



## Policy Directives and Resolutions for Consideration

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1 **COMMITTEES: COMMUNICATIONS, FINANCIAL SERVICES, AND**  
2 **INTERSTATE COMMERCE**  
3 **BUDGETS & REVENUE**

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

7 **TYPE: RESOLUTION**

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

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

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

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

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

24 **WHEREAS**, establishing a national framework would clearly identify which state and local  
25 jurisdiction can tax a digital transaction, providers required to collect taxes, and allow state and  
26 local governments seeking to tax such goods and services to do so in a fair, uniform and  
27 rational manner; and

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

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

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

38 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State Legislatures  
39 urges Congress to introduce and pass legislation that provides a framework for the taxation of  
40 digital goods and services consistent with NCSL principles to establish a national framework  
41 providing certainty and uniformity for state and local governments in the taxation of digital goods  
42 and services, while protecting consumers from multiple and discriminatory taxation and  
43 supporting the continued growth of the digital economy.

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1 **COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, &**  
2 **INTERSTATE COMMERCE**

3 **POLICY: THE INTERNET AND ELECTRONIC COMMERCE**

4 **TYPE: DIRECTIVE**

5 The Internet defies a detailed one-size-fits-all approach to public policy and regulation.  
6 America's federal and state lawmakers, as well as policy makers from other countries  
7 should be guided by principles that foster the Internet's development while protecting  
8 the security and privacy of individual users.

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

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

23 NCSL opposes unnecessary or unwarranted federal legislation or regulation that would  
24 impede efforts by states to promote access to the Internet, enhance competition or  
25 increased consumer choice or ensure the security of personal information of consumers  
26 conducting electronic commerce transactions.

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27 The National Conference of State Legislatures (NCSL) supports the following principles  
28 in formulating laws and regulations that impact the Internet and electronic commerce:

### 29 **Privacy and Security**

30 Every American should be empowered to protect their privacy and personal information  
31 from intrusion or piracy. While NCSL recognizes that there is a need for Congress to act  
32 to establish a national policy to protect the personal information of Americans, state  
33 legislatures, in the absence of any action by Congress and the federal government,  
34 have moved to fill the void. NCSL calls upon the Congress to enact federal Internet  
35 privacy legislation that ensures the security of Americans' personal information with the  
36 least amount of government regulation as possible. However, NCSL opposes federal  
37 legislation that seeks to preempt existing state statutes and regulations governing  
38 privacy protections and security for non-Internet based transactions.

### 39 **Free Speech**

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

### 48 **Self-governance**

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

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55 continues to ensure that consumers can:

- 56 (1) Receive meaningful information regarding their broadband service plans;
- 57 (2) Have access to their choice of legal Internet content, subject to the limits on  
58 bandwidth and quality of service of their service plan;
- 59 (3) Run applications of their choice, subject to the needs of law enforcement and  
60 the limits on bandwidth limits and quality of service of their service plans, as  
61 long as they do not harm the provider's network or interfere with other  
62 consumers' use of the broadband service; and
- 63 (4) Be permitted to attach any devices they choose to their broadband  
64 connection at the consumer's premise, so long as they operate within the  
65 limits on bandwidth and quality of service of their service plans and do not  
66 harm the provider's network, interfere with other consumers' use of the  
67 broadband service, or enable theft of services.

## 68 **Consumer Protection**

69 Industry self-regulation has made an important contribution to the development of  
70 electronic commerce. Industry technologies and best practices, combined with the  
71 enactment of strong state laws which outlaw deceptive practices and fraudulent online  
72 behavior, are essential elements in promoting electronic commerce and enhancing  
73 consumer protection. Privacy and consumer protection continue to be priority issues in  
74 state legislatures.

75 NCSL supports the efforts of state legislatures to develop new policy initiatives to  
76 protect consumers online, especially when the federal government fails to respond to  
77 consumers' concerns. NCSL also recognizes that because of the global nature of the  
78 Internet that states must seek cooperative federal action to further enhance consumer  
79 protection, privacy and information security. Federal legislation must ensure the  
80 authority of state attorneys general to enforce federal statutes protecting consumers.  
81 However, NCSL opposes any attempt by Congress to restrict the states' ability to  
82 impose criminal and/or civil penalties for illegal activity that may occur over the Internet.

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83 **Growth**

84 Public policies must be designed to foster continuing expansion of useful and affordable  
85 bandwidth, encourage development of innovative technologies and promote broad  
86 universal access. Federal and state governments must work together to ensure that all  
87 Americans, regardless of where they live, have competitive access to high-speed  
88 broadband technologies. Government must work to guarantee open and competitive  
89 markets for broadband services.

