



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

National Energy Policy Directive

NCSL Energy, Transportation and Agriculture Standing Committee

The National Conference of State Legislatures urges the federal government to continue working cooperatively with state, local, and tribal governments to develop, implement and maintain an expansive, integrated, environmentally-sensitive and cost-effective national energy policy.

Principles

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

- Promotion of the most efficient and economical use of all energy resources.
- Promotion of energy conservation and efficiency and the development and use of alternative and renewable energy supplies.
- Promotion and provision of incentives for the development and optimal use of all energy resources and new facility infrastructure.
- Assurance that various domestic energy sources are continually developed, maintained and stored to prevent supply emergencies and promote energy independence.

- Consideration and assessment of environmental costs and benefits for all energy resources, fuels and technologies in rendering legislative, regulatory and market decisions regarding energy production and use.
- Provision of an affordable and reliable energy supply for all citizens.
- Examine the feasibility of, and where feasible, promote state-wide or regional minimum storage level requirements for heating oil for states dependent on this fuel.
- Specification and balancing of clear lines of local, state and federal regulatory authority.
- Development of both short and long-term strategies to provide adequate energy supplies, efficient utilization of those supplies and optimum cost effectiveness.
- Promotion of the education of school-age children regarding energy resources, consumption, conservation, and production and regarding environmental protection, safety and risks in energy production.
- Assurance of expanded energy research and development and broadening of the citizenry's access to energy-related information.
- Assurance of participation of state and local officials in the development and implementation of a national energy plan and strategy.
- Avoidance of mandates, particularly unfunded mandates, upon state and local governments as well as avoidance of pre-emptive federal laws in developing a national energy policy.

Implementation

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

- An assessment and forecast of our nation's energy future and its impacts;
- An evaluation and ranking of short and long-term energy options available to the nation;
- An evaluation of possible energy futures which provide greater benefits to our citizens;

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

Conservation and Energy Efficiency

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

- Corporate Average Fuel Economy Standards for automobiles and light duty trucks, including sport utility vehicles and minivans;
- Energy efficiency provisions in model building codes (including lighting efficiency standards and weatherization);
- "Whole-building" and life cycle costing approaches to construction and retrofitting that integrate energy efficiency technologies and practices;
- home appliance and heating and cooling unit efficiency standards;
- Waste recycling and reduction standards for industrial manufacturing;

- Standards for conservation in electrical production and supply including cogeneration;
- Use of alternative energy; and
- A national transportation policy that emphasizes various modes of transportation, including passenger rail and transit, as well as promoting energy efficiency.

New Source Review Program (NSR)

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

Government Support for Renewable Energy and Energy Efficient Products and Industries

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

Renewable Energy

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

NCSL recommends that:

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

Energy Emergency Preparedness

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

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

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

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

Coal

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

- Provide continued support for Clean Coal Technology research, in partnership with the private sector. Such support, through additional research and technology development in clean coal usage, should include work in pre-combustion, combustion, post-combustion, and coal conversion areas with desulfurization efforts a top priority.
- Jointly address transboundary environmental issues with Canada and Mexico.
- Continue to support the acid rain program of the Clean Air Act of 1990 that phases - in reductions in emissions from coal burning power plants.
- Seriously consider coal gasification as an alternative to the use of coal in a conventional manner.
- Concurrently reclaim and restore mined lands to an environmentally appropriate condition.
- Consider the effects on local infrastructure needs and the costs of prime farmland protection and land reclamation in the development of a national coal program.
- Accelerate the financing of activities under the abandoned mine reclamation fund and a federal commitment to reclamation should be strengthened.
- Avoid adopting federal policy that has implications for land development or management without accommodating the laws and policies of affected states.

Crude Oil

NCSL believes the federal government should promote and encourage domestic production

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

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

Oil Overcharge Settlement Funds

NCSL is appreciative of Administrative and congressional action to disburse authorized unclaimed overcharge monies to the states, via the oil overcharge settlement funds.

