funds should be newly authorized appropriations, not reprogrammed resources.
Federal legislation should ensure state legislative authority in any federal climate-related legislation and affirm the active role played by state legislatures in both fiscal and substantive aspects of state policymaking.

Federal legislation providing for the allocation of greenhouse gas reduction programs to states mandated state de-carbonization requirements should include language making decisions related to such allowances subject to state legislative approval.

NCSL urges the federal government, to join the United States to the Paris Agreement of the United Nations Framework Convention on Climate Change and, should it choose to act on this issue, to take into account the following principles regarding program design components in developing a national response:

- Any national system must include short, medium and long-term goals and incorporate a rigorous oversight program that provide for ongoing study and analysis of the system to ensure it is achieving intended goals.
- A new national program should serve to address uncertainties that are hampering investment in generation, transmission and distribution and enhance the development and deployment of the likelihood that appropriate generation, transmission, distribution, storage and other technologies will be developed and other solutions, implemented so as to achieve the desired reductions in greenhouse gas (GHG) emissions de-carbonization in the most economical and environmentally beneficial manner possible.
- Federal legislation should be designed appropriately to balance competing criteria, including, but not limited to, equity, economic and energy efficiency, as well as and ease of administration.
- Any revenue derived from a greenhouse gas reduction de-carbonization program should be directed to complementary policies focused on mitigating climate change consumer-end-user costs, including but not limited to energy research & development, weatherization, consumer generation and storage, conservation and energy efficiency activities.
• A national de-carbonization program to reduce GHG emissions must also address resiliency and adaptation issues.

• If auctioning of allowances is determined to may be the most economically efficient mechanism for achieving GHG emissions reductions de-carbonization goals. However, the allocation of emissions allowances at no cost can serve as an appropriate transition measure necessary to ensure continued reliability, minimize economic dislocation resulting from the carbon intensity of the existing infrastructure, and allow for development and deployment of needed new technologies and measures to reduce emissions. provide for de-carbonization.

• Priority distribution of allowances at no cost should be to those entities in affected sectors where existing regulatory structure provides the necessary oversight to ensure that the value of such allowances is accounted for in establishing price rates for consumers.

• The allocation of GHG reduction program to states under a federal GHG reduction program should include language making decisions related to such allowances subject to state legislative approval.

• The establishment of any new federal program should include provisions for transparent reporting and accountability and incorporate the use of third-party verification to ensure reported outcomes are verifiable.

Unintended Consequences

NCSL believes that federal legislation providing for de-carbonization regarding the reduction of greenhouse gases should take into account the implications of actions and/or inactions on economic development, energy security, and equity for the most vulnerable citizens. Evaluation should include the life cycle impacts of policy options including ancillary impacts, including for current practices.

NCSL believes that federal legislation should require continuing assessments of the potential impacts to the United States of climate change, by state or region including effects on water resources, agriculture, infrastructure, natural systems, environmental quality, public health, biodiversity and the cultures of our native peoples. Such an
assessment will support the development of domestic and international adaptation-mitigation strategies. The Environmental Protection Agency (EPA) and other federal agencies should provide funding and assist states in developing assessments and adaptation plans at the state and regional level, including sector-level analyses and programs, including transportation, energy and agricultural sectors.

NCSL also urges the federal government to fully consider how legislation will affect low-income households that already struggle to balance needs and expenses. NCSL encourages the federal government to expand and enhance long-term funding for the Department of Energy’s Weatherization Assistance Program and to ensure that any new federal program does not undermine existing federal, state and private sector energy assistance and outreach programs that assist our most vulnerable citizens.

Research and Development
NCSL strongly urges the federal government to authorize and appropriate funding and provide other incentives to spur expanded research and development (R&D), as well as advance the demonstration and deployment of new and existing technologies to improve energy efficiency, advance mitigation strategies and reduce GHG emissions.

NCSL urges the federal government:

- To ensure that legislation not limit the diversity of technologies supported, as future advancements cannot be predicted.
- To take into account state and regional differences, and not limit or specify the technologies used in each state and ensure sufficient flexibility for each State to determine how to best achieve nationally-set goals.
- To promote current and future innovations and expand the use of such technology through R&D transfer agreements with other countries.
- To promote policies and procedures to increase natural carbon sequestration of CO2 that will include sustainable timber harvesting, control burns, reseeding and rehabilitation of natural and introduced grassland plants.
- To require climate risk assessments as part of all federal agency rule-makings.
To require maximum public disclosure and availability of public and publicly-financed climate research and climate assessments.
The National Conference of State Legislatures (NCSL) believes a strong animal production agriculture capacity is imperative in maintaining domestic and international consumer confidence in the safety of the United States meat supply.

**Animal Identification**

NCSL believes a national animal identification program, if properly implemented in cooperation with the states and territories, could be beneficial in maintaining consumer confidence in meat from the United States, an invaluable tool in reducing and tracking future outbreaks of infectious disease, and serving as an important firewall against any attempted terrorist attack on the food production system in the United States.

Any future effort by USDA to develop a national animal identification program must be designed and implemented in full consultation with state legislatures to ensure proper attention to public interest and financial considerations. Any program must be designed and implemented in cooperation with the departments of agriculture of the states and territories. USDA must work to ensure that any animal identification system is compatible with the current inspection and enforcement systems of the state governments. Any applicable federal program should not be applied to animals involved in intrastate commerce without state consultation.

**Equine Industry and USDA Inspection of Horse Meat**

The processing of horses has become a controversial and emotional issue, resulting in the closure of the last horse processing facility in the United States. Without affordable and economic alternatives, unwanted horses are abandoned. The nation’s inadequate and overburdened horse rescue and adoption facilities cannot begin to handle the influx. These additional unwanted horses will compete for adoption with wild horses that
are currently fed and sheltered at a public expense. In the Western United States (US),
the additional pressure on public lands from horses turned out to run wild is only
tensifying the over-population, over-grazing, and ultimate destruction of the
ecosystem.