90 **Information Technology**

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

101 **Internet Gambling**

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

104 **Electronic Commerce and Taxation**

105 Government policies should create a workable infrastructure in which electronic  
106 commerce can flourish. Policy makers must resist any temptation to apply tax policy to  
107 the Internet in a discriminatory or multiple manner that hinders growth. Government tax  
108 systems should treat transactions, including telecommunications and electronic  
109 commerce, in a competitively neutral and non-discriminatory manner. The federal

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110 government and America's industries should work with state legislatures in ensuring  
111 equal tax treatment of all forms of commerce and should encourage state efforts to  
112 achieve simplification and uniformity through the streamlining of state and local sales  
113 and telecommunications tax systems.

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

## 117 **VIDEO FRANCHISE REFORM**

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

### 124 **State Administration Will Preserve State Authority**

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

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

135 Government should encourage competition and consumer choices for broadband and  
136 video services and promote the deployment of broadband services and technologies.

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137 **Fees and Taxation of Video Providers**

138 Franchise fees today are levied, imposed or collected as a percentage of gross  
139 revenues, used for general revenue purposes and not based on the actual direct and  
140 identifiable costs of any benefit to the entity that pays the fee. To the extent such fees  
141 are intended as payment for use of public rights-of-way, that fee should be limited to the  
142 actual, direct and identifiable cost of such use, and that portion of the fee should be  
143 applied only to those who use the rights-of-way. Franchise fees should be collected and  
144 administered by one central agency per state.

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1 **COMMITTEE:** **COMMUNICATIONS, FINANCIAL SERVICES, &**  
2 **INTERSTATE COMMERCE**

3 **POLICY:** **REMOTE COMMERCE**

4  
5 **TYPE:** **DIRECTIVE**

6 The 1967 Bellas Hess and the 1992 Quill Supreme Court decisions denied states the  
7 authority to collect sales and use taxes by out-of-state sellers that have no physical  
8 presence or nexus in the taxing states, and urged Congress to address the issue of  
9 remote sales tax collection. It is estimated in various studies that state and local  
10 governments are losing between \$8 billion to \$35 billion a year in uncollected sales  
11 taxes from remote transactions and that annual losses will continue to grow as more  
12 commerce is conducted online. Congress' failure over the last 26 years to address the  
13 issues raised by the Supreme Court in 1992, resulted in an effort by states to require  
14 remote sales tax collection based on economic presence. The first case ready for  
15 review by the Supreme Court, South Dakota v. Wayfair, resulted in the Court  
16 overturning its previous decisions in Bellas Hess and Quill, which allowed states to  
17 require remote sellers to collect sales taxes for purchases made by their residents. The  
18 Wayfair decision by the Supreme Court has made the need for congressional action  
19 unnecessary.

20 Having state tax sovereignty returned to the states for sales tax collection, states now  
21 have the obligation to act with fairness and transparency in administering the remote  
22 sales tax collection system. The responsibility will be on states to ensure that the  
23 burden to collect sales taxes by remote sellers is no greater than the burden on in state  
24 sellers if states are to avoid a preemptive federal framework imposed by Congress.  
25 States must work together as partners in the collection of sales taxes or face a call from  
26 sellers for federal intervention. Action by state tax departments regarding remote sales  
27 tax collection without the consent of the elected policymakers in the state legislature  
28 and executive branch should be avoided.

29 NCSL recognizes that 24 states have enacted legislation to join the Streamlined Sales  
30 and Use Tax Agreement (SSUTA), which was recognized by the Supreme Court in the  
31 majority opinion as a viable way for states to collect remote sales taxes. While it is an  
32 option for the remaining 21 states that have a sales tax, it is not mandatory. However,  
33 those 21 states should consider joining SSUTA or consider enacting legislation to work  
34 with SSUTA for: a central registration system for remote sellers, a central system for the  
35 certification of Certified Software Providers (CSPs), ensure that remote sellers are  
36 provided the same compensation as in-state sellers, provide a publicly available  
37 taxability and exemption table, and, provide a rates and boundary database in an easily  
38 downloadable format.

39 States won a victory in the U.S. Supreme Court and now they have a responsibility to  
40 ensure that sellers are treated with fairness and as good corporate citizens. States  
41 should follow the Golden Rule of state tax policy: “Do unto taxpayers in other states as  
42 you would have them do unto your taxpayers.” Any state that implements remote sales  
43 tax collection irresponsibly will only jeopardize the ability of other states to require  
44 remote sales tax collection.

45 Moreover, NCSL will oppose unnecessary federal legislation that preempts the states’  
46 authority, as granted by the Supreme Court, to collect sales taxes from remote sellers.

