Committee on Budgets and Revenue

2017 NCSL Legislative Summit Committee Business Meeting

10:15-11:45 a.m.
Monday, August 7
Room 156 A
Boston Convention Center

As a result of those policy decisions voted on by our nation’s states, NCSL is nationally recognized as a formidable lobbying force in state-federal relations.
NCSL POLICY DIRECTIVES AND RESOLUTIONS

OVERVIEW

NCSL’s Standing Committees develop Policy Directives and Resolutions that serve to guide NCSL’s advocacy on behalf of state legislatures in Washington, D.C. before Congress, the White House, and federal agencies. All Policy Directives and Resolutions produced by a NCSL Standing Committee shall be submitted and considered for adoption at the NCSL Annual Business Meeting. As provided in the NCSL Bylaws, on any vote that places the Conference on record in a matter of public policy, an affirmative vote of three quarters (3/4) of the member jurisdictions who respond to the most recent quorum call shall be required.

NCSL’s Permanent Rules of Procedure Rule II [B] requires that all Policy Directives and Resolutions be directed at Congress, the administration, or the federal courts, and shall be related to issues that affect the states and shall be consistent with support of state sovereignty and state flexibility and protection from unfunded federal mandates and unwarranted federal preemption.

STANDING COMMITTEE MEMBERSHIP

Each Standing Committee has legislator co-chairs, one from each party, and a number of legislator vice chairs, balanced by party, all of whom serve a two-year term, consistent with the biennium. Each Standing Committee also has two legislative staff co-chairs and a number of vice chairs all of whom serve staggered two year terms. Only legislators are allowed to vote on policy directives, resolutions, or amendments. The legislators on each Standing Committee have been appointed by their appropriate presiding officer in their respective legislative chamber. Legislator appointments are usually made for the biennium.

DURATION OF POLICY DIRECTIVES AND RESOLUTIONS

Policy Directives adopted at the annual NCSL Business Meeting by at least three-fourths (3/4) of the states responding to the most recent quorum call do not expire but must be reviewed by the Standing Committee of jurisdiction at least once every four years and can be updated or amended by a Standing Committee at any time, adhering to the NCSL By-Laws and Rules of Procedure. All Policy Resolutions of the Conference shall automatically terminate one year after the annual Business Meeting at which they were adopted, unless reaffirmed in the normal policy process.

NCSL STANDING COMMITTEES

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* The Legislative Effectiveness and the Redistricting and Elections Committees do not develop public policy positions for consideration at the Legislative Summit or NCSL Capitol Forum.
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**Military And Veterans Affairs**

(Joint with the Labor and Economic Development Committee) This is an existing resolution that supports the provision of sufficient veterans benefits and funding for related programs, including education Impact Aid, employment programs, and preservation of the national guard system.

**NCSL Supports And Urges Enactment Of The Remote Transactions Parity Act**

(Joint with the Communications, Financial Services, and Interstate Commerce Committee) This is an update of an existing resolution that has been updated to reflect NCSL’s support of the Remote Transactions Parity Act, which would give states the authority to collect owed sales taxes from remote sales.

**NCSL Supports Passage Of The Federal Digital Goods & Services Tax Fairness Act**

(Joint with Communications, Financial Services, and Interstate Commerce) This is an update of an existing resolution that urges Congress to pass the Digital Goods and Services Tax Fairness Act, in conjunction with or after consideration of the Remote Transactions Parity Act.

**State And Federal Budgeting: Partnering To Make Policy**

This existing policy directive urges the federal government to maintain its financial commitment to federal programs that rely on state participation and implementation. During the 2016 NCSL Legislative Summit, the committee considered an amendment to the directive that asked the federal government to avoid putting the burden of deficit reduction efforts on states, which was language incorporated from another existing policy resolution. As the amendment was not ultimately included in the adopted policy because of the lack of consensus on language, the committee will reconsider the policy with revised language.

**State And Federal Budgeting: Principles For Fundamental Tax Reform**

This is an existing policy directive that calls upon Congress and the administration to preserve the fiscal sovereignty of state governments and not interfere with state revenue sources.

**Elections For Pension Plan Participants**

This is a new resolution that asks Congress and the Department of the Treasury/Internal Revenue Service to restore the flexibility for state and local governmental pension plan sponsors to offer, and for pension plan participants to elect, between plans and plan tiers with different employee contribution rates. The bill would restore flexibility for governmental pension plans that existed prior to the issuance of a ruling by the Internal Revenue Service in 2006.
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 offset 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.
WHEREAS, the 1967 Bellas Hess and the 1992 Quill Supreme Court decisions denied states the authority to require the collection of sales and use taxes by out-of-state sellers that have no physical presence in the taxing state; and

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

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

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the President of the United States and to all of the members of the 114th Congress.
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. In 2009, consumers downloaded 2.5 Billion apps. In 2017, that number is expected to exceed 278 Billion. The revenue from digital commerce was approximately $18 Billion in 2012 and is expected to grow to $46 Billion by 2016; 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 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; 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 pass the Digital Goods and Services Tax Fairness Act, 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;

- Avoid increasing federal domestic programs at the expense of funding for state administration or state sharing ratios; and

- Fully fund the long-term maintenance as well as the short-term startup costs of federal mandates; and

- Avoid capping federal entitlement spending while retaining the legal entitlement obligation of the states; and

- Avoid the long-term commitment of funds based on short-term revenue projections.

- 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, state and local governments continue to provide retirement plans for their workers – firefighters, police, teachers and other state employees;

WHEREAS, state and local governments need flexibility in the law as they work to ensure the long-term, financial sustainability of their pension plans;

WHEREAS, the federal government should not erect unnecessary hurdles to the legal and policy flexibility needed by state and local governments as they pursue policy options for their pension plans;

WHEREAS, the employer “pick up” under federal tax law is widely used by state and local governments to meet mandatory employee pension contribution costs;

WHEREAS, prior to the issuance of IRS Revenue Ruling 2006-43, the “pick up” could be used in numerous instances, including those where a state or local pension plan participant was given an election between plans or plan tiers with different employee contribution rates;

WHEREAS, Revenue Ruling 2006-43 restricted the instances where such an election could be offered to only those situations where there would be no change in the employee contribution rate;

WHEREAS, Revenue Ruling 2006-43 defined the only exception to this restriction as a “one-time irrevocable election,” which in the practical terms of the Ruling means the date of hire; subsequent elections are barred; and
WHEREAS, the National Conference of State Legislatures (NCSL) recognizes that state and local governments will continue to consider innovative pension plan designs for their workers and need the flexibility for participant elections restored.

THEREFORE, BE IT RESOLVED, that the National Conference of State Legislatures (NCSL) urges Congress and the Department of the Treasury/Internal Revenue Service to restore the flexibility for state and local governmental pension plan sponsors to offer and pension plan participants to make elections between plans and plan tiers with different employee contribution rates by approving H.R. 2187 or revising Revenue Ruling 2006-43.