NCSL urges members of Congress to:

- Recognize the need for humane horse processing facilities in the United States.
- Not to interfere with State efforts to establish facilities in the United States. State
  livestock programs that were once able to recoup the costs of caring and feeding
  for abandoned animals by marketing them, are now forced to greatly increase
  their budgets at the expense of taxpayers.
- Recognize the positive economic impact of willing market for the US horse
  industry. These, and ethnic markets inside the US would appreciate an additional
  source of high quality protein untainted by disease concerns of other species of
  livestock.
- Oppose legislation that would restrict the market, transport, processing, or export
  of horses. Horse processing in the United States is particularly tightly regulated,
  and the horse is the only animal whose transportation to processing is regulated.
  Horse processing facilities in the United States are required to have United
  States Department of Agriculture (USDA) veterinarians supervise the euthanasia,
  and the euthanasia method is humane, according the American Veterinary
  Medical Association and the United States Department of Agriculture.
- Oppose limitations under federal appropriations law prohibiting the use of federal
  dollars to be spent on the salaries of inspectors for ante- and post-mor tem
  inspections.

Interstate Sale of State-Inspected Meat and Poultry

NCSL encourages USDA to continue the Cooperative Interstate Shipment Program in
qualifying states as the program levels the economic playing field for small businesses,
spurs more competition in the marketplace, creates a more uniform inspection system,
and enhances consumer confidence in the food supply – all of which benefit farmers, ranchers, processors, small business and 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.
In order to fully secure the further benefits that only a national energy policy can ensure, the National Conference of State Legislatures (NCSL) urges Congress to direct the U.S. Department of Energy through the national laboratories and technology centers to develop a national energy strategy for moving the United States toward independence from non-North American energy sources and de-carbonize the energy sector. The development of this strategy should be done in partnership with state governments and universities to leverage the work which has already been done and should encompass short, medium and long-term goals designed to help transition the nation to a more secure, environmentally sound and financially stable future configuration that is drastically more independent of non-North American and carbon-producing energy sources.

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

- Promote enhanced efficiency and conservation in the use of our energy resources.
- Establish a diversified national energy portfolio.
- Encourage and assist in the development of enhanced oil and gas refining capacity and technology.
- Support domestic energy production for domestic use and reduce imports.
- Regularly reviews and updates Corporate Average Fuel Economy (CAFE) standards.
- Accelerate research and development of advanced clean energy technologies.
• Promote the development of an infrastructure to support the distribution of clean energy technologies.
• Ensure energy resources are used in a sustainable and environmentally sound manner.
• Support investment in the national academic and job training systems to advance science and engineering curricula for the purpose of creating a highly skilled and trained workforce.
• Address the limitations of the visa system that restricts entry to the United States of leading scientists and engineers from around the world.
• Address the capital, material and labor deficiencies affecting our ability to manufacture and deploy advanced clean energy technologies.
• Accelerate the deployment and use of alternative transportation fuels to begin to eliminate the nation’s dependence on foreign sources of oil.

The U.S. Department of Energy and the U.S. Environmental Protection Agency should work in partnership with states to:
1. Develop and implement state and federal energy policy planning processes.
2. Deploy new energy efficiency and other demand-side options, as well as deploying new and conventional supply-side technologies.
3. Provide sufficient funding to states as they develop energy policies on an individual or regional basis.
4. Provide assistance, when requested, as states attempt to solve their energy problems.

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

Congress should facilitate the development of state-created regional mechanisms like interstate compacts and regional reliability boards designed to address transmission
reliability, problems related to the interconnectedness of the energy grid, energy storage as a supplement or alternative to transmission, the environmental impact of generating electricity, and other regional energy issues.

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

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

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

Principles

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

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

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

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

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

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

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

Implementation

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

• An assessment and forecast of our nation’s energy future and its impacts.

• An evaluation and ranking of short and long-term energy options available to the nation.

• An evaluation of possible energy futures which provide greater benefits to our citizens.

• The development of recommendations for energy options and energy futures that the nation should pursue, with the establishment of national targets or goals.

• An evaluation and recommendation of implementation mechanisms including, but not limited to, incentives, technical assistance, educational programs, regulatory standards or guidelines to achieve the targets or goals.
• Considers energy sources based on the lowest cost, cost benefit analysis, revenue loss, cost to consumers, reliability, and environmental or other impacts. Additionally, energy policy alternatives that would improve our energy security without imposing significant new costs, while balancing the need for environmental protection, should be implemented.

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

Conservation and Energy Efficiency

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

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

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

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

• Home appliance and heating and cooling unit efficiency standards.

• Waste recycling and reduction standards for industrial manufacturing.

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

• Use of alternative energy.

• A national transportation policy that emphasizes various modes of transportation, including passenger rail and transit, as well as promoting energy efficiency.
New Source Review Program (NSR)

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

Government Support for Renewable Energy and Energy Efficient Products and Industries

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

Renewable Energy

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

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

**Energy Emergency Preparedness**

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

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

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

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

Coal

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

• Provide continued support for Clean Coal Technology research, in partnership with the private sector. Such support, through additional research and technology development in clean coal usage, should include work in pre-combustion, combustion, post-combustion, and coal conversion areas with desulfurization efforts a top priority.

• Jointly address transboundary environmental issues with Canada and Mexico.

• Continue to support the acid rain program of the Clean Air Act of 1990 that phases in reductions in emissions from coal burning power plants.

• Seriously consider coal gasification as an alternative to the use of coal in a conventional manner.

• Concurrently reclaim and restore mined lands to an environmentally appropriate condition.

