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

POLICY: NATIONAL CONFERENCE OF STATE LEGISLATURES SUPPORTS PASSAGE OF THE FEDERAL DIGITAL GOODS & SERVICES TAX FAIRNESS ACT  

TYPE: CONSENT RESOLUTION  

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

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

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

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

WHEREAS, due to the complex nature of the way digital commerce is transacted, current state and local tax laws governing the taxation of sales transactions are outdated and ill equipped to address many of the issues that surface in taxing today’s “borderless” digital economy; and  

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

WHEREAS, establishing a national framework would clearly identify which state and local jurisdiction can tax a digital transaction, providing much needed certainty to consumers, providers required to collect such taxes and state and local governments seeking to tax such goods and services in a fair, uniform and rational manner; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures urges Congress to introduce and pass legislation that provides a framework for the taxation of digital goods and services consistent with NCSL principles, in conjunction with or after consideration of the Remote Transactions Parity Act, to establish a national framework providing certainty and uniformity for state and local governments in the taxation of digital goods and services, while protecting consumers from multiple and discriminatory taxation and supporting the continued growth of the digital economy.
It is the policy of the National Conference of State Legislatures to advance and defend a balanced, dynamic partnership among local, state and federal level governments.

Too often, the federal government has responded to budget pressures by simply shifting costs and exporting deficits to the states. The federal government should resist accomplishing national goals through unfunded mandates on state and local governments.

NCSL believes that the federal government must:

- Maintain its financial commitment to federal programs that rely on state participation for implementation and provide stable and predictable funding for state-federal partnership programs;
  - Maintain its matching rate for federal programs for which it shares responsibility with state governments. Where match rate reductions are proposed for shared programs, there should be a corresponding reduction in the regulatory and administrative burdens imposed on states; and
  - Avoid delaying the release of funds for state-federal programs within a fiscal year.
- Affirm the role of state legislatures in their appropriation and oversight of federal funds;
  - Streamline the waiver process that states are subject to concerning education, the environment, human services, Medicaid, health and other programs; and
  - Limit the federal oversight role of state grant funds to audit and evaluation.
• Avoid unfunded mandates and underfunded national expectations in state-federal partnerships;
  \begin{itemize}
  \item Avoid increasing federal domestic programs at the expense of funding for state administration or state sharing ratios; and
  \item Fully fund the long-term maintenance as well as the short-term startup costs of federal mandates; and
  \item Avoid capping federal entitlement spending while retaining the legal entitlement obligation of the states; and
  \item Avoid the long-term commitment of funds based on short-term revenue projections.
\end{itemize}

• Minimize the imposition of state maintenance of effort requirements in existing and future federal fiscal assistance-related legislation;

NCSL believes the federal government should maintain its guaranteed financial commitment to federal-state programs. Any devolution of federal responsibilities to the states should constitute a serious attempt at restoring balance to the state-federal partnership and not result in any reduction of the federal financial commitment to affected programs either in the short or long run. To that end, NCSL has developed a set of principles for any new block grant the federal government considers. Because state legislatures are the bodies that are most involved in the decision-making process with regard to program delivery in the states, we urge Congress and the administration to adhere to the following principles when constructing any new block grant plan or revising any existing block grant program:

• Funding levels for block grants must be adequate to finance mandated programs long-term and to respond to economic changes through countercyclical assistance.

• In the event that Congress imposes "maintenance of current level of services" mandates on funds appropriated for any federal grant program, Congress should
provide the funds necessary to maintain and support the current levels of services existing at the time of such mandates. State "maintenance of effort" (MOE) clauses are inappropriate for program consolidations. Requiring states to spend a fixed amount while implementing decreases in federal funding for block grants is equivalent to an unfunded mandate.

- The consolidation of categorical programs into a single funding stream should not be accompanied by a limitation in the types of services provided or constitute new mandatory categories of services.

- Language should be included in any block grant legislation that allows federal block grant funds to be distributed or expended "according to state law." Federal law must allow each state to choose the manner of appropriation of federal block grants. States should be authorized to determine the agency within state government that is responsible for carrying out public participation requirements.

- Maximum flexibility in terms of program implementation and administration should be maintained.

- Technical assistance to states by federal agencies during transition to any block grant should be provided.

- State reporting requirements should not be burdensome or require the use of funds that would otherwise be spent on program delivery.

- The federal government should not create new entities to oversee the implementation of any block grants to the states.

- Federal agencies and their administrators should rely on the single audits prepared by the states. The federal government should pay the full costs for performing these audits.

Given the interdependency of federal government activities with state and local economies, and recognizing that a federal government shutdown has serious
implications for state and local governments, NCSL believes that in the event of a federal government shutdown, the federal government must:

- Establish a National Incident Management System (NIMS) structure, including an Incident Command System (ICS), to integrate and manage the shutdown and to involve all levels of government in the coordination of the incident;

- Provide flexible, temporary authority to states that have a federally-approved contingency plan to assume basic-level operations of selected national parks and laboratories; and

- Reimburse state funding with interest that was spent providing services that otherwise would have been paid for with federal funds.
It is the policy of the National Conference of State Legislatures to advance and defend a balanced, dynamic partnership among local, state and federal governments.

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

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

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

**General**

- Preserve the fiscal viability and sovereignty of state governments;
- Encourage work, savings, equity and simplicity;
- Promote efficiency and predictability;
- Avoid further intrusion upon the state excise tax base;
- Preserve states’ ability and discretion to tax certain revenue sources; and
- Preserve the ability of state and local government to adopt fair and effective tax systems. This includes authorizing states with sales and use taxes to require interstate sellers to collect and remit those taxes and preserving the state and local income tax, sales tax and property tax deductions for federal income tax purposes.
- Continue tax policies that reward work, specifically the Earned Income Tax Credit (EITC) and Individual Development Accounts (IDAs).
Transition

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

Do No Harm

- Provide flexibility and strengthen states’ ability to finance and administer programs for which they are traditionally responsible or have gained through devolution.
- Recognize that federal tax reductions should not compromise funding for existing and future commitments to mandated state-federal partnership programs.
- To the extent that a national sales, consumption, or value-added tax is considered as part of ongoing deficit reduction efforts, the historic role of such taxes as a major revenue source for state and local governments must be protected and all deliberations concerning such taxes must include representatives of the federal government’s partners in the nation’s cities and states.

Tax-Exempt Financing/Bonds

- Preserve tax-exempt financing for infrastructure and capital projects, including the use of public-private partnerships.
- Maintain the tax-exempt status of state and local government bonds and lift existing restrictions on state and local government use of tax-exempt bonds.
• Avoid provisions that weaken the fiscal integrity of state and local governments. This includes: the arbitrage rebate provisions, which essentially are a one-hundred percent tax on the interest income of state and local governments; the alternative minimum tax, which now taxes interest from otherwise tax-exempt bonds; volume caps, which have unduly restricted the use of bonds for projects that have increasingly become governmental responsibilities; and restrictions on advance refunding which increases the cost of government.

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

Enforcement

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

• Continue to take into account states’ reliance on federal tax rates and federal collection efforts.

Payment in Lieu of Taxes

The National Conference of State Legislatures supports federal efforts to:

• Continue, but reform the Payment in Lieu of Tax Program (PILT) program; to create a more predictable, fair and flexible system that accurately reflects the fiscal effects of federal lands on state and local governments; and

• Provide full funding for the PILT program, provided that this goal is accomplished in a manner consistent with long-term federal debt management and deficit reduction; and

• Provide a more flexible payment system through authorization for the transfer of land of equivalent value from the federal government to states or counties in lieu of monetary payment, consistent with state statutes, and practice.