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

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

Natural Gas

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

State Primacy in Regulation of Oil and Gas and Production Wastes

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

Revenues from On-Shore and Outer Continental Shelf Drilling

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

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

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

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

Nuclear

NCSL believes that,

- Nuclear Energy generates an essential share of the nation's clean, non-emitting, zero carbon baseload electricity.
- The Nuclear Regulatory Commission (NRC) should provide strong, independent oversight of all commercial nuclear plant operations, including plant licensing (both license extensions, where appropriate, and over the ongoing construction of new reactors) and used fuel and radioactive waste management, transportation and disposal, to ensure public health and safety. The rigorous NRC safety review process already employed in certifying new reactor designs should be maintained as additional designs are considered.
- The federally-supported public-private partnership that is pursuing the design, development and licensing of Small Modular Reactors should focus on maximizing the economic development and positive trade balance potential of this emerging

technology. The federal government should assist the ongoing efforts of various states to establish U.S. leadership in this promising market.

- A federal government program for the long-term treatment and disposal of used nuclear fuel and high-level radioactive waste, already funded by nuclear utility ratepayers, should be pursued with the highest priority given to the safe reprocessing or transportation of waste and to the safety and technical suitability of storage or disposal sites. Such a program should be developed in full consultation with all of the affected states.
- Meaningful and effective state participation is necessary in public safety planning and transportation of commercial used nuclear fuel and high-level waste.
- The recommendations of the Blue Ribbon Commission on America's Nuclear Future appropriately comport with the longstanding position of NCSL in favor of a path forward for used fuel. In particular, NCSL favors: creation of a public-private partnership to manage the back end of the nuclear fuel cycle; assurance that ratepayer contributions to the Nuclear Waste Fund be available solely for their intended purpose; establishment of one or more NRC-licensed centralized interim used fuel storage facilities in willing host communities and states (with consultation of all state, local and tribal officials and other interested parties).
- States must continue to have the right to monitor operating conditions at nuclear power plants, waste storage and disposal facilities, and to exercise regulatory authority where consistent with federal law.
- Federal funding should complement private sector investments in the areas of waste management technologies, nuclear fusion, and plant retrofit and life extension.
- The tax treatment of decommissioning funds should be updated to ensure that existing funds are treated in the manner intended by the tax laws and to reflect new business conditions.

Electricity

NCSL believes that the federal government should promote

- Energy efficiency and conservation to lower the demand for electricity.

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

Public Benefits/Environment:

NCSL believes that:

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

Consumer Protection and Education:

NCSL believes that:

- The safety, reliability, quality, and sustainability of services should be maintained or improved and that all consumers should have access to adequate, safe, reliable, and efficient energy services at fair and reasonable prices, as a result of competition.
- States should retain the authority, with the assistance of the federal government as needed, to protect consumers from anticompetitive behavior, undue discrimination, poor service, market power abuses, and unfair service practices.
- States should maintain the authority to establish or require comprehensive consumer education and outreach programs to minimize public confusion and provide information so consumers are able to make informed choices and participate effectively in a restructured market.

Regulatory Authority

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

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

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

urges Congress at a minimum to allow for the complete implementation of the new standards before reopening the issue.

Research and Development

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

Renewable Energy R&D Market Support

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

Wave Energy and Tidal Energy

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

NCSL requests that the federal government demonstrate global leadership and:

- Recognize the importance of wave energy and tidal energy to the future of the United States;

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

Education and Information

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

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

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

Transportation

NCSL believes that national transportation strategies must include public policy initiatives

directed at broadening the efficient use of our energy resources. As such, policy initiatives should include, but not necessarily be limited to:

- Incentives and adequate funding for mass transit, high speed rail, magnetic levitation and other emerging transportation technologies;
- Fuel economy standards; and other market incentives for improving the energy efficiency of automobiles and light trucks;
- Federal, state, and local procurement policies favoring efficient vehicles;
- The encouragement of public-private partnerships.