• Consider the effects on local infrastructure needs and the costs of prime farmland protection and land reclamation in the development of a national coal program.

• Accelerate the financing of activities under the abandoned mine reclamation fund and a federal commitment to reclamation should be strengthened.
• Avoid adopting federal policy that has implications for land development or management without accommodating the laws and policies of affected states.

**Crude Oil**

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

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

**Oil Overcharge Settlement Funds**

NCSL is appreciative of administrative and congressional action to disburse authorized unclaimed overcharge monies to the states, via the oil overcharge settlement funds. NCSL believes that the refunded oil overcharge money disbursed to states should be used for energy-related purposes. As emerging federal and state emphasis on conservation and energy efficiency programs has created a state need for additional funds to develop and implement new programs, some states are unable to meet the growing demands of their energy programs with state money alone. Therefore, NCSL strongly supports expeditious pass-through of oil overcharge settlement funds by the Department of Energy to states only to supplement, and not supplant, energy related...
programs. NCSL opposes efforts to reduce or eliminate or take credit for federal funding of existing energy related programs such as the Weatherization Assistance Program, the Institutional Conservation Program, the State Energy Conservation Program, and programs authorized to be funded by the Energy Policy Act of 1992, based on the receipt of oil overcharge settlement monies. NCSL also opposes the diversion of oil overcharge monies from their intended energy uses.

Additionally, as oil overcharge and settlement funds are depleted, Congress is encouraged to appropriate replacement or supplemental funds to facilitate continued state involvement in worthwhile energy programs.

Natural Gas

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

State Primacy in Regulation of Oil and Gas and Production Wastes

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

Revenues from On-Shore and Outer Continental Shelf Drilling

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

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

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

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

**Nuclear**

NCSL believes that,

- Nuclear Energy generates an essential share of the nation's clean, non-emitting, zero carbon baseload electricity.
• The Nuclear Regulatory Commission (NRC) should provide strong, independent oversight of all commercial nuclear plant operations, including plant licensing (both license extensions, where appropriate, and over the ongoing construction of new reactors) and used fuel and radioactive waste management, transportation and disposal, to ensure public health and safety. The rigorous NRC safety review process already employed in certifying new reactor designs should be maintained as additional designs are considered.

• The federally-supported public-private partnership that is pursuing the design, development and licensing of Small Modular Reactors should focus on maximizing the economic development and positive trade balance potential of this emerging technology. The federal government should assist the ongoing efforts of various states to establish U.S. leadership in this promising market.

• A federal government program for the long-term treatment and disposal of used nuclear fuel and high-level radioactive waste, already funded by nuclear utility ratepayers, should be pursued with the highest priority given to the safe reprocessing or transportation of waste and to the safety and technical suitability of storage or disposal sites. Such a program should be developed in full consultation with all of the affected states.

• Meaningful and effective state participation is necessary in public safety planning and transportation of commercial used nuclear fuel and high-level waste.

• The recommendations of the Blue Ribbon Commission on America’s Nuclear Future appropriately comport with the longstanding position of NCSL in favor of a path forward for used fuel. In particular, NCSL favors: creation of a public-private partnership to manage the back end of the nuclear fuel cycle; assurance that ratepayer contributions to the Nuclear Waste Fund be available solely for their intended purpose; establishment of one or more NRC-licensed centralized interim used fuel storage facilities in willing host communities and states (with consultation of all state, local and tribal officials and other interested parties).

• States must continue to have the right to monitor operating conditions at nuclear power plants, waste storage and disposal facilities, and to exercise regulatory authority where consistent with federal law.
Federal funding should complement private sector investments in the areas of waste management technologies, nuclear fusion, and plant retrofit and life extension.

The tax treatment of federal decommissioning funds should be updated to ensure that existing funds are treated in the manner intended by the tax laws and to reflect new business conditions.

The Electric Power Grid

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

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

Electricity
NCSL believes that the federal government should promote

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

Public Benefits/Environment:

NCSL believes that:

- States should maintain the authority to require public benefits programs on a nondiscriminatory basis, including those that support reliable and universal service, energy efficiency, renewable technologies, research and development, and low-income assistance. Additionally, existing federally sponsored public benefits programs should be maintained in a restructured market and electric industry restructuring should be consistent with any federal environmental laws, including the Clean Air Act.
- Implementation of federal legislation that fails to recognize market mechanisms inevitably penalizes one region or state or another and that mandate programs are counter to the concept of restructuring, which encourages the efficiencies of market competition.
- As states are in the best position to evaluate market force considerations, Congressional legislation should not limit, through the use of mandates or otherwise, state flexibility in addressing market mechanisms in electric restructuring plans.
- **The federal government should encourage nontraditional energy production should be encouraged** and **that the federal government must maintain and increase its commitment to cost effective energy conservation and efficiency**
while maintaining adequate and reliable energy. As such, power providers, equipment and appliance manufacturers, and consumers should be given legislative and regulatory incentives to promote these goals.

**Consumer Protection and Education:**

NCSL believes that:

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

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

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

**Regulatory Authority**

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

NCSL strongly supports and urges the continuation of the state legislative oversight for the approval and siting of all major energy conversion facilities, subject to minimum federal standards established only after the fullest consultation with state governments, both executive and legislative branch. State authority over the siting of energy facilities should not be preempted by federal law.
NCSL acknowledges the need for a robust national transmission system that can support new technology and allow for additional power production to be brought onto the grid. NCSL urges Congress to allow provisions included in the 2005 Energy Policy Act relating to state authority of liquefied natural gas terminal siting to be implemented and studied before any attempt is made to expand the preemption to further limit the state role in siting of these energy infrastructure components. NCSL opposes any such expansion of these provision but urges Congress at a minimum to allow for the complete implementation of the new standards before reopening the issue.