1 **COMMITTEE: LAW, CRIMINAL JUSTICE AND PUBLIC SAFETY**

2 **POLICY: CANNABIS AND FEDERALISM**

3 **TYPE: POLICY DIRECTIVE**

4 The National Conference of State Legislatures (NCSL) maintains that the federal  
5 government should respect state decisions to regulate cannabis, including hemp in non-  
6 FDA approved cannabis products. NCSL recognizes that its members have differing  
7 views on how to treat *cannabis* in their states and believes that states and localities  
8 should be able to set whatever policies work best to improve the public safety, health,  
9 and economic development of their communities.

10

11 NCSL believes that federal laws, including the Controlled Substances Act (CSA), should  
12 be amended to explicitly allow states to set their own cannabis policies without federal  
13 interference and urges the administration not to undermine state cannabis policies.  
14 Where states have authorized cannabis production, distribution, and possession by  
15 establishing an effective regulatory scheme, the administration should direct federal  
16 prosecutors to respect state cannabis laws when exercising discretion around  
17 enforcement. NCSL maintains that the administration should prioritize its enforcement  
18 actions against criminal enterprises engaged in cannabis production and sale, and not  
19 against citizens who are compliant with state cannabis laws. Furthermore, NCSL urges  
20 Congress to prohibit the administration from using federal funds to enforce the CSA in a  
21 manner inconsistent with these enforcement priorities.

22

23 The National Academies of Sciences, Engineering, and Medicine identified challenges  
24 and barriers in conducting cannabis research in a 2017 report: *The Health Effects of*  
25 *Cannabis and Cannabinoids*. NCSL urges Congress and the administration to address  
26 the challenges and barriers identified in this report. NCSL believes that it is especially  
27 important that Congress and the administration provide researchers access to cannabis

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28 in the quantity, quality, and type necessary to research the health effects of cannabis  
29 use and that adequate funding sources are made available to support cannabis and  
30 cannabinoid research that explores the health benefits and risks of cannabis use.

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1 **COMMITTEE:** **NATURAL RESOURCES AND INFRASTRUCTURE**

2 **POLICY:** **ENCOURAGING CONGRESS TO SUPPORT THE**  
3 **EMERGING CONSERVATION ECONOMY**

4 **TYPE:** **RESOLUTION**

5 **WHEREAS**, one of the growth industries is the conservation economy which is a result  
6 of natural resource management practices that better manage the country's diverse  
7 bioregional conservation economies; and

8

9 **WHEREAS**, we live in a time of tremendous change, the extent of which is the subject  
10 of intense debate around the world, that recognizes the clash of immediate human  
11 needs of food and water with current practices that have a long-term impact on the land  
12 and water's capacity to support life, livelihoods, and traditional lifestyles including local  
13 and indigenous subsistence living; and

14

15 **WHEREAS**, increasing population and migration of people across the country strains  
16 each State's biodiversity and the current management of land and water is being  
17 evaluated because there is a sense of urgency to understand the impacts, among other  
18 things, or storm water run-off, rain acidity, wastewater, and fish farms; and

19

20 **WHEREAS**, new initiatives related to natural resource management are integrating  
21 innovative science, traditional ecological knowledge (TEK), clean technology and green  
22 initiatives, as an example, and are encouraging new career pathways, advancing STEM  
23 jobs in conservation; and

24

25 **WHEREAS**, there is a growing need for a STEM workforce to advance knowledge of  
26 nature's ecosystem and growing demand for new partnerships to be established across  
27 the country between federal agencies, state agencies, NGOs, conservationists,  
28 scientists, consumers, producers, urban planners, entrepreneurs, and local

29 and indigenous organizations to share their expertise, tools, and resources to achieve  
30 socio, financial, and economic prosperity through stewardship of natural resources for  
31 future generations.

32

33 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State  
34 Legislatures (NCSL) acknowledges new technology exists, such as wireless devices,  
35 advanced satellite monitoring, embedded microprocessors, weather stations, drones,  
36 and robots that monitor, test, or collect data to enhance natural resource management  
37 in a manner that improves efficiency, creates new jobs, and revolutionizes how  
38 we access locations previously too costly and dangerous; and

39

40 **BE IT FURTHER RESOLVED**, that NCSL supports the conservation economy in which  
41 economic wealth is harvested from a bioregion's natural resources in a way that meets  
42 local communities' needs and does not lessen the natural and social health and well-  
43 being of a bioregion; and

44

45 **BE IT FURTHER RESOLVED**, that NCSL supports the development of an educated  
46 workforce to support the conservation economy and an increase in commerce related to  
47 research, innovation and development of new technologies to better manage natural  
48 resources and the country's diverse bioregional economies; and

49

50 **BE IT FURTHER RESOLVED**, that NCSL encourages Congress to fund the  
51 advancement of education, research, innovation and technology, and to collaborate  
52 with businesses and organizations that create jobs to meet the growing conservation  
53 economy.