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

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

Other

- Prohibit further preemption of state courts by refusing to give federal courts jurisdiction to establish the valuation of property for state and local tax purposes or by refusing to give selected classes of state and local taxpayers procedural and substantive privileges unavailable to most taxpayers.
- NCSL also encourages Congress and the administration to review the Railroad Revitalization and Regulatory Reform Act (4-R Act) to determine if the courts have expanded the 4-R Act beyond the original intent of Congress and reject federal legislation that would extend to other industries 4-R type benefits.
- NCSL requests the federal government to respect the sovereignty of states to allow or prohibit games of chance or skill. Any effort by Congress or the administration to reform this regulation preempts states and diminishes the flexibility of state legislatures to use this mechanism as a revenue-related tool to meet the unique needs of residents of each state.
WHEREAS, the United States has experienced a significant increase in the illegal use, sale, and trafficking of dangerous and potentially fatal synthetic drugs, including synthetic cannabinoids, opioids, and carfentanils;

WHEREAS, an opioid epidemic is sweeping the United States and has reached crisis proportions, killing thousands of Americans, straining the ability of first responders, and pressuring already critically stressed state and local budgets;

WHEREAS, there are more than 300 synthetic drugs imported into the United States and more than 500 distributed globally, most of them produced in China, according to the United States Department of State;

WHEREAS, the United States Customs and Border Protection has implemented advance electronic manifesting and security screening as a key tool for identifying and intercepting high-risk shipments that may include illegal or dangerous goods such as synthetic drugs;

WHEREAS, the Trade Act of 2002 required the provision of advance electronic manifests and security screening data to the U.S. Customs and Border Patrol on all shipments into the United States except for parcel shipments from foreign posts;

WHEREAS, this gap in security screening of goods entering the U.S. constitutes a threat to U.S. national security;

WHEREAS, a major avenue for the importation of synthetic drugs is the shipment of small parcels through the international mail system via foreign postal services, and such shipments are the only commercial import shipments that do not currently provide advance electronic manifests and security screening data to federal agencies;
WHEREAS, the steady growth of internet commerce and electronic platforms that facilitate online purchases has resulted in an enormous increase in the volume of shipments that are imported into the United States from sellers in other countries;

WHEREAS, the lack of data necessary for the U.S. Customs and Border Patrol to screen imported purchases has made it easier to import illegal products, including opioids and synthetic substances, into the United States; and

NOW, THEREFORE, BE IT RESOLVED, the National Conference of State Legislatures urges the United States Congress to swiftly pass and send to the President's desk for enactment the Synthetics Trafficking and Overdose Prevention Act (“The STOP Act”), which would require advance electronic data screening of all inbound shipments to the United States to facilitate identification and interception of illegal synthetic drugs and chemicals, and other dangerous, counterfeit or illicit goods.
WHEREAS, States have an interest in policies that preserve and encourage continued private investment to deploy broadband technologies, support small and minority businesses and entrepreneurs' participation in the digital economy, and equip minority communities with the skills and education to take advantage of these technologies; and

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

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

WHEREAS, the Federal Communications Commission acknowledges the critical role that next generation Wi-Fi technologies can have on consumers and has agreed to take a first step in the 5 GHz band by adding over 100 MHz of spectrum for Wi-Fi, making it available for indoor and outdoor use; and

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

WHEREAS, while according to the Pew Research Center more Americans are gaining access to broadband in their homes, adoption rates for African Americans and Latinos still lag those of whites by 13 to 20 percentage points respectively and, when accounting for income, only 54 percent of those with a household income under $30,000 had high speed broadband or a computer at home, increasing the importance
of Wi-Fi for these communities; and

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that NCSL supports the Federal Communications Commission’s move to allocate additional 5 GHz band spectrum for unlicensed use in order to meet increased demand for wireless technologies; and

BE IT FINALLY RESOLVED, that NCSL send a copy of this resolution to the President of the United States, Members of Congress, the Federal Communications Commission, State Legislatures and Governors.
WHEREAS, wireless communication is a critical part of our everyday lives; and

WHEREAS, there were 395 million U.S. wireless subscriber connections in 2016 representing more than a 4.7% increase from 2015 connections and almost 18 million net add year over year; and

WHEREAS, demand for wireless service and bandwidth continues to soar as U.S. consumer data usage continued to climb in 2016 with over 13.72 trillion megabytes (MBs) of data used, 1.66 trillion text messages exchanged, and 277.9 billion MMS messages; and

WHEREAS, the U.S. wireless ecosystem continues to be the recognized global leader in the deployment and adoption of 4th Generation (4G) technology; and

WHEREAS, the U.S. wireless industry is preparing for the deployment of 5th Generation (5G) technology that will unleash further innovation in the agricultural, education, energy, finance, health care, public safety, and transportation sectors; and

WHEREAS, Ericsson forecasts nearly 29 billion connected devices by 2022, including around 18 billion related to Internet of Things (IoT) which will ultimately necessitate wireless carrier network upgrades; and

WHEREAS, U.S. cities are looking to use wireless technology to introduce “Smart City” solutions by employing information and communications technology to improve the efficiency of government services, including transportation and traffic management, public safety, lighting and energy usage, and water and waste management; and

WHEREAS, U.S. wireless carriers continuously strive to buildout their networks to keep pace with the ever-increasing demand for mobile broadband services, including more
than $203 billion to improve their coverage and capacity and better serve Americans, with $26.34 billion invested in 2016 alone; and

WHEREAS, the wireless industry’s deployment of network facilities is evolving to meet the demands of the future and therefore includes the use of more small cell or micro-cell equipment; and

WHEREAS, the deployment of wireless infrastructure using both micro cell and macro cell wireless facilities is contingent upon approval by local governments; and

WHEREAS, the streamlining of the permitting process for all wireless facilities would greatly enhance the deployment of such facilities; and

WHEREAS, access to public rights-of-ways for the placement of wireless facilities will enhance broadband deployment and provide additional resources to both state and local governments for a variety of services; and

WHEREAS, in 2009, the Federal Communications Commission promulgated regulations, subsequently upheld by the U.S. Supreme Court, that defined timeframes for state and local action on wireless facilities siting requests, while preserving the authority of states and localities to make the ultimate determination on local zoning and land use policies; and

WHEREAS, in 2012, the President of the United States signed the “Middle Class Tax Relief and Job Creation Act,” which prohibits state and local governments from denying eligible wireless facilities' requests to modify existing wireless towers or base stations if the modification does not substantially change the dimensions of the facility; and

WHEREAS, more than 24 states have recently enacted legislation to assist in expediting the placement of both macro and micro wireless facilities, including the enforcement of the Federal Communications Commission's application processing timelines;

NOW, THEREFORE, BE IT RESOLVED, that in order to avoid federal preemption, NCSL encourages states to provide regulatory certainty for the deployment of wireless
facilities, including micro-cell infrastructure, by streamlining local jurisdiction application processes, allowing access to public rights-of-ways, and adopting a fair fee structure; and

BE IT FURTHER RESOLVED, that NCSL encourages wireless carriers to work cooperatively with all levels of government to modernize laws and regulations in order to facilitate the deployment and timely placement of wireless facilities while maintaining proper local authority over the siting of such facilities.
State legislators have been in the forefront of efforts to create and improve early learning programs. Some states have maximized the use of the state and federally funded Child Care Development Fund (CCDF) and used even more of their state funds to increase the access, quality and effectiveness of early learning opportunities. Several states have special initiatives to improve the training and compensation of early learning teachers. States have voluntarily supplemented the federal Head Start program, and states have created their own pre-kindergarten programs. States have encouraged parental involvement to enhance children’s’ early learning experiences and have supported efforts to ensure a smooth transition between early learning programs and the K-12 education systems.

The State-Federal Partnership in Early Learning

Federal efforts to expand or improve early learning opportunities for young children must:

- avoid unfunded mandates and preserve state authority;
- provide funding to states in block grants that allow states the flexibility to meet local needs utilizing a wide range of early learning programs;
- avoid a state maintenance of effort requirement (MOE). If MOE is required, allow states to use a wide range of resources as match for federal dollars, such as state and local funds not used to match another federal program, private funds, and in-kind contributions such as facilities, equipment, and services;
- ensure that eligibility requirements are set at the state level;
- ensure state legislative authority to appropriate the funds;
provide state legislatures access to student outcome data for students that participate in federally funded early childhood learning opportunities; and

include state legislators as appropriate on advisory panels.

Existing Federal Programs

Federal efforts to support early learning programs should not be made at the expense of efforts to expand the Child Care Development Fund (CCDF). NCSL’s Policy Directive on Child Care details state priorities in CCDF.