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

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

Wave Energy and Tidal Energy

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

NCSL requests that the federal government demonstrate global leadership and:

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

Education and Information

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

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

Transportation

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

- Incentives and adequate funding for mass transit, high speed rail, magnetic levitation and other emerging transportation technologies.
- Fuel economy standards; and other market incentives for improving the energy efficiency of automobiles and light trucks.
- Federal, state, and local procurement policies favoring efficient vehicles.
- The encouragement of public-private partnerships.
The National Conference of State Legislatures urges the federal government to continue working cooperatively with state, local, and tribal governments to develop, implement and maintain an expansive, integrated, environmentally-sensitive and cost-effective national energy policy.

Principles

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

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

• Promotion of continued investments in electric power grid infrastructure to make it more efficient and resilient and accommodating to distributed renewable generation.

• Recognize the value of the electric power grid, including storage technologies, as an asset that must be maintained, improved and supported by all of those who use and operate the grid, based on cost-benefit studies.

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

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

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

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

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

• Contributions to international energy security, with the goal of minimizing migration and population displacement induced by climate crises.

Implementation
NCSL believes development of a national energy strategy should contain at a minimum these components:

• An assessment and forecast of our nation’s energy future and its impacts.

• An evaluation and ranking of short and long-term energy options available to the nation.
• An evaluation of possible energy futures which provide greater benefits to our citizens.
• The development of recommendations for energy options and energy futures that the nation should pursue, with the establishment of national targets or goals.
• An evaluation and recommendation of implementation mechanisms including, but not limited to, incentives, technical assistance, educational programs, regulatory standards or guidelines to achieve the targets or goals.
• Considers energy sources based on the lowest cost, cost benefit analysis, revenue loss, cost to consumers, reliability, and environmental or other impacts, including contributions to de-carbonization goals. Additionally, energy policy alternatives that would improve our energy security without imposing significant new costs, while balancing the need for environmental protection, should be implemented.
• A coordinated effort between state and federal government in the development of producing a national energy policy where the federal government consults closely with state legislatures, devising mechanisms to bring state legislatures into the energy decision-making process as full participants on a continuing basis and ensuring the inclusion of representatives of the legislative branch of state government in all state-federal working groups dealing with energy policy.

Conservation and Energy Efficiency
NCSL supports a national energy policy that promotes energy efficiency in a variety of ways including both setting and strengthening policies as technologies improve while recognizing the significance of economic costs on various segments of the population including rural areas. NCSL supports the use of:
• Corporate Average Fuel Economy Standards for automobiles and light duty trucks, including sport utility vehicles and minivans.
• Energy efficiency provisions in model building codes (including lighting efficiency standards and weatherization).
• "Whole-building" and life cycle costing approaches to construction and retrofitting that integrate energy efficiency technologies and practices.
• Home appliance and heating and cooling unit efficiency standards.

  Disclosure standards for building energy use, costs and efficiency features.

• Waste recycling and reduction standards for industrial manufacturing.

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

• Use of alternative renewable energy.

• A national transportation policy that emphasizes various modes of transportation, including passenger rail and transit, as well as promoting energy efficiency.

New Source Review Program (NSR)

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

Government Support for Renewable Energy and Energy Efficient Products and Industries

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

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

NCSL recommends that:

- Federal action should be flexible, allowing for a range of complementary strategies at the state and federal level maintaining a strong role for state government in any federal action.
- Federal legislation should provide states the authority and flexibility to work within an overall framework that affords states the ability to choose from a range of options & apply the law effectively in the most cost effective, timely and efficient manner for each state.
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• The recommendations of the Blue Ribbon Commission on America’s Nuclear Future appropriately comport with the longstanding position of NCSL in favor of a path forward for used fuel. In particular, NCSL favors: creation of a public-private partnership to manage the back end of the nuclear fuel cycle; assurance that ratepayer contributions to the Nuclear Waste Fund be available solely for their intended purpose; establishment of one or more NRC-licensed centralized interim used fuel storage facilities in willing host communities and states (with consultation of all state, local and tribal officials and other interested parties).

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NCSL believes that:

• Reliable electricity supply depends in part upon modernization of the electric power grid. In order to meet current and future demands for electricity, investments in the electric power grid will need to be made.

• Electric power grid investments funded wholly or in part by retail ratepayer dollars should be just and reasonable, and properly balance the needs of all consumers, as well as the needs of electric utilities and grid operators.

• Electric power grid investments provide benefits to consumers. NCSL recognizes the potential for electric power grid investments to provide for a more resilient power system, increase operational efficiencies, increase electric grid reliability, reduce outages, reduce outage restoration time, improve power quality, reduce peak demand, improve overall system efficiency, provide consumers with new
information and tools to voluntarily control their own energy costs, integrate an increasingly diverse set of energy resources and enable economic growth and innovation.

- Electric utilities are responsible for ensuring that electric power grid technologies are deployed in a manner consistent with reasonable and effective cyber and physical security best practices. Systems should be designed to mitigate risks and enhance the resiliency of the electric power grid, and preserve the accuracy, integrity and privacy of data.

**Electricity**

NCSL believes that the federal government should promote

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

**Public Benefits/Environment:**

NCSL believes that:

- States should maintain the authority to require public benefits programs on a nondiscriminatory basis, including those that support reliable and universal service, energy efficiency, renewable technologies, research and development, and low-income assistance. Additionally, existing federally sponsored public benefits programs should be maintained in a restructured market and electric industry restructuring should be consistent with any federal environmental laws, including the Clean Air Act.
• Implementation of federal legislation that fails to recognize market mechanisms inevitably penalizes one region or state or another and that mandate programs are counter to the concept of restructuring, which encourages the efficiencies of market competition.

• As states are in the best position to evaluate market force considerations, Congressional legislation should not limit, through the use of mandates or otherwise, state flexibility in addressing market mechanisms in electric restructuring plans.

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

**Consumer Protection and Education:**

NCSL believes that:

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

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

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

**Regulatory Authority**

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

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

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

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

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

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

NCSL requests that the federal government demonstrate global leadership and:

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

NCSL believes that it is essential that the nation, including its elementary and secondary school-age children, be made fully aware of energy use and costs, production processes, alternative energy resources, the importance of energy efficiency and conservation and the impact energy usage has on our environment. NCSL recommends that public and private sector education efforts be initiated, expanded and appropriately funded.

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

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

Transportation

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

- Incentives and adequate funding for mass transit, high speed rail, magnetic levitation, electric and hybrid vehicles, electric charging infrastructure and other emerging transportation technologies.
- Fuel economy standards; and other market incentives for improving the energy efficiency of automobiles and light trucks.
• Federal, state, and local procurement policies favoring efficient vehicles.
• The encouragement of public-private partnerships.
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.
Jurisdiction for federal water projects is scattered throughout agencies of the federal government and committees of Congress. The National Conference of State Legislatures sees a need for clearer, more coordinated and more consistent federal policies. These policies, however, should recognize and build upon the constitutions, statutes, policies and programs of the states as the fundamental basis for a truly national effort toward better water resources management. The federal government should recognize that water resources policy can and must be developed at the state level. The appropriate role for the federal government should be to provide technical, research and financial assistance to the states at their request.

NCSL endorses the following principles:

- Primary authority and responsibility for water resources management functions, including planning, development and regulation, rest with the states and their delegated interstate agencies. Water resources management, wetland protection, coastal zone management, and soil conservation projects should be clearly delineated by Congress as the primary responsibility of the states and their delegated interstate agencies, with federal oversight.

- A national water conservation initiative should be undertaken to encourage water conservation at the federal, state and local levels. Functions, such as navigation and flood control and other issues at the prerogative of the state, should continue to be shared with the federal government to the degree appropriate. Federal policy must recognize and respect the rights of the states to administer their individual water laws and to manage their water resources.

- The role of the federal government is four-fold: (1) to establish a framework of national objectives developed in cooperation with the states; (2) to provide assistance to the states in the development of programs to meet state needs.
within such a framework; (3) to be consistent with such state programs to the
maximum extent possible when undertaking direct federal actions pursuant to the
national interest; and (4) to coordinate agency activities through a national
coordinating entity reporting directly to the President and with provision for
adequate state and public input.

Federal policy should be directed toward strengthening the capacity of the state to act
as the integrator and manager of all programs affecting the water resources of the state.
To do so effectively, states need:
• Realistic and dependable financial support to integrate management activities
  through expansion of provisions for state assistance;
• Full funding of authorized programs consistent with congressional intent;
• A common platform for compiling and accessing data across programs and
  agencies that is available to local, state, interstate and federal stakeholders; and
• Assurance that direct federal actions will be consistent with state programs,
  responsive to national policy, and carefully evaluated against mutually agreed
  upon standards.
• Federal actions, projects and programs must be consistent with adopted state
  and interstate water and related resources plans and programs.
• Greater flexibility in the entire federal support system for water resource planning
  and management.
• Federal project evaluation, planning, financing, cost sharing, and cost recovery
  policies should be reviewed and simplified.
• Project evaluation should promote equal consideration of both structural and
  non-structural solutions.

Many existing water programs create inherent financial biases which favor certain
solutions to water problems over others, sometimes resulting in the approval of
programs of only marginal utility. Accordingly, NCSL urges that:
• Cost-sharing policies should be consistent among alternative means for
  achieving the same purpose.
• Cost sharing policies should be consistent among federal agencies for the same purposes. There should be no financial grounds for non-federal participants to "shop around" for the best deal.

• The public participation requirements of project planning and evaluation criteria should be aggressively carried out.

**Water Conservation**

Water conservation must be a fundamental consideration in all future water management programs.

Accordingly, NCSL recommends:

• A national water conservation initiative implemented by the states as a part of their total water management programs with federal financial and technical assistance including a component for evaluation of the true benefits and costs of conservation;

• Encouraging comprehensive management of intermittently available freshwater resources to maximize the availability of surface and groundwater supplies;

• Closely examining the incentives and disincentives for encouraging conservation, recycling and reuse of water;

• Examining and promoting where feasible the practices of conjunctive use of water supplies; and

• Congress fund research into the use of saltwater or grey water sources as an alternative to the continued use of scarce freshwater resources.

Among water research programs, no specific mechanism exists which focuses the water research establishment on the planning and management concerns of the nation's principal water managers---the states.

As such, NCSL recommends that:
• The research agenda of both the federal agencies and the federally-supported water resources research centers be developed in conjunction with the expressed research needs of the state.

• Congress should recognize state primacy over all water rights within each state’s boundaries and bring to closure the debate on the Federal Reserved Water Rights Policy.

• Congress should respect and encourage state compacts for sharing and managing water resources.

Wetlands

NCSL supports a wetlands program that is flexible to balance the competing and legitimate demands for conservation and use of the Nation's resources.

NCSL urges Congress and the Administration to:

• Reaffirm the national goal of eliminating the net loss of both wetlands acreage and wetlands habitat values, as a result of any activities, and of increasing both wetlands acreage and wetlands habitat values;

• Designate a single federal agency to be the lead agency responsible for the overall development, implementation, and enforcement of a national wetlands policy in partnership with the states;

• Facilitate the delegation of wetlands protection programs to the states and provide technical and financial resources to assist states in developing and operating their programs;

• Establish a clear preferred sequence of mitigation options that begins with avoidance of adverse effects on wetlands followed by a reduction of unavoidable adverse effects, and allowing compensation by creating, replacing or restoring within the same ecosystem; and

• Recognize that private landowners have an economic stake in wetlands resources and establish a strong program of economic incentives that encourages and assists the private sector to exercise its management
responsibilities in a way that will protect the public values wetlands provide while contributing to a reasonable return on investment.