The federal Head Start program provides early learning services for low income families that foster school readiness. NCSL values the program’s emphasis on parental involvement, which can benefit both parents and children. State legislators should be included in any discussions of options that provide states the opportunity to have more control over the program or better coordinate Head Start with other state early learning efforts. To ensure high-quality outcomes in the Head Start program, NCSL supports:

• strong staff development and training;
• greater coordination among Head Start, early learning programs, and elementary schools;
• funding for both quality, access, and multiple providers;
• expanding opportunities for grantees to use Head Start funding to meet community needs in ways that complement state efforts;
• disseminating research findings from evaluations;
• providing state legislatures access to student outcome data for students that participate in Head Start; and
• encouraging legislative involvement in Early Childhood Advisory Councils.

Family Support and Parental Involvement

NCSL recognizes the vital role of parents, families, communities, and faith-based organizations in the healthy development of children and in creating systems of high-quality early learning in their states and local communities. NCSL supports states being provided maximum flexibility in using federal funds for early learning and to support a broad range of parent engagement.
strategies, such as home visiting programs and two-generation approaches, and to develop new early learning policies and initiatives that support parents and families to ensure that their children and all children are ready to learn.
With the passage of the Every Student Succeeds Act (ESSA) in December 2015, the United States Congress fixed issues with the well-intentioned No Child Left Behind law, including the test-and-punish model of accountability and the Adequate Yearly Progress (AYP) proficiency measure. ESSA puts much of the decision-making authority back into the hands of state and local policymakers. The nation’s legislators and legislative staff are committed to its effective implementation.

The National Conference of State Legislatures (NCSL) believes that the following principles should be the basis of any federal action on the ongoing implementation of the new law:

**Consultation**

- Ensure that the “timely and meaningful consultation” process involved in the creation of, and any revisions to, state plans is thorough and ongoing, honoring the constitutional and statutory authority over education policy that rests with state legislatures.

- Support collaborative discussions on state and local education policy after the initial ESSA state plans are developed.

**Accountability**

- Recognize that Congress passed a law that maintains safeguards to protect our most vulnerable students while also giving states and districts the flexibility to innovate and pursue meaningful change in accountability systems.

- Understand that there is no single path forward on accountability. The federal government should therefore avoid drafting regulations that would restrict or mandate how states design their accountability systems, including by unnecessarily defining terms or assigning weights to indicators.

**Assessment**
• Recognize the desire of states, districts, parents, students, and other stakeholders to lessen the burden of testing, while encouraging high quality assessments that accurately measure the achievement of all students and subgroups of students.

• Promote the innovative assessment pilot program in ESSA with an eye toward possible future expansion of the pilot and by ensuring that lessons learned from pilot states are broadly disseminated.

NCSL calls upon the U.S. Department of Education to refrain from pursuing regulatory action that conflicts with the spirit and letter of ESSA as written by Congress. The law seeks to allow states and districts to take charge of their educational systems, and excessive regulation would impede this effort.

NCSL appreciates ongoing communication and technical assistance in place of regulatory action and will continue to work with the U.S. Department of Education to provide insight into the informational needs of state legislators and legislative staff. NCSL additionally encourages Congress to continue its oversight of ESSA’s implementation so that states and districts are given the flexibility that Congress intended.
The National Conference of State Legislatures (NCSL) recognizes the need to ensure that parents and students can trust that data collected—e.g., attendance, course taking, grades and test scores—as part of the educational experience, is kept safe, secure and private. State legislators firmly believe that any efforts to change federal laws and regulations related to the collection, storage and use of student data, must preserve state and local flexibility and provide opportunities to support state autonomy and local control in this area. Any federal action must:

- Support state capacity to safeguard data by providing technical assistance;
- Align the multiple federal laws that affect student data;
- Reduce the burden on states in terms of collecting and reporting data;
- Promote transparency of data collection;
- Build the capacity of all stakeholders to use data in a way that promotes educational purposes and allows for personalized or adaptive learning, but protects student privacy;
- Allow state legislative auditors and program evaluators and other appropriate legislative staff access to student data, in a form determined by each state, in order to carry out their state constitutional and statutory duties to audit and evaluate educational programs; and
- Promote the building, maintaining and updating of state data infrastructure, including enhancing state longitudinal data systems.
NCSL strongly supports the development of a secure interoperable system of electronic health information for the United States. Such a system has the potential to: (1) facilitate the coordination of health care regardless of patient location; (2) improve both the quality and efficiency of care; (3) provide easy access to health care information to both patients and health care providers, which can contribute to more informed decision-making on the part of patients; and (4) reduce medical errors and some of the fraud and abuse that plagues our health care system.

The potential benefits of an interoperable health information system cannot be realized unless: (1) consumers trust the system and want to participate in it; (2) the full range of health care providers trust the system and find it affordable and easy to use; (3) employers support the system and believe that it is cost-efficient and improves quality of care, and (4) states work collaboratively to address jurisdictional issues.

The key to the development of a successful interoperable electronic health information system is the development of a system that is secure and protects patient privacy. The Health Insurance Portability and Accountability Act (HIPAA) set important privacy standards that must be retained in such a system. It is critical that the current HIPAA law and regulations and subsequent laws and regulations enacted to facilitate an interoperable electronic health information system continue to establish a floor, but not a ceiling when it comes to protecting patient privacy and to the permissible use of stored data. Uses of stored health information data should be limited to those standards under federal law. Interoperability, not uniformity should be the focus of initiatives to get this important system in place. The security of the data must be a priority. Severe penalties should be established for individuals or entities that compromise information in the system. Every effort must be made to make the system available and affordable to the widest range of providers and consumers. NCSL also supports the establishment of grant, loan and demonstration programs to provide financial and technical support to
health care providers, state and local governments, and other entities that will play a key role in the development and successful operation of an interoperable health information system. States should be permitted to supplement federal financial support to physicians and hospitals with state grant or loan programs for up to 100 percent of costs. Finally, it is critical that publicly financed programs such as Medicaid and Medicare become active participants in the system and that creating this capacity be a priority within the federal budget.
COMMITTEE: HEALTH AND HUMAN SERVICES
POLICY: CHILD CARE
TYPE: CONSENT DIRECTIVE

NCSL urges Congress to continue its support of state initiatives and creative approaches in offering high quality and safe child care. In partnership, the state and federal governments can address the wide spectrum of needs for child care in the community offered in varied delivery settings ensuring parent choice quality and affordability.

Child Care Development Block Grant (CCDBG)

NCSL strongly supports full funding for the Child Care Development Block Grant Fund (CCDBG) program, which serves as the main source of federal funding dedicated primarily to child care subsidies for low-income working families. As child care needs vary in the states, NCSL opposes restrictive CCDF regulations that restrain state autonomy in directing the use of funds, and proposed changes to the CCDBG that include additional mandates.

In a varied child care marketplace, state legislators are faced with the demands of directing CCDBG funding where it is most needed to ensure the availability of high quality and affordable child care:

- enabling welfare recipients on wait lists to gain employment,
- ensuring that former welfare recipients do not return to the welfare rolls,
- meeting the special needs of children with disabilities,
- providing care for infants and older children in after school care, and
- ensuring access to care for children of parents who work off shift and non-traditional hours.

NCSL urges Congress and the U.S. Department of Health and Human Services (HHS) to maintain and support state flexibility as they examine and revise the CCDBG. In addition, NCSL opposes earmarking CCDBG increases in funding as they would reduce state flexibility, which is crucial to state innovation. The portion of unobligated CCDBG funds
should remain consistent with congressional intent and leave the use of those funds to
the discretion of the state for their CCDBG programs. NCSL urges the federal
government to not withhold funding from states that choose to operate their programs
under stricter standards than the federal standards.

NCSL supports the following program flexibility options for states:

▪ Offering differential payment rates for providers of higher quality services or who serve
children with special needs;
▪ Permitting states discretion to govern the establishment of rules on the registration of
unlicensed providers;
▪ Allowing parental choice of providers within a state regulatory framework;
▪ Permitting the inclusion of quality supply and system building activities as acceptable
expenditures in addition to reimbursement;
▪ Permitting states to make child care services accessible to all individuals’ subject to
welfare-to-work programs with federal funding support; and
▪ Providing states the option to extend the age of eligible children beyond age 13,
especially children with special needs, to give states more flexibility to use these funds
for out of school time care for older adolescents.

Funding

NCSL urges Congress to continue its commitment to support the CCDBG program at
sufficient levels to complement ongoing state efforts to provide high quality child care
services to welfare recipients and low and moderate income working families. Support
of the CCDBG program also strengthens state efforts to employ welfare beneficiaries
under TANF work requirements, which can only be enforced if access to child care is
ensured. For these reasons NCSL believes that the preponderance of CCDBG grant
funds must remain an entitlement to states.

NCSL supports the portion of the CCDBG that is funded by discretionary dollars and
subject to the congressional appropriations process. However, any additional funds for
the CCDBG must be an entitlement to the states.

Child care is a critical component that enables states to meet increased requirements for
work participation, and imposing a state match may serve as a barrier for some states in
accessing badly needed child care funds. Maintenance of effort (MOE) requirements also make it difficult for states to take advantage of federal funds when they face difficult decisions about how to fund all human services programs.

If an administrative cap is imposed, it should be limited to a strict definition of administrative funds. Services such as inspections, licensing, automation, eligibility determination, resource and referral, case management, training, and rate setting are required and critical to the provision of quality services and should be defined as services. NCSL urges the federal government to provide technical assistance to states to improve the coordination and financing of child care programs.

TANF and Child Care

NCSL strongly supports child care as a legitimate use of the Federal TANF block grant and state MOE funds. NCSL supports state options to transfer up to 30 percent of their federal TANF block grant allotments to the CCDBG. We urge the administration and the Congress to eliminate the distinction between how child care is treated for working families based on funding stream.

NCSL appreciates that HHS signaled the importance of child care for working families by not considering it assistance, thus allowing families to have this vital service without having it count against their time-limited assistance. NCSL urges the federal government to reconsider the distinction in TANF regulations that counts child care and other work supports for the unemployed as assistance. This will be particularly important for families who receive Unemployment Insurance benefits.

NCSL supports these families having a reliable source of child care support while they look for another job rather than offering an incentive for them to return to cash assistance. Having this child care support count toward the time limits also raises equity issues and confusion since different rules apply to different funding sources. Additionally, research suggests that having a consistent child care provider is important to children's early development.

Standards
NCSL believes that states should retain regulatory, licensure, and operational oversight of child care facilities. Any regulatory requirements imposed by the federal government should serve as a floor and not a ceiling, and not restrict state flexibility in determining how child care facilities should function in their jurisdictions. NCSL urges the federal agencies to support state efforts through guidance and technical assistance, particularly in regard to building a child care workforce, provider education, development of models for special needs populations, and the homeless.

Taxes and Benefits

NCSL supports options through use of federal and state tax incentives that can encourage creation of child care programs and help parents better afford child care services. NCSL supports:

- Tax credits for employers that establish, operate, supply and/or support child care programs,
- Public or private incentives for a child’s primary caregiver to have the option to stay at home during the child’s early developing stages;
- Tax credits for taxpayers with dependents under compulsory school-age;
- Child care benefits as an option in employer-sponsored cafeteria plans, including pre-tax flexible spending accounts;
- Retention of the Dependent Care Tax Credit as it exists under current law; and
- Tax incentives to encourage individuals to establish and/or operate child care programs;

Options that enable states to create or allow the development of public private partnerships to strengthen the child care system.
The National Conference of State Legislatures (NCSL) urging Congress and the United States Department of Veterans Affairs to work together to develop a program or pass legislation to provide veterans from Compact of Free Association nations with access to high-quality medical care within their respective communities.

WHEREAS, the United States government entered into a Compact of Free Association (COFA) agreement with the Federated States of Micronesia, Republic of Palau, Republic of the Marshall Islands, and Commonwealth of the Northern Mariana Islands; and

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

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

WHEREAS, upon completing their military service and returning to their respective communities, veterans from COFA nations are unable to secure Department of Veterans Affairs services, especially Department-approved basic medical services, which are non-existent in their own communities; and
WHEREAS, veterans from COFA nations must fly to Hawaii, at enormous cost to their personal financial well-being, to obtain proper medical care at Tripler Army Medical Center; now, therefore,

BE IT RESOLVED that NCSL urges Congress and the United States Department of Veterans Affairs to work closely to develop a program or pass legislation to provide veterans from Compact of Free Association nations with access to high-quality medical care within their respective communities.
WHEREAS, EB-5 is the designation for the fifth employment-based preference immigrant visa category established by Congress in 1990; and

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

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

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

WHEREAS, from FY1992 to present, the EB-5 visa has generated more than $16.2 billion in investments; and

WHEREAS, that investment has supported over 171,000 American jobs, according to a Department of Commerce study, but little is known about the type or quality of those jobs; and

WHEREAS, at the end of Q1 FY2016 there were about 22,000 pending applications for EB-5 related visas, representing nearly $11 billion in potential direct investment and 220,000 American jobs; and
WHEREAS, the EB-5 Program had record-breaking capital formation in FY2015 and Q1
FY2016 with over $4.3 billion and $628.5 million in foreign direct investment
respectively; and

WHEREAS, on April 28, 2017 Congress passed legislation to reauthorize the EB-5
regional center program through September 30, 2017; and

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

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

WHEREAS, the law allows for state and local level input in designating targeted
employment areas for EB-5 development, and incentivizing state and local oversight
and cooperation on specific projects within those targeted employment areas would
help ensure compliance with community and industry labor standards; and

WHEREAS, the EB-5 Program is in need of reform to increase accountability and
transparency and enhance program integrity, including through requirements that
Regional Centers publicly disclose annually for each project details on job creation
methodology, prevailing wage, living wage, and other labor standards, if applicable;

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

WHEREAS, USCIS should effectively monitor EB-5 projects to prevent fraud and
ensure that jobs are created and workers are protected by having clear requirements
prior to regional center designation and project approval, as well as by conducting
regular oversight, including site visits to projects;
WHEREAS, any effort to extend or make permanent the EB-5 regional center program must balance investment in urban centers and rural areas in recognition of the potential benefits of the program in both; and

WHEREAS, without Congressional action the EB-5 regional center program will sunset on September 30, 2017.

NOW, THEREFORE, BE IT RESOLVED, that The National Conference of State Legislatures urges Congress to reform the EB-5 program to ensure integrity and appropriate oversight during reauthorization of the EB-5 regional center program through legislation, ensuring any reform of the EB-5 regional center program maintains the ability to deliver job-creating capital to American communities, including mechanisms to ensure the creation of quality jobs, close loopholes, prevent Federal officials or their family members from personally profiting off the program, bar developers and contractors found to have violated local, state and federal laws, including labor laws, from receiving EB-5 funding, improve processing systems to address backlogged petitions, streamline approvals for all applications, and enhance program integrity measures through improved reporting requirements and oversight that is not unduly burdensome.
Veterans Affairs

NCSL recognizes that the U.S. Department of Veterans Affairs (VA) provides benefits and services to veterans of America’s armed forces, including a number of specialized programs for disabled, minority, homeless, and women veterans. NCSL supports and urges Congress and the President to protect VA funding of benefits for veterans from budget cuts.

NCSL further urges Congress to provide funding to streamline the VA processes for securing all benefits in a timely manner for those veterans coming home from deployment, including appropriate health care for physical injuries and psychological wounds.

Federal Impact Aid

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

Federal Funding Cuts and Base Realignment and Closing (BRAC)

When closing, or considering property transfers in a BRAC, NCSL supports federal grant incentives for community involvement during the re-development of bases.
Employment of Veterans

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

Educational Assistance and GI Bill

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

Preserve the Army National Guard and the Air National Guard

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

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

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

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

NCSL also opposes any effort to preempt domestic control of the ARNG from state authority.

Services being provided to our veterans should also include members of the ARNG to help them transition into society and have equal access to job training and other benefits.

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

**Service Dogs for Veterans**

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

NCSL recognizes the need to ensure that the use of these canine companions is supported and expanded across the country for our returning veterans, including members of the states’ National Guard. For this reason, NCSL supports federal policies that promote the use of these service animals. Specifically, NCSL commends the work
being done on the Wounded Warrior Service Dog Act. This bill supports the study and
use of service dogs for veterans – and NCSL urges its passage.

NCSL further calls upon Congress to enact legislation that would permit the Veterans
Administration to consider certain costs associated with a certified service dog as a
reimbursable medical expense.
The U. S. Constitution requires that a federal decennial census be conducted every ten years. This responsibility is delegated to the U.S. Census Bureau. Since the first census was conducted in 1790, states have relied on federal census data. Currently, these data are used to redraw congressional and state legislative district boundaries and also to help federal, state, and local governments develop informed, cost-effective policies that promote economic growth, the well-being of individuals and families, and public safety in all communities. The Census Bureau must be able to fulfill the constitutional mandate that is critically needed by the states and valued by all Americans. Adequate funding for the decennial census is necessary for an accurate count of the nation’s population and is critical for the Census Bureau to maintain the level of preparedness and planning necessary to conduct each decennial census. NCSL has long partnered with the U.S. Census Bureau to provide state legislators and staff with timely information on census activity and to provide feedback on their services and research. NCSL supports a full and complete census count and will work with the U.S. Census Bureau to conduct its decennial census, related research programs and outreach efforts.
WHEREAS, The United States has experienced a significant increase in the illegal use, sale, and trafficking of dangerous and potentially fatal synthetic drugs, including synthetic cannabinoids, opioids, and carfentanils;

WHEREAS, An opioid epidemic is sweeping the United States and has reached crisis proportions, killing thousands of Americans, straining the ability of first responders, and pressuring already critically stressed state and local budgets;

WHEREAS, there are more than 300 synthetic drugs imported into the United States and more than 500 distributed globally, most of them produced in China, according to the United States Department of State;

WHEREAS, the United States Customs and Border Protection has implemented advance electronic manifesting and security screening as a key tool for identifying and intercepting high-risk shipments that may include illegal or dangerous goods such as synthetic drugs;

WHEREAS, the Trade Act of 2002 required the provision of advance electronic manifests and security screening data to the U.S. Customs and Border Patrol on all shipments into the United States except for parcel shipments from foreign posts;

WHEREAS, this gap in security screening of goods entering the U.S. constitutes a threat to U.S. national security;
WHEREAS, a major avenue for the importation of synthetic drugs is the shipment of small parcels through the international mail system via foreign postal services, and such shipments are the only commercial import shipments that do not currently provide advance electronic manifests and security screening data to federal agencies;

WHEREAS, the steady growth of internet commerce and electronic platforms that facilitate online purchases has resulted in an enormous increase in the volume of shipments that are imported into the United States from sellers in other countries;

WHEREAS, the lack of data necessary for the U.S. Customs and Border Patrol to screen imported purchases has made it easier to import illegal products, including opioids and synthetic substances, into the United States; and

NOW, THEREFORE, BE IT RESOLVED, the National Conference of State Legislatures urges the United States Congress to swiftly pass and send to the President's desk for enactment the Synthetics Trafficking and Overdose Prevention Act ("The STOP Act"), which would require advance electronic data screening of all inbound shipments to the United States to facilitate identification and interception of illegal synthetic drugs and chemicals, and other dangerous, counterfeit or illicit goods.
A resolution of the National Conference of State Legislatures, expressing support for federal efforts to increase funding for avian flu research and vaccine development efforts.

WHEREAS, US farmers, poultry processing and food production plants supply a significant portion of poultry products consumed nationally and internationally; and,

WHEREAS, agriculture is a key driver of rural and state economies and the tremendous productivity of United States farmers benefits the national economy and the country's international trade balance; and,

WHEREAS, the highly pathogenic avian influenza (HPAI) H5N1 strain is a new mixed-origin virus that combines the H5 genes from the Asian HPAI H5N1 virus with N genes from native North American avian influenza viruses found in wild birds; and,

WHEREAS, according to the USDA, since December 2014, confirmed cases of HPAI H5 have been reported in the Pacific, Central, and Mississippi flyways (or migratory bird paths). The disease has been found in wild birds, as well as in a few backyard and commercial poultry flocks. The Centers for Disease Control and Prevention (CDC) considers the risk to people from these HPAI H5 infections to be low; and,

WHEREAS, 223 detections of HPAI H5 have been reported across 15 states, with the Midwest being hit the hardest, affecting over 48 million birds; and,

WHEREAS, farmers and agriculture related businesses have seen significant losses in revenue and workers have been laid off or subject to reduced work hours; and,
WHEREAS, according to USDA statistics, nationwide, over 11% of the nation’s laying hens and over 3% of the nation’s annual turkey production have been impacted to date, resulting in a significant threat to United States agriculture and the ability of our farmers to feed a growing world population; and,

WHEREAS, state and federal governments have invested millions of dollars to address the fallout associated with H5N1 and find solutions to the virus; and,

WHEREAS, the USDA Agricultural Research Service (ARS), Southeast Poultry Research Lab (SEPRL) is working to evaluate and develop avian influenza (AI) vaccines; and,

WHEREAS, the National Conference of State Legislatures (NCSL) recognizes the serious threats posed by the HPAI outbreak and the key role that the federal government plays in harnessing resources and providing assistance to farmers and others affected by the virus.

NOW, THEREFORE, BE IT RESOLVED by the NCSL that it fully supports recent federal efforts to protect poultry production and the nation’s food supply by aggressively working to contain and remediate outbreaks when they occur. NCSL also supports federal efforts to serve as technical advisors and the clearinghouse of information for all sectors, and investigating ways to stop the spread of the virus; and,

BE IT FURTHER RESOLVED, that the NCSL strongly encourages the federal government to increase the funding necessary for state and federal agencies to continue development of biosecurity containment strategies, time sensitive approaches to sharing information, and more aggressive research into what is causing avian influenza, why some fowl are more susceptible, and prevention measures, including the development of vaccines, that can be taken; and,
BE IT FURTHER RESOLVED, that federal agencies should work closely with the states to align HPAI efforts and share best practices; and,

BE IT FURTHER RESOLVED that NCSL and the states are willing partners in the federal government's HPAI efforts and will closely monitor federal actions and progress on these and related efforts of utmost importance to the states and our nation's food supply, rural agriculture economies, environment, and natural resources.
NCSL urges the federal government to consult with state elected officials, their national representative organizations and existing interstate partnerships in developing a federal program. As Congress and the administration examine proposals for reducing greenhouse gas emissions, the National Conference of State Legislatures 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 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.
- 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 change 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 should include language making decisions related to such allowances subject to state legislative approval.

NCSL urges the federal government, should it choose to act on this issue, to take into account the following principles regarding program design components:

- 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 likelihood that appropriate technologies will be developed and other solutions implemented so as to achieve the desired reductions in GHG emissions in the most economical manner possible.

- Federal legislation should be designed appropriately to balance competing criteria, including, but not limited to, equity, economic efficiency and ease of administration.

- Revenue derived from a greenhouse gas reduction program should be directed to complimentary policies focused on mitigating climate change consumer costs including but not limited to energy research & development, weatherization, conservation and energy efficiency activities.

- A national program to reduce GHG emissions must also address adaptation issues.

- Auctioning of allowances may be the most economically efficient mechanism for achieving a GHG emissions reductions goal. 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.

- 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 greenhouse gas reduction program to states under a federal greenhouse gas 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 regarding the reduction of greenhouse gases should take into account the implications of actions and/or inactions on economic development, energy security, and those most vulnerable citizens. Evaluation should include the life cycle impacts of policy options including ancillary impacts.

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) should provide funding and assist states in developing assessments and adaptation plans at the state and regional level.

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 greenhouse gas 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.
WHEREAS, growing concerns about water quality, soil fertility, weed control, nematode control, water retention and biodiversity; and,

WHEREAS, farmers need real solutions to solve concerns and maintain yields and profits; and,

WHEREAS, cover crops have proven to increase yields in university studies as well as in replicated farm research on real-world field plots; are an increasingly popular way to keep soil healthy; help reduce the need for N and other nutrients, and create a healthier soil environment that resists disease and pests; inhibit weed growth by shading them out, by preventing emergence, and by compounds exuded by the roots; are shown to reduce populations of pathogenic nematodes and encourage populations of beneficial ones; break up soil compaction whether it is naturally occurring or a result of heavy cultivation and tillage; add diversity to the natural biological life in heavily farmed soils, often working in synergy with cash crops for bottom line benefits; add diversity to the natural biological life in heavily farmed soils, often working in synergy with cash crops for bottom line benefits.

NOW, THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures supports federal efforts to further the development of and proliferation and use of cover crops; and,

BE IT FURTHER RESOLVED, that this resolution be submitted to appropriate federal officials and the U.S. Congress.
A resolution of the National Conference of State Legislatures (NCSL) Natural Resources and Infrastructure Committee, recognizing the importance of pollinators, stressing the negative ramifications of continued pollinator loss, and expressing support for federal efforts to protect pollinators.

WHEREAS, farmers depend on pollinator species such as bees, ants, butterflies, birds and bats to successfully produce approximately one third of all United States agricultural output; and,

WHEREAS, in addition to food, pollinators also are vital to the production of fibers, edible oils, medicines, and other products; and,

WHEREAS, urban and rural beekeepers play an important role in state and federal agricultural production; and,

WHEREAS, agriculture is a key driver of rural and state economies and the tremendous productivity of United States farmers benefits the national economy and the country's international trade balance; and,

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

WHEREAS, pollinators are essential organisms in the ecosystems that provide biodiversity, recreation and enjoyment for people and habitat for wild plants and animals; and,
WHEREAS, the NCSL recognizes the serious threats posed by pollinator loss and the key roles that the federal government plays as landowner and manager, regulator of pesticide products, and financial and technical assistance provider to farmers and other private landowners.

NOW, THEREFORE, BE IT RESOLVED by the NCSL Natural Resources and Infrastructure Committee that it fully supports recent federal efforts to: develop best management practices and enhance pollinator habitat on federally owned or managed lands; incorporate pollinator health as a component of all future federal restoration and reclamation projects; revise guidance documents for designed landscapes and public buildings in order to incorporate pollinator-friendly practices; increase both the acreage and forage value of pollinator habitat in the Conservation Reserve Program and other federal conservation programs; provide technical assistance in collaboration with land-grant university-based cooperative extension services to federal departments and agencies, state, local, and tribal governments, and other entities and individuals including farmers and ranchers; assist states and state wildlife organizations, as appropriate, in identifying and implementing projects to conserve pollinators through the revision and implementation of State Wildlife Action Plans; assess the effects of systemic pesticides and parasites on bee and other pollinator health and take corresponding action, as appropriate, to protect pollinators from pesticides and parasites; and take immediate measures to support pollinators with proper habitat and nutrition during the current growing season and thereafter, including planting pollinator-friendly vegetation, increasing flower diversity in plantings, limiting mowing practices, and reduce or avoid, when necessary, the use of pesticides in sensitive pollinator habitats through the use of integrated vegetation, pest and colony management practices; and,

BE IT FURTHER RESOLVED that states work closely with affected individuals and serve as laboratories of innovation in problem solving and policy making. Federal agencies should work closely with the states to align pollinator protection efforts and share best practices; and,
BE IT FURTHER RESOLVED that NCSL and the states are willing partners in the federal government's pollinator protection efforts and will closely monitor federal actions and progress on these and related efforts of utmost importance to the states and our nation's food supply, urban and rural agriculture economies, environment, and natural resources.
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 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.
A resolution of the National Conference of State Legislators (NCSL) urging the federal government to address insufficient budget mechanisms for wildfire suppression and expressing support for federal efforts to fund catastrophic fires as natural disasters.

WHEREAS, Wildfire suppression costs have increased dramatically in the last decade; and,

WHEREAS, In the past two years, the U.S. Forest Service has had to transfer more than $1 billion from other programs within the agency to pay for fighting wildfires; and,

WHEREAS, these fire transfers deplete resources from vital fire prevention and mitigation programs, including forest restoration and management activities to reduce future fire risk; and,

WHEREAS, increased fire activity can have substantially negative impacts on air quality, water quality, greenhouse gas emissions as well as reduce downstream water storage as sediment runoff lowers the effective level of dams and reservoirs; and,

WHEREAS, reduced restoration and mitigation funding also makes it easier for invasive pests and diseases to infest vulnerable forests; and,

WHEREAS, anticipated changes in climate will also cause fire risk to escalate in drought-ridden regions, further increasing wildfire suppression costs; and,

WHEREAS, federal funding for wildfire suppression is currently allocated using the 10-year average cost for wildfire suppression activities; and,
WHEREAS, NCSL recognizes that wildfires must be managed on a regional basis and that increased risk for wildfires on federal lands ultimately will lead to increased costs for state wildfire programs.

NOW, THEREFORE, BE IT RESOLVED, that NCSL urges Congress to address the budget structure of wildland fire accounts. NCSL believes that any federal policy on wildfires should minimize the risk of fire transfers from prevention and mitigation programs and support federal actions that would fund catastrophic wildfires similar to natural disasters.
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.
In 2016 Congress passed the Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA), updating the Toxic Substances Control Act (TSCA) of 1976, which provides the U.S. Environmental Protection Agency (EPA) with the authority to require reporting, record-keeping, and safety testing of chemical substances and/or mixtures. TSCA also gives EPA the power to restrict the use of chemicals. Certain substances are generally excluded from TSCA, including food, drugs, cosmetics, and pesticides, which are regulated under different federal laws.

Ensure Statutory Implementation
Amended TSCA now sets the global standard for the quality of scientific review of chemicals. Accordingly, NCSL strongly urges EPA to meet all statutory deadlines within LCSA in order to: maintain the public's confidence in the safety of consumer products containing toxic chemicals, implement new scientific standards and continue to keep pace with modern science, and to ensure that the United States continues to lead our trading partners in the quality of our public health and environmental reviews of all chemicals. EPA must assure that the nation’s interest in a strong American business of chemistry is protected, and that the United States maintains its ability to produce products that save lives, protect our children, make our economy more energy efficient, and reduce greenhouse gas emissions.

Appropriate Funding and Establish User Fees
NCSL urges Congress to appropriate full funding for LCSA implementation and supports the requirement for EPA to collect fees for both new and existing chemicals. Section 26 of the Act provides EPA the authority to collect fees that help defray the costs of administering the provisions on collecting and managing information, implementing the new chemicals program, and evaluating and regulating existing
chemicals. NCSL strongly urges EPA to implement the user fee program as expeditiously as possible, assuring that EPA can continue to manage its new chemicals review program efficiently, as well as undertake and complete risk evaluations on schedule, and provide states with resources and assistance as necessary to implement the program. Efficient implementation of LCSA will allow states to better target health and environmental programs to address matters of local and regional need and interest. Additionally, as many states do not have the staff nor the resources to sufficiently protect their citizens from harmful chemicals, NCSL urges Congress to appropriate targeted funding for state grant programs under TSCA, in recognition of the enhanced state-federal relationship, allowing states to fund compliance monitoring programs to prevent or eliminate risks to health or the environment associated with chemical substances or mixtures.

Preserve State Authority and Improve State-Federal Coordination
NCSL encourages EPA to interact regularly with states as it continues to build and deliver a strong national chemical regulatory system, while encouraging robust interstate commerce and domestic manufacturing that is globally competitive. NCSL urges EPA to continue a dialogue with states, providing outreach and education on LCSA, ensuring that states are aware their authorities concerning chemical safety and opportunities to leverage EPA implementation of LCSA to focus state resources for greater state benefit. Additionally, NCSL urges EPA to act in a timely and transparent manner on a state’s chemical regulatory waivers as EPA completes its review of chemicals, limiting the scope of pause-preemption. NCSL strongly urges EPA to not preempt states further than statutorily allowed.

Prompt and Effective Action on Harmful Chemicals in Products and Places that Could Harm People
NCSL urges EPA to expedite reviews and elimination of persistent, bioaccumulative and toxic chemicals (PBTs) as they are uniquely dangerous and should be phased out of commerce except for critical uses that lack viable alternatives. NCSL also supports statutory requirements directing EPA to complete risk evaluations based solely on
human health and environmental considerations. The agency should also ensure that reviews of chemicals incorporate protection of vulnerable subpopulations, including children, low-income people, racial and ethnic minorities, workers, and pregnant women. Where vulnerable subpopulations are specific to geographic locations, whether local, state, or regional, NCSL urges EPA to make this identification early and seek state input, including from affected indigenous populations.

Ensure Access to Mandatory Safety Data on All Chemicals

Considering limitations on sharing confidential business information (CBI) with the public, NCSL urges EPA to provide unhindered access to mandatory safety data on all chemicals, and sharing of CBI data, with state governments, health and environmental professionals, and first responders in order for them to protect the public and those with potential exposure to chemicals. Further, to facilitate states’ ability to receive CBI information about chemicals from EPA, NCSL urges EPA to promptly complete its guidance document for states.

Additionally, NCSL urges EPA to continue to provide appropriate contextual materials to affected communities to accompany Toxics Release Inventory (TRI) reports to assure that emergency response agencies will understand and be able to respond safety to chemical releases to protect people who live in the vicinity of facilities required to file TRI reports. EPA and the reporting industries should continue working to ensure that reported TRI data is communicated to the public in an understandable manner that includes a description of the risk of release specific chemicals pose to the public and emergency response teams, how these materials are managed to control release, and an assessment of the risk to public health and welfare in the event of regulated or accidental release.
The National Conference of State Legislatures (NCSL) believes that maintaining a strong production agriculture capacity is critical to our nation’s strength and is a matter of national security. NCSL recognizes that decisions affecting American agriculture must reflect a working partnership of the federal government with the states in both the formulation and implementation of policy.

Agricultural Fiscal Policy

NCSL urges federal efforts designed to enhance farm income while increasing agricultural exports. Monetary policies must be implemented which promote low interest rates and maintain dollar exchange rates which enhance the potential for sale of this nation's commodities in international markets. The federal government must also maintain a stable financial network capable of supplying adequate amounts of affordable credit to the agricultural industry. The government must also continue to search for innovative financing tools which enhance the ability of agricultural producers to manage risk and stabilize income. In addition, any domestic farm program must work in conjunction with a strong, aggressive export program which protects and expands our export markets.

State legislators should be represented on any working or study group for the purpose of addressing long term agriculture lending and payment needs established by Congress or the executive branch. NCSL urges Congress to review the existing payment limitations for individual farmers and program eligibility requirements to ensure that they provide support to economically efficient farming operations and promote the preservation of the family farm. In addition, the Conference recommends that all federal agricultural adjustment payments, price-support program loans, payments and other benefits not related to soil conservation efforts be limited to citizens of this country or
aliens lawfully admitted for permanent residence.

Secondary Market for Long-Term Loans
NCSL urges the federal government to work with states to assure that the provisions of the Agricultural Credit Act of 1987 continue to be fully implemented.

Bankruptcy law
NCSL supports federal legislation to permanently extend allowing farm operations to declare Chapter 12 bankruptcy.

Farm Credit System (FCS)
NCSL encourages farm credit institutions to work with farmer-borrowers to restructure debt. NCSL urges that any disposition of land and assets held by the System or its units be conducted in an orderly fashion so that such disposition does not adversely affect the value of those assets or of other property within the community. NCSL also urges that FCS institutions continue to work with producers to provide necessary financing for changes in payments and crops resulting from adjustments to federal programs.

Commercial Lending Institutions
NCSL believes that as federal financial assistance is provided to member institutions of the FCS, assistance should also be provided to commercial lending institutions that provide credit to agriculture. Furthermore, Federal Deposit Insurance Corporation (FDIC) policies and federal bank regulation procedures must be reviewed to ensure that the maximum assistance is being provided to troubled borrowers, without compromising the safety and soundness of the institution or the assets of the FDIC.

Agricultural Bonds
NCSL supports exempting agricultural bonds from the federal volume cap placed on industrial revenue bonds in each state. Furthermore, NCSL recommends that the President and U.S. Congress amend the federal Internal Revenue Code to make the use of agricultural bonds more attractive to banks and other financial institutions. NCSL
also recommends that the federal government permit deductibility for loans financed by issuers that are not necessarily small issuers as defined by the Internal Revenue Code.

**Crop Insurance**

NCSL supports a state-federal partnership to develop a fair and affordable crop insurance program that complements other risk management tools available in the marketplace for all crops. NCSL supports an efficient program that promotes informed production and management decisions. NCSL also supports federal efforts to encourage private-sector development of innovative risk management tools. However, any plan for crop insurance must not adversely impact a state's ability to levy premium taxes, regulate the business of private insurance or set solvency standards for private crop insurers.

**Marketing**

NCSL seeks a federal policy that will sustain a vibrant agricultural marketplace and strong farm economy while providing for competition and fair practices. The federal government should cooperate fully with states' efforts to supplement private sector marketing programs by providing comprehensive marketing, promotion and market development activities. These should include, at a minimum, sustained commitments to the provision of data on market trends and consumer demands, technical assistance, financial assistance and public education campaigns.

Special emphasis must be placed upon the development of new markets through the creation of demand for new crops or products or additional sources of demand for existing commodities and products; the improvement of linkages between buyers and sellers; a shift toward the sale of processed, not raw, commodities and high value cash crops; and the identification and analysis of potential markets. All parties, both public and private sector, must work together to develop effective strategies to exploit those opportunities fully and to maintain an ongoing ability to respond to changing consumer demands.
**Direct Marketing Arrangements**

NCSL recommends that Congress review the Packers and Stockyards Act as a mechanism for addressing unfair practices that may occur under direct marketing arrangements, monitor activities in this area, and enact appropriate and timely legislation to safeguard the welfare of producers. NCSL urges Congress and USDA to strengthen and diligently enforce the provisions of the Packers and Stockyards Act in concert with the clear intent of the Act to curb monopolistic abuses in the concentrated meatpacking sector.

**Competition**

Family farmers ultimately derive their income from the agricultural marketplace. Congress must set rules to improve the competitive environment of agriculture so that farmers are able to retain a greater portion of their income.

**Natural Resource Conservation**

All federal government actions affecting natural resources should be conducted in close cooperation and only after consultation and coordination with the states. A strong commitment to conduct research, in the area of improved methods of natural resource conservation and protection, must be maintained. The federal government should work with state and local governments to develop agricultural land use policies, but should leave the responsibility for establishment of these policies to the state and local governments. NCSL favors a block grant approach that gives states maximum flexibility. NCSL supports the use of science, technology and effective practices to reduce nutrient losses to water, including nitrogen and phosphorus, from point and nonpoint sources.

We encourage significant federal investment in state-supported projects—with an emphasis on watershed-based public-private partnerships—that provide for accountability and transparency, as evidenced by the establishment of goals, timelines, milestones, monitoring, measurement and regular public reporting documenting improvements in the quality of water in public waterways. Fundamentally, NCSL believes that states must be given a much stronger voice in ensuring that federal
wetlands, endangered species, and land management policies respect the rights of local landowners and states.

**Wetlands and Endangered Species**

The federal government should delegate authority to states for the development, administration, and enforcement of wetlands protection and endangered species programs. The national government, acting through USDA, should set broad national goals and standards for wetlands protection and preservation of endangered species, but states should have the flexibility to meet those goals. The federal government, furthermore, should provide financial and technical assistance as incentives to encourage states to assume primacy over wetlands and endangered species programs.

**Land Management**

Devolution of authority to states should also be a goal of federal land management policies. Demonstration projects should be established to determine if state administration of national forests, grasslands, parks and other federal property will result in cost savings to taxpayers and greater sensitivity to the concerns of local citizens and property owners. NCSL, moreover, encourages Congress and federal agencies to hold hearings and public meetings in order to hear the concerns of state and local officials and of ordinary citizens and property holders regarding the impact of federal landownership and regulation.

**Soil Conservation**

NCSL supports an ongoing education program to make certain that producers are fully aware of the need for proper soil conservation practices and of the best methods to use in their implementation. Diligent efforts must be made by the federal government to ensure that proper soil conservation practices are adopted and that fragile, erodible land is protected.

NCSL supports requiring that each farm have and follow an approved soil and water conservation plan in order to obtain government assistance. Benefits may be denied if a
crop is grown in violation of this requirement. Further, NCSL supports continued extension of the Conservation Reserve Program and federal efforts to protect pollinators, including those that are vital to American food production.

Research and Development
NCSL supports the state-federal partnership in agricultural research at state universities. Furthermore, funds must be made available to support research and development of innovative products. Funds should also be used for dissemination of information about research discoveries both domestically and abroad. It is particularly important that the land grant universities maintain their commitment to agricultural research and development and that the federal government provide sufficient research dollars to support this vital effort.

NCSL urges the federal government to maintain a strong research program for the development of adequate, cost-effective and environmentally sound control measures to ensure the eradication of all insect and plant pests and animal diseases, which should be done in close cooperation with the states. Using existing mechanisms and institutions, the federal government should work with the states in providing the basic training and retraining opportunities necessary for the successful operation of an agricultural enterprise and for the continuing adjustment of producers to changing conditions in agriculture.

Intellectual Property Rights in Publicly Funded Research
NCSL calls on Congress to review the Bayh-Dole Act of 1980 and subsequent amendments for its impact on encouraging concentration and vertical integration within the agricultural sector, and for its consistency with the mission and purpose of the Land Grant College system. Further, Congress should increase federal support for agricultural research, and retain through grant and contract provisions greater portions of technology arising from such research within the public domain. Congress should also affirm as objectives of the Land Grant Colleges’ agricultural research mission to achieve broad dissemination and producer access to crop technology, and preserve
and enhance the income and economic opportunities of producers.

**Beginning Farmer Programs**
The National Conference of State Legislatures supports a state-federal partnership to confront challenges faced by farmers and beginning farmers, including the use of federal tax incentives to support state-based development and loan programs. NCSL supports changes to the federal Internal Revenue code that reduce borrowing costs for qualifying farmers and strengthen state beginning farmer programs. NCSL is particularly supportive of beginning farmer and other training programs that provide assistance for military veterans and limited-resource farmers. Furthermore, NCSL supports raising the total volume of state bonding authority to free resources for beginner farmer programs if achieved in a manner consistent with a balanced federal budget.

In collaboration with state governments, as well as public and private local partners, NCSL supports investment in joint research, demonstration and development of food systems that provide opportunity to young and beginning farmers with limited assets, to produce and deliver affordable, healthy, fresh, nutritious food to consumers within the local and regional markets where the producers operate, toward a goal of national food self-sufficiency and optimal health.

**Agriculture Biofuels**
NCSL believes that the U.S. Department of Agriculture (USDA) should be the lead federal agency to examine regulatory issues as they develop for the algaculture (Farming Algae) industry.

**Support State Regulation of Agricultural Biotechnology**
NCSL supports the responsible use of the beneficial qualities of agricultural biotechnology such as in improved crop production techniques, pharmaceuticals, anti-immune disease control, biodegradable plastics, and other potential benefits to people in their states, the nation, the world and the global environment. NCSL supports the continued regulation of agricultural biotechnology through state and territorial
governments working in close collaboration and partnership with the Coordinated
Framework for Regulation of Biotechnology administered by the U.S. Environmental
Protection Agency (EPA), USDA, and U.S. Food and Drug Administration (FDA).

**Industrial Hemp Farming**

NCSL Supports federal legislation to define industrial hemp as a distinct agricultural crop
(1% or less THC content) and allow states to regulate commercial hemp farming. Currently 33 states have laws allowing hemp research or farming. NCSL believes that hemp has a long history as a sustainable and a profitable crop, and has great potential as a new crop for American agriculture and industry. According to Vote Hemp, an estimated $687 million worth of hemp products were sold in the U.S. in 2016, including foods, body care products, clothing, auto parts, building materials, and paper. Most of these products were made from imported hemp due to federal policy that prohibits commercial hemp farming. NCSL believes that federal policies that obstruct industrial hemp farming are outdated and must be changed.
The National Conference of State Legislatures (NCSL) recognizes the substantial benefits to the nation of the U.S. system of waterways and ports by providing access to the world’s markets and the combined efforts of all levels of government and users in sharing the cost of port and waterway development and maintenance. NCSL further acknowledges the distinctive roles played by the states and the federal government in financing waterways and ports. The increase of state and local financial support in recent years should be concomitant with an increased planning authority, which is particularly important for the integration and support of other transportation systems for enhanced waterway and port activity.

**Ports**

NCSL believes that in order to sustain U.S. leadership in global trade:

- The nation’s ports must receive adequate federal funds to improve and maintain federal navigational channels.
- Congress should adequately fund deepening projects to modernize our ports and make full use of the Harbor Maintenance Trust Fund to maintain the nation’s harbors.
- NCSL opposes the accumulation of harbor tax receipts at the federal level, as it is a break in faith from the purpose of the Harbor Maintenance Tax and results in the imposition of a competitive burden without providing needed improvements necessary to achieve efficiencies to offset added taxes.

**Intermodal Connectors**

NCSL calls on Congress to significantly increase federal investment in highway, inland waterways, and rail infrastructure and provide states added flexibility to improve intermodal connectors and surface transportation systems near the nation’s ports.
Where feasible, NCSL also encourages and supports the deployment of ferry crossings.

**Maritime Security**

NCSL believes that port security is a state-federal partnership, critical to the nation’s homeland security strategy and that states need clear federal direction to ensure that resources are focused on the most needed security improvements.

As such, NCSL supports the Department of Homeland Security’s Port Security Grant Program, which is vital to ports’ abilities to make improvements quickly and comply with the Maritime Transportation Security Act of 2002. Federal assistance should fund federal directives and requirements regarding enhanced security of publicly operated ferries and the inspection of vehicles and freight in order to avoid unfunded federal mandates.

**Foreign Imports**

NCSL supports:

- Action by the Federal Maritime Commission to restrict foreign cargo shipments from nations that discriminate against U.S. carriers.
- Complying with the requirements, regarding the importation of hazardous materials, of the National Environmental Policy Act to insure proper notification and assessment of environmental impact.

**Inland Waterways**

NCSL supports the continued predominant federal role in inland waterway capital and operating expenditures due to the interstate commerce nature of this transportation system as well as the implementation of the 2014 Water Resources Reform and Development Act (WRRDA). NCSL also supports increased investment in the Inland Waterways Trust Fund to repair and modernize the existing infrastructure. The commercial barge and towing companies, joined by a diverse coalition of stakeholders, unanimously and voluntarily requested a 45 percent increase to the per gallon user fee to address the growing backlog of needed lock and dam construction. Congress
approved the increase in 2014, and should now increase the federal level of investment
to lock and dam infrastructure commensurate with the increasing revenue deposited
into the Inland Waterways Trust Fund, to ensure full use of these funds annually, based
on industry-endorsed capital investment strategy recommendations on priority projects.
NCSL supports the utilization of U.S. Department of Transportation discretionary funds
for emergency assistance to states for ports and waterways.

**Waterways—General**

NCSL believes that:

- The role of the U.S. Coast Guard in directing waterborne traffic should be
  enhanced. As such, adequate emergency response plans should be developed
  with a review of existing contingency plans. Additionally, Congress should
  continue to fund the Coast Guard’s Integrated Deepwater Systems program while
  maintaining existing funding for other transportation programs.

- The user fee method of financing expenses incurred primarily for the user’s
  benefit is an appropriate mechanism. However, the effect of such charges in a
  competitive worldwide environment should be carefully scrutinized. Any
  assessed fees should be equitable and nondiscriminatory and should be
  protected in trust fund accounts with their expenditure limited to the purposes for
  which they were collected. As such, commercial barge and towing should be
  directed solely to the Inland Waterways Trust Fund. Recreational boat user fees
  should be directed solely to boating safety programs. Additionally, user fees
  should not be assessed on commercial traffic to recover uncompensated benefits
  to civilian navigation and search and rescue activities.

- A comprehensive liability and compensation system on marine environment
  should be maintained at the federal level to provide vulnerable states with a
  means of environmental restoration in the event of a shipping accident, or as a
  result of invasive species.

It should be the policy of the United States to require that domestic oil producers and
common carriers develop the capability to safely transport crude oil and other liquefied
petroleum products and to quickly and effectively contain and clean up oil spills that occur.