Federal agencies, in conjunction with states, the private sector, and nonprofit groups should expand their educational outreach programs.

The U.S. Army Corps of Engineers and the EPA should agree on strategies for effectively and expeditiously monitoring, verifying, and enforcing permits authorizing activities in wetlands. In addition Congress and other regulatory authorities should take any necessary action, including amending existing laws to prevent the willful alteration of wetlands characteristics to circumvent regulatory jurisdictions.

Aquatic Nuisance Species
To combat the threats to biodiversity in the nation’s coastal and estuarine habitats as well as inland navigable waters that are associated with aquatic nuisance species and to help prevent their introduction into state waters, NCSL calls on Congress to:

- Provide for improved means for preventing the introduction of aquatic nuisance species;
- Increase the support for international, national, and state efforts to control and manage aquatic nuisance species; and
- Increase research and technical assistance resources available to federal, state, and local officials.

Water Pollution Control
NCSL urges that:

- Congress fully fund the Sewer Overflow Control State Grants Program;
- Congress separately appropriate full funding for non-point source pollution and ensure the effectiveness of the provisions of this program to restore and protect our nation's waters;
- Congress initiate an incentive program to encourage water conservation in the states;
• Congress authorize and fully fund new grant programs for wastewater and
drinking water infrastructure developments;
• Nutrient pollution be prioritized as a water quality improvement objective in
watersheds and where such pollution from pervasive point and non-point sources
have been identified to create serious hypoxic conditions in waters of economic,
ecological and/or recreational significance;
• The federal government foster and assist in the financing and support of working
groups of state legislators within major watersheds where water pollution is a
multi-state responsibility, with such working groups or compacts formed to
coordinate the development of strategies, policies, statutes, regulations and
spending priorities for the attainment of clean water, including goals, timelines
and accountability for performance.
• EPA strengthen pretreatment pollution prevention requirements to reduce the
amount of hazardous waste flowing to waters from wastewater treatment plants
and from contaminated sludge; and that
• Uniform national wastewater monitoring standards and protocols should be
required to assure achievement of water quality objectives, fair and uniform
enforcement, and full disclosure of contamination.

Protecting Aquifers
NCSL recognizes that it is the duty of the federal government to uphold the public trust
document by protecting aquifers from potential negative impacts caused by fracking, fuel
storage & transport, and other damaging practices.

The aquifers of the United States are unique, delicately balanced resources, and their
protection is vital to the Nation’s economy, health, and wellbeing. As the primary source
of potable water, aquifers must be preserved in as close to pristine condition as possible
while accommodating the needs of multiple public and private users.

The storage and transport of fuel products and hazardous substances is a precarious
undertaking, and the spills, discharges, and releases of the substances that may occur
as a result of private and governmental actions involving the storage and transport of these products can pose serious threats to the environment and surrounding communities. These hazards have occurred in the past, and future potentially catastrophic threats must be addressed and mitigated. NCSL finds that further federal regulation of underground fuel storage and transporting infrastructure is necessary to protect the environment, as current federal regulations are often not stringent enough to prevent the release of petroleum or other hazardous substances into the environment and drinking water reserves.

Drinking Water

NCSL urges Congress and the Administration to increase federal appropriations for safe drinking water programs to necessary levels that also takes into account recent developments across the country regarding lead contamination. A special consideration for financial assistance should be given to those states that have communities and water systems that have limited resources to deal with the requirements of the Safe Drinking Water Act (SDWA). States should receive additional federal financial assistance in order to develop and maintain the administrative and technical capacity needed to implement the program's mandated objectives.

Furthermore, NCSL supports the following provisions:

- States should have the authority to prioritize activities based on state public health needs.
- States should be able to use federal drinking water funds to consolidate public water systems when it is economically or environmentally beneficial, and/or in the best interest of the public health.
- Congress should direct EPA to base its standards on scientifically sound principles for protection of human health. The ability of EPA to require water systems to test for additional contaminants must take into account the human health risk posed by the contaminant. Congress should adequately fund EPA's research efforts to develop scientifically sound standards which will assure safe drinking water.
EPA should be directed to work closely with primacy states in establishing a comprehensive program of water testing which recognizes the potential of contaminants based upon source, storage and delivery of water. Human health protection should be the basis for establishing any contaminant management program.

Disapproval or withdrawal of primacy should not result in a decreased level of public health protection in that state.

State Revolving Funds (SRFs)

With respect to the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF), NCSL supports the following:

- Reauthorization of the CWSRF and DWSRF at levels commensurate with state needs.
- States should be able to extend the life of SRF loans as necessary to accommodate low-income communities provided the loan repayment period does not exceed the useful life of the project.
- States should be able to use the interest earnings from the SRF monies for grant assistance to low-income communities, or for other related projects as determined by the individual state.
- States should be allowed to use at least 6-8% of SRF funds for administrative costs.
- States should be able to use SRF funds to consolidate public water systems when it is economically or environmentally beneficial, and/or in the best interest of the public health.
- In years when federal funds increase by more than 20%, states may request a waiver of the increased match required, with current state funds used for state drinking water purposes qualifying as the match for that year.
- Any new requirements applied to the CWSRF or the DWSRF should not be applied retroactively to funding already in the SRF or projects currently in progress.
Stormwater Management

NCSL urges Congress and the Administration to:

- Commit to and provide full funding and resources for combined sewer overflows (CSOs), sanitary sewer overflows (SSOs) and storm water wet weather discharges.
- Include a federal cost share of at least 50 percent of the cost of remediation.
- Establish a zero-interest, or low interest, loan program for homeowners and businesses required to implement storm water management programs.
- Wet weather management funding should be in addition to, and not replace, other Federal funding programs.

NCSL further urges Congress and the Administration to:

- Authorize state environmental agencies to grant waivers for both municipal and private sector implementation based on economic hardship.
- Direct the EPA to encourage evidence-based abatement methods and promote compliance using alternative methods of abatement that are least costly to implement.

Groundwater

NCSL believes that the development of groundwater policy should take into account or include the following:

- State primacy must be assured in the development of groundwater legislation.
- There needs to be federal assistance available to states in protecting wellhead/recharge areas from contamination.
- A survey of state data collection and research needs should be completed to assess future needs for financial and technical assistance with respect to aquifer mapping, monitoring and classification.
- Any policy should recognize the diversity of hydrologic, climatic, economic, legal, and social factors within various states and regions.
• States' primacy in devising appropriate financing mechanisms for groundwater programs should be continued.

• Where necessary groundwater conservation programs with appropriate financing should be developed jointly by the federal, state and local governments, but implemented by state and local governments.

• A comprehensive review of groundwater contamination from pesticides should be undertaken and recommendations based on this review should be implemented.

**Publicly Owned Treatment Works**

NCSL urges Congress to cooperate with states to eliminate barriers to local government's ability to restructure assets or raise the capital necessary for costly improvements to Public Owned Treatment Works (POTWs). While NCSL takes no position with respect to whether any particular POTW should pursue a public-private partnership, the decision to enter such a partnership should be made by the local unit of government pursuant to state law and local ordinance.
COMMITTEE:  NATURAL RESOURCES AND INFRASTRUCTURE

POLICY:  ASIAN CARP

TYPE:  DRAFT RESOLUTION

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.
WHEREAS, the Land and Water Conservation Fund (LWCF) was initially established in 1965 to protect and enhance important land, water and recreation areas; and

WHEREAS, the primary source of funding for the LWCF comes from a portion of federal revenues generated from offshore drilling, authorized at $900 million each year; and

WHEREAS, the LWCF supports the protection of federal public lands and waters, including national parks, forests, wildlife refuges, and recreation areas, as well as voluntary conservation on private land; and

WHEREAS, the LWCF provides grants to states, including grants for the acquisition and development of public parks and other outdoor recreation sites, grants to protect and conserve the habitat of threatened and endangered species, and grants to protect environmentally sensitive forest lands; and

WHEREAS, the LWCF has protected natural resources, enhanced the outdoor recreation industry which supports 7.6 million jobs and generates $887 billion in annual consumer spending, spurred state investment and economic development, and assisted with the promotion of healthy lifestyles and efforts to connect youth to the outdoors; and

WHEREAS, the LWCF has protected land in every state and supported over 41,000 state and local park projects; and

WHEREAS, historically, over half of LWCF intended funds have been diverted for other, non-conservation purposes; and

WHEREAS, the LWCF was recently permanently reauthorized, however, funding was
not made permanent; and

WHEREAS, fully funding LWCF will ensure that the benefits provided by the LWCF will continue as intended; and

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislators urges the President of the United States and Members of Congress to act to pass and sign into law the Land and Water Conservation Fund Permanent Funding Act, and

BE IT FURTHER RESOLVED, that copies of this resolution be immediately transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress.
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,
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.
WHEREAS, the American Society of Civil Engineers has identified that the United States faces a one trillion-dollar backlog of needed transportation investments over the next decade; and

WHEREAS, the federal motor fuels tax rate on gasoline, which is currently 18.4 cents per gallon has not been increased since 1993, significantly limits the ability to fund needed investment in surface transportation infrastructure; and

WHEREAS, the purchasing power of the federal motor fuel tax on gasoline has lost more than 60 percent in purchasing power since 1993; and

WHEREAS, during this 26-year period nearly every state has increased their motor fuels tax and/or registration fees for those vehicles that do not run on traditional gasoline in order to fund additional surface transportation infrastructure investment; and

WHEREAS, by FY 2020, the federal government’s highway trust fund currently will run a $16 billion annual deficit. This annual shortfall required $70 billion in pay-fors for the current federal transportation authorization bill, the FAST Act. This annual deficit is forecast to increase in the coming years.

NOW, THEREFORE, BE IT RESOLVED, NCSL urges Congress to increase the federal motor fuels tax rate to the level that matches its previous purchasing power in 1993, in addition to indexing thee rate to inflation to fund necessary infrastructure investments.
WHEREAS, habitat loss, wildlife diseases, invasive species, pollution, and the impacts of climate change pose significant threats to fish and wildlife species; and

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

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

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

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

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

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

BE IT FURTHER RESOLVED, that copies of this resolution be immediately transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress.
WHEREAS, farmers depend on pollinator species such as bees, ants, butterflies, birds and bats to successfully produce approximately one-third of the world's crop production; and

WHEREAS, pollinator dependent foods include many fruit, vegetable, seed, nut and oil crops, supplying important vitamins, minerals, and nutrients to humans; and

WHEREAS, pollinator loss poses a significant threat to United States agriculture and the ability of farmers to feed a growing world population; and

WHEREAS, more than 40 pollinator species have been federally listed as threatened or endangered; and

WHEREAS, scientists have linked the use of neonicotinoids, a class of systemic insecticides, to the decline of pollinators and deterioration of pollinator health; and

WHEREAS, restrictions on the use of neonicotinoid pesticides and other efforts to protect pollinators have been enacted in communities and states across the country; and

WHEREAS, the Saving America’s Pollinators Act of 2019 will provide the urgent and necessary regulatory restrictions and review of certain pesticides for their toxicity to pollinators.

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislators urges the President of the United States and Member of Congress to act to pass and sign into law the Saving America’s Pollinators Act of 2019, and
BE IT FURTHER RESOLVED, that copies of this resolution be immediately transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress.
WHEREAS, railroads continue to play a vital role in the nation’s economy;

WHEREAS, the majority of switcher locomotives operating are certified to the Environmental Protection Agency’s (EPA) Tier 0 and Tier 0+ emission standards;

WHEREAS, replacing, or repowering a switcher locomotive certified to the Tier 0+ emission standard to meet Tier 4 emission standards would result in an 89 percent reduction in nitrogen-oxide emissions and an 88.5 percent reduction in direct particulate matter emissions;

WHEREAS, section 209(e) of the Clean Air Act prohibits states from establishing “any standard or other requirement relating to the control of emissions from…new locomotives, or new engines used in locomotives;”

WHEREAS, given the nature of locomotive manufacturing, EPA has defined “new locomotives and new engines used in locomotives” to include existing locomotives once they are remanufactured;

WHEREAS, current EPA emission standards only require switcher locomotives certified to the Tier 0 emission standard be remanufactured to meet the Tier 0+ emission standards and such remanufacturing may continue indefinitely; and

WHEREAS, EPA has continued to make its National Ambient Air Quality Standards for fine particulate matter and ozone more stringent without providing the improved locomotive remanufacturing emissions requirements to meet said standards; and
NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures (NCSL) requests that Congress or the Environmental Protection Agency provide states the authority to regulate switcher locomotive standards so that a state can require that Tier 0 and Tier 0+ locomotives be repowered to meet Tier 4 standards, or otherwise be retired in a timely and cost-effective manner; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the President of the United States, the U.S. Environmental Protection Agency’s Office of the Administrator, and the United States Congress.
WHEREAS, the proposed federal National Outer Continental Shelf Oil and Gas Leasing Program for 2019-2024 sought to expand oil and gas exploration, production, and drilling in the Atlantic Ocean, Pacific Ocean, and Gulf of Mexico; and

WHEREAS, the economies of coastal states and communities are supported by tourism, the maritime sector, and fisheries; and

WHEREAS, coastal states and communities have been previously impacted by spills such as the BP Deepwater Horizon explosion that killed 11 people, caused a massive oil spill that leaked 3.19 million barrels of oil and gas into the Gulf of Mexico for 87 days, and resulted in $247 million in losses to the commercial fishing industry; and

WHEREAS, the likelihood of a spill or accident occurring only increases if additional areas of the coast are opened to offshore drilling; and

WHEREAS, the likelihood of a spill or accident occurring only increases with the diminishment of regulatory oversight of offshore drilling activities; and

WHEREAS, in March 2019, U.S. District Judge Sharon Gleason in Alaska declared that the Trump Administration’s order to revoke an Obama era ban on oil and gas drilling in certain areas of the Arctic and Atlantic oceans was illegal; and

WHEREAS, on April 25, 2019, the Department of Interior announced plans to open up the Atlantic and Pacific coastline for offshore drilling have been indefinitely sidelined. This was the result of a March ruling that blocked offshore drilling in the Arctic and Atlantic; and
WHEREAS despite the Department of Interior’s decision to shelf its five-year leasing plan, the Bureau of Ocean Energy Management confirmed it will continue processing permits for oil and gas exploration in the Atlantic Ocean, allowing companies to search for oil and gas deposits using potentially harmful seismic air gun blasts; and

WHEREAS in May 2019, the Trump Administration announced a set of rollbacks on safety regulations that were put in place following the BP Deepwater Horizon accident, removing a requirement for third-party testing of safety equipment like blow-out preventers, weakening requirements to maintain real-time onshore monitoring stations, and reducing the reporting frequency of equipment failures and operational issues to federal regulators.

NOW, THEREFORE, BE IT RESOLVED, that the President of the United States and the Secretary of the Department of Interior are urged to immediately halt the processing of permits for oil and gas exploration in all coasts; and

BE IT FURTHER RESOLVED, that the President of the United States and the Secretary of the Department of Interior are urged to establish a moratorium on all future leasing to expand oil and gas exploration, production, and drilling in all coasts; and

BE IT FURTHER RESOLVED, that the President of the United States and the Secretary of the Department of Interior are respectfully urged to maintain the strict regulatory enforcement of standards and oversight of existing and future offshore drilling activities established following the BP Deepwater Horizon accident; and

BE IT FURTHER RESOLVED, that copies of this resolution be immediately transmitted to the President of the United States, the Secretary of the Department of the Interior, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress.
WHEREAS, populations of fish, wildlife, and plant species in the United States are on the decline, in fact, estimates suggest that one in five native species is at risk of extinction; and

WHEREAS, a major threat to fish, wildlife, and plant species in the United States is the loss, degradation, fragmentation, and obstruction of their natural habitats; and

WHEREAS, wildlife are losing the ability to move across landscapes reducing their ability to respond to changes in habitat, food availability, and climate; and

WHEREAS, wildlife-vehicle collisions cost over $8 billion each year and pose a risk to human and wildlife health; and

WHEREAS, wildlife corridors facilitate the movement of wildlife across the landscape; and

WHEREAS, states are recognizing that wildlife corridors and wildlife crossings are important for protecting native species as well as reducing wildlife-vehicle collisions and are taking actions; and

WHEREAS, the Wildlife Corridors Conservation Act will help create a system of federally designated wildlife corridors across the United States on federal lands; and

WHEREAS, the Wildlife Corridors Conservation Act will also provide funding and incentives for the protection of wildlife corridors by state and tribal agencies and private landowners on non-federal lands; and
NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislators urges the President of the United States and Member of Congress to establish a national system to implement and promote wildlife corridors and crossings similar to that of the federal Wildlife Corridors Conservation Act of 2019, and

BE IT FURTHER RESOLVED, that copies of this resolution be immediately